

**RESPONSES TO THE
2005-2006
FRESNO COUNTY GRAND JURY
FINAL REPORT**



November 26, 2007

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Boards, Commissioners and Districts Committee

**Fresno County Employee's Retirement
Association**



Roberto L. Peña
Retirement Administrator

FRESNO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
BOARD OF RETIREMENT
Steven J. Jolly, Chair
Vera Dominguez, Vice Chair
Michael Cardenas
Vicki Crow
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Ronald S. Frye, Alternate

October 12, 2006

Honorable Edward Sarkisian, Jr.
Presiding Judge
Fresno County Superior Court
1100 Van Ness Avenue
Fresno, California 93724-0002

Re: Response to Grand Jury Report

Dear Judge Sarkisian:

In Compliance with Penal Code sections 933 and 933.05, the Board of Retirement of the Fresno County Employees' Retirement Association ("Retirement Board") hereby responds to the 2005-2006 Grand Jury Final Report ("Report").

The Report seeks responses from the Retirement Board with respect to four recommendations --R1 and R2 in the "Fresno County Employees' Retirement Association" section and R8 and R9 in the "Fresno County's Pension Plan" section. In addition, Penal Code section 933(c) provides, that the Retirement Board "shall comment ... on the findings and recommendations pertaining to matters under the control of the governing body." Accordingly, the Retirement Board responds below to the findings and recommendations that may pertain to matters that are at least partially under the Retirement Board's control.

As background, the Retirement Board exists pursuant to, and is governed by, article XVI, §17, of the California Constitution, the County Employees Retirement Law of 1937 (Government Code sections 31450 *et seq.* (the "1937 Act")), and other applicable laws. The California Constitution vests the Retirement Board -an entity independent from the County -with "plenary authority and fiduciary responsibility" for administering the retirement system and "sole and exclusive fiduciary responsibility" over the system's assets. Cal. Const. Art. XVI, §17. The composition of the Retirement Board is specifically governed by the California Constitution and the 1937 Act.

Vested retirement benefits may be granted only by the employers (i.e, the County and participating employer districts). The Retirement Board has some limited authority to grant *non-vested* benefits when the system has "excess earnings" (a term of art that is defined by the 1937 Act). The retirement system is funded through contributions by the active (i.e., currently employed) members and by the employers. The employers are ultimately responsible for making up for any shortfalls to the system's funding. The County is solely responsible for determining whether and when to issue pension obligation bonds to finance its pension funding obligations. The Retirement Board has no role in that decision-making process.

Response to the Findings and Recommendations "Pertaining to Matters Under the Control" of the Retirement Board in the "Fresno County Employees' Retirement Association" Section of the Report

F1 to F11: The Retirement Board agrees with these findings.

F12: The Retirement Board agrees with this finding, except for the third bullet point, which is incorrect. As of July 19, 2002, the agreement was not "final" because it had not been accepted and executed by the seller of the property. Accordingly, the Brown Act did not require that the substance of the agreement be reported at that time.

F13: The Retirement Board agrees with this finding, in that the quoted language was all that was reported with respect to the transaction at the July 19, 2002 meeting.

F14: The article referenced in this finding was neither presented to, nor considered by, the Retirement Board in connection with the acquisition of the property. Having never seen the article, the Retirement Board cannot comment as to its content or relevance.

F15: The Retirement Board believes that its 2002 meeting minutes complied with the requirements of the Brown Act.

F16 to F19: The Retirement Board agrees with these findings.

F20: The Retirement Board agrees this finding, in the sense that the Attorney General did issue the referenced opinion, but the Retirement Board does not express any view as to whether the opinion is correct. Attorney General opinions may be persuasive, but are not binding legal precedent.

F21: The Retirement Board cannot agree or disagree with this finding, because it is unaware of any binding legal authority that addresses the question of whether a person is "connected to the county government" solely because he or she receives a retirement allowance from the county retirement system. Under law, the Retirement Board is the governing body of a public agency independent of the county government. Similarly, Conclusion Nos. 4 and 5 are legal conclusions to which the Retirement Board cannot agree or disagree, absent binding legal authority.

R1: The Retirement Board has implemented Recommendation No. 1 by adopting a Due Diligence Policy, effective August 3, 2005 (as amended) and an Investment Policy, effective December 15, 2004.

R2: The Retirement Board has implemented Recommendation No. 2 by complying with the requirements of the Brown Act.

Response to Findings and Recommendations "Pertaining to Matters Under the Control" of the Retirement Board in the "Fresno County's Pension Plan" Section of the Report

F3: The Retirement Board partially agrees with this finding and makes the following clarification: the valuation report of June 30, 1998 was the basis of a special report that included projected costs for both past and future service of then currently active members.

October 12, 2006

Page 3 of 3

F7: The Retirement Board agrees with this finding's description of composition of the Retirement Board, as provided by the California Constitution and the 1937 Act. The Retirement Board is unaware, however, of any binding legal authority that supports the finding that the Retirement Board's past and current composition "appears to be in violation of the 1937 Act."

F9: The Retirement Board cannot adequately respond to this finding, because the finding does not specify the individuals or decisions referred to, or the statements that the Report considers to be "excuses."

C2: The composition of the Retirement Board is established by the California Constitution and by statute. By law, many of the Retirement Board members also must be members of the retirement system, and from time to time are required to vote on members' contributions and benefits, including their own. Under the Constitution, the Retirement Board's composition may not be changed, except by a vote of the electors of Fresno County. See Cal. Const., Art. XVI, §17(f).

C3: The Retirement Board does not believe that there are any members of the retirement system who are "not members of the class defined in the Ventura Settlement."

C6: The issues in this Report seem to focus primarily on the benefits granted and the cost of those benefits. Under the current, ever-changing and dynamic retirement environment, the Retirement Board seeks to effectively administer the plan established by the County under applicable law.

R8: On August 3, 2005, the Retirement Board adopted an Education Policy that is designed to develop the skills necessary to administer the retirement system including areas such as pension law, pension finance, institutional investment, investment performance measurement, actuarial evaluation, benefits structure, disability retirement, organizational structure and governance, and organizational budget and audit procedures. The Retirement Board believes that its adoption of and adherence to the Education Policy constitutes a full implementation of Recommendation No. 8.

R9: The Retirement Board does not have the authority to grant vested benefits. The Retirement Board has some limited authority under the 1937 Act to grant non-vested benefits, when the system has "excess earnings" (a term of art that is defined in the 1937 Act). Such benefits are normally approved on a year by year basis, with clear notice to the recipients that the benefit is non-vested and subject to annual approval, and as such can be eliminated by the Retirement Board at any time. The Retirement Board believes it has exercised its statutory and constitutional discretion within the bounds of the law in granting non-vested benefits. The Retirement Board will continue to exercise its discretion in a lawful manner and will give due consideration to the implementation of Recommendation No. 9 if it is within the Retirement Board's authority to do so.

Please contact me at 559.457.0350 if you have any questions.

Sincerely,

//s

Roberto L. Peña
Retirement Administrator

RLP:ea

o.k. file
Exhibit 3

**RESPONSE TO THE
2005-06
FRESNO COUNTY GRAND JURY
INTERIM REPORT #5**



**COMPILED BY
THE FRESNO COUNTY ADMINISTRATIVE OFFICE**

FRESNO COUNTY EMPLOYEE'S RETIREMENT ASSOCIATION (FCERA)
APPOINTMENTS TO THE ASSOCIATION'S BOARD OF TRUSTEES

Findings

F19: The Act specifies that, with the exception of the supervisor, the other three appointees "may not be connected with the county government in any capacity."

Fresno County agrees with finding.

F20: Attorney General's opinion finds:

"...Accordingly, we conclude that under the County Employees retirement Act of 1937 a retired member cannot serve as the fourth, sixth or ninth member of the retirement board..."

F21: The 2002 Board of Trustees had two appointed members who were connected to the County government in some capacity. One of those members has been re-appointed for the 2006-2009 term.

Response to Findings 20 and 21:

Government Code section 31520.1 of the 1937 Retirement Act provides for a nine member retirement board. Four members are appointed by the Board of Supervisors who "... are not connected with the county government in any capacity, except one may be a supervisor."

In 2002, three of the four Board of Supervisors appointees were county retirees. Presently, one appointee is a county retiree. The question is raised whether a county retiree is "not connected with the county government in any capacity."

The Attorney General issued an unpublished December 20, 1977 indexed letter No. 77-185 concluding a county retiree is "connected with the county government," and therefore could not be appointed to the retirement board. However, the Attorney General's reasoning is faulty.

First, the Attorney General relied on a 1951 published Attorney General opinion that the county retirement system is a county agency. However, that prior opinion dealt with allowable investments, and merely concluded that a county retirement system is sufficiently governmental, given its close association with the county and other local agencies participating in the system, to be considered a political subdivision of the State of California. (18 Ops.Atty.Gen. 159, 160-61 (1951) The opinion did not deal with the issue of whether a county retirement system is so intimately connected with county government in particular that it should be considered a county agency.

Second, the Attorney General believed the statutory history of section 31520.1 demonstrated a legislative intent that a county retiree should not be appointed to the retirement board. However, had that indeed been the intent, the Legislature could easily have clearly said in the statute "who are not members of the retirement system," rather than the language enacted into the statute.

Third, the Attorney General stated that the statutory history demonstrates a desire by the Legislature to maintain a delicate balance on the retirement board among various groups interested in the retirement system. However, the Attorney General did not consider the fact that under the statute, in addition to three active employees and one retiree on the retirement board, two other board members may be members of the retirement system: the County Treasurer and a County Supervisor. Therefore, even if a Board of Supervisors was prohibited from appointing county retirees to the retirement board, the

majority of most retirement boards would still be made up of members of the retirement system.

The more convincing argument can be made that county retirees may be appointed to the retirement board by the Board of Supervisors. Again, first, section 31520.1 only prohibits appointing persons connected with the county government. Retirees are connected with the Retirement Association, an entity separate from the County. Second, had the Legislature intended to exclude retirees from retirement board membership, the Legislature could easily have expressly said so in the statute. Third, even if no retirees were appointed by a board of supervisors, a retirement board would probably still have a majority composed of retirement system members, i.e., the statute includes on the retirement board the County Treasurer, two active general members of the retirement system elected by the active general members, one active safety member elected by the active safety members, and one retired member of the retirement system elected by the retired members.

R3: The Board of Supervisors follow The 1937 Act in appointments to the FCERA Board

Recommendation has been implemented.

R4: The Board of Supervisors remove the current non-conforming member of the board

Recommendation will not be implemented. See R5 for explanation.

R5: The Board of Supervisors appoint a member who is in compliance with requirements of The 1937 Act.

Recommendation has been implemented. Government Code section 31520.1 of the 1937 Retirement Act provides for a nine member retirement board. Four members are appointed by the Board of Supervisors who "... are not connected with the county government in any capacity, except one may be a supervisor."

In the past the Board of Supervisors has appointed retired County employees to the Retirement Board, and presently one of the appointees is a retiree. The question is raised whether a retiree is "not connected with the county government in any capacity." That legal issue has not been determined by a court or published Attorney General opinion, and there is no consensus among the other 1937 Act counties.

However, there are persuasive arguments that it is proper for the Board of Supervisors to appoint a retiree to the Retirement Board. First, the statute only prohibits appointing persons connected with the county government. Retirees are connected with the Retirement Association, an entity separate from the County. Second, had the Legislature intended to exclude retirees from Retirement Board membership, the Legislature could easily have expressly said so in the statute. Third, even if no retirees were appointed by a Board of Supervisors, a Retirement Board would probably still have a majority composed of retirement system members, i.e., the statute includes on the Retirement Board the County Treasurer, two active general members of the retirement system elected by the active general members, one active safety member elected by the active safety members, and one retired member of the retirement system elected by the retired members.

City of Fresno Committee

Joint Communications Dispatch Center

**The Planning Approval and Building
Permit Process**

RESPONSE TO THE
2005-06
FRESNO COUNTY GRAND JURY
FINAL REPORT



COMPILED BY
THE FRESNO COUNTY ADMINISTRATIVE OFFICE

JOINT COMMUNICATIONS DISPATCH CENTER

Findings

F1: The functions of dispatching public safety employees and emergency services are basically the same at each dispatch center.

Fresno County partially disagrees with the finding. The most significant difference in dispatching is the use of 10-code system by law enforcement. The 10-code is the use of several codes that translate to various messages. These codes may be different from law enforcement agency to law enforcement agency. The fire departments and ambulance agencies do not use codes in the dispatching of calls; rather, they use "clear text." Clear text is verbally stating what action is being taken instead of using the code which represents an action. This allows all parties to understand what is being said.

F2: The Fresno County Sheriff, Fresno Police Department and American Ambulance have separate dispatch centers handling similar emergencies.

- **Fresno County Sheriff:**

- **Receives 9-1-1 emergency calls originating within Fresno County**
- **Dispatches County fire calls to the California Department of Forestry (CDF)**
- **Dispatches County ambulance calls to CDF per existing protocol.**

Fresno County disagrees partially with the finding: a.) The Sheriff's office receives calls originating in the unincorporated areas of Fresno County and in those incorporated areas that have been contracted to the Fresno County Sheriff's office.

Fresno County disagrees partially with the finding: b.) The Sheriff's office transfers fire calls to Fresno County Fire and North Central Fire Protection District.

Fresno County disagrees partially with the finding: c.) The Fresno County Sheriff's office transfers fire and ambulance calls to Fresno County Fire and North Central Fire Protection District per existing protocols. If a fire, medical, and/or law enforcement response is required, the appropriate public safety services from each of the appropriate disciplines responds.

- **Fresno Police Department:**

- **Receives 9-1-1 emergency calls originating within Fresno City**
- **Dispatches City fire calls to American Ambulance**
- **Dispatches city ambulance calls to American Ambulance**

Fresno County disagrees partially with the finding. The fire calls and ambulance calls are transferred to the Fresno County EMS Communications Center and not American Ambulance.

- **American Ambulance:**

- **Dispatches Fresno City Fire Department**

- **Dispatches ambulance service within Fresno City in addition to Fresno, Madera and Tulare Counties.**
- **American Ambulance has a contract with Fresno County for Emergency Medical Services (EMS).**

Fresno County disagrees partially with the finding. The Fresno County EMS Communications Center dispatches the Fresno City Fire Department and 13 other ambulance providers in Fresno, Kings, and Madera Counties. The dispatch center is the Fresno County EMS Communications Center and not American Ambulance dispatch. American Ambulance is only contracted to staff the communications center for the County of Fresno.

F3: Existing dispatch centers use their own range of radio frequencies.

- **The City and County dispatchers and first responders are unable to communicate with each other except by land line phones.**
- **Response time to county islands is often delayed when no mutual aid agreement exists.**

Fresno County disagrees partially with the finding. The statement regarding mutual aid is not accurate in regards to Emergency Medical Services. The Fresno County EMS Communications Center dispatches the closest ambulance to the medical incident regardless of geopolitical boundary lines. This includes neighboring jurisdictions and counties. Since the Fresno County EMS Communications Center is the centralized dispatch center for all ambulance responses in Fresno, Kings, and Madera Counties, the closest ambulance is sent regardless of county, city, or district jurisdiction. Only law enforcement and fire agencies have jurisdiction/boundary issues.

The Fresno Sheriff's Department and Fresno Police Department have entered into a local mutual aid agreement called an "instant aid agreement." This agreement was developed and entered into by joint agreement with the Sheriff and the Fresno Police Department Chief. Similar agreements between the Sheriff and the Chief's of all other police departments in Fresno County exist. These "instant aid" agreements provide for the closest unit, regardless of agency of primary jurisdiction, to respond to emergency incidents upon request of the initial responding agency.

Although different public safety agencies do have different radio frequencies as issued and licensed by the Federal Communications Commission (FCC), a few examples of multi-agency communication capabilities include: the implementation of a countywide "link channel" a number of years ago; car to car frequencies such as CLEMARS and NALEMARS; installation of multi-frequency radio channel controllers (Zetron) for the dispatch centers of the Sheriff's Department and the Fresno Police Department; and the installation of dual band radios in virtually all law enforcement patrol units in Fresno County.

F4: The lack of radio interoperability hinders communication between agencies.

- **Homeland Security is concerned with first responders' inability to communicate with multiple emergency agencies nationwide.**

Fresno County agrees with the finding.

F5: At the Fresno Police dispatch, instances have occurred where there are not enough "lines" available to handle the 9-1-1 calls, and they must be queued while waiting for a dispatcher to answer.

- Callers could, in a worst case scenario, receive a busy signal and have to place another call.
- For the Sheriff's dispatch, volume is less and busy signals do not occur.

Fresno County is not able to respond to this finding regarding 911 call overload issues at the Fresno Police Department due to inadequate knowledge of their operation.

F6: The Fresno Police Department is scheduled to accept all cellular 9-1-1 calls originating within the city limits sometime in 2006.

- These calls are anticipated to increase call volume by 10 to 40 percent.
- Space, additional staffing, as well as equipment will be a problem in the current location.
- The State recommends that all calls be relayed within 10 seconds.
- During peak hours, the City's dispatch can take up to 20 seconds per call.
- Cellular volume has not been factored into this response time.
- The national standard is to have 95 percent of all calls be successfully transferred to the responding agency within 10 seconds.

Fresno County is not able to respond to this finding regarding cellular 911 calls to the Fresno Police Department due to inadequate knowledge of their operation.

F7: The City and County agencies involved agree on the need and feasibility for a centralized dispatch center.

- There is no written agreement between the City and County for the consolidation of the dispatch centers.
- Location is the major disagreement between the city and County.

Fresno County partially agrees with the finding. The Chamber of Commerce has been facilitating meetings between the City and County. A location has not been decided. There are numerous issues to be resolved, including governance, finance, facilities, operations and staffing.

F8: In March 2006, a needs assessment was completed by the RRM Design Group for the City; the County reviewed the report.

Fresno County agrees with the finding.

F9: The Greater Fresno Area Chamber of Commerce hired Management Partners, Inc., to review public safety services and make recommendations for improvement.

- The first phase of the report was completed in May 2006.
 - Dispatch Services is one of ten sections in the report.

Fresno County agrees with the finding.

Recommendations

R1: Build a regional communications facility for the purpose of integrating all Fresno County and City 9-1-1 dispatchers with interoperability as the ultimate goal.

- **Co-location may be the first step toward integration.**

Recommendation has not yet been implemented. The Fresno City Council and Fresno County Board of Supervisors have conducted a joint meeting to discuss dispatch services. Task groups were identified to review potential sites and capabilities and return to another joint meeting of the City/County within 90 days with recommendations to move forward. Some of the issues to be resolved involve co-location and consolidation. True cost savings will be achieved through consolidation.

R2: The recommendations in the report by Management Partners, Inc. must be followed.

Recommendation is being analyzed. The Fresno City Council and Fresno County Board of Supervisors have conducted a joint meeting to discuss the integration of various public safety services. Task groups were identified to evaluate and make recommendations regarding, 1.) property and evidence storage, 2.) dispatch, 3.) prisoner processing, and 4.) governance. Discussions have focused upon the inclusion of all 15 cities in Fresno County. These task groups will return to another joint meeting of the City/County within 90 days with recommendations to move forward.



Richard Pierce
Sheriff
Fresno County Sheriff's Department

September 26, 2006

Presiding Judge Edward Sarkisian
Fresno County Superior Court
Department 50
1100 Van Ness Avenue
Fresno, CA 93724-0002

RE: Joint Communications Dispatch Center Findings and Responses

Dear Judge Sarkisian

This letter is a response pursuant to the 2005 Grand Jury Report regarding the Joint Communications Dispatch Center. Findings and recommendations made by the Grand Jury and responses are attached. If you have questions please contact my office at 488-3903.

Sincerely,

Tom Gattie
Assistant Sheriff

TG:tjc

Dedicated to Protect & Serve

Joint Communications Dispatch Center Findings and Responses

Finding

F1 The functions of dispatching public safety employees and emergency services are basically the same at each dispatch center.

Fresno Sheriff Office Response:

F1 The Office of the Sheriff agrees with this finding.

Finding

F2 The Fresno County Sheriff, Fresno Police Department and American Ambulance have separate dispatch centers handling similar emergencies.

- Fresno County Sheriff:
 - Receives 9-1-1 emergency calls originating within Fresno County
 - Dispatches County fire calls to the California Department of Forestry (CDF)
 - Dispatches County ambulance call to CDF per existing protocol
- Fresno Police Department:
 - Receives 9-1-1 emergency calls originating within Fresno City
 - Dispatches City fire calls to American Ambulance
 - Dispatches City ambulance calls to American Ambulance
- American Ambulance:
 - Dispatches Fresno City Fire Department
 - Dispatches ambulance service within Fresno City in addition to Fresno, Madera and Tulare Counties
 - American Ambulance has a contract with Fresno County for Emergency Medical Services (EMS)

Fresno Sheriff Office Response:

F2 The Sheriff's Department is the primary safety answering point (PSAP) for 911 calls originating within unincorporated Fresno County, along with contract cities and cities we dispatch law enforcement services for. The Sheriff's Department does NOT "dispatch" fire calls, nor do they "dispatch" ambulances. Fire and medical service calls initially received by the Sheriff's Dispatch are "transferred" to appropriate dispatch centers such as CDF, Fresno County Fire, or American Ambulance. If a 911 call requires a law enforcement response in addition to medical and/or a fire response, all appropriate public safety services from each of the appropriate discipline (law, fire, medical) responds.

Finding

- F3 Existing dispatch centers use their own range of radio frequencies
- The City and County dispatchers and first responders are unable to communicate with each other except by land line phones
 - Response time to County islands is often delayed when no mutual aid agreement exists.

Fresno Sheriff Office Response:

F3 The Office of the Sheriff disagrees with a substantial portion of Finding 3.

Although different public safety agencies do have different radio frequencies as issued and licensed by the FCC, the implementation of a countywide "link channel" a number of years ago; car to car frequencies such as CLEMARS and NALEMARS; installation of multi-frequency radio channel controllers (Zetron) for the dispatch centers of the Sheriff's Department and the Fresno Police Department; and the installation of dual band radios in virtually all law enforcement patrol units in Fresno County are a few examples of multi-agency communication capabilities. Limited data exchange capabilities currently exist; however that capability also is being enhanced with expanded countywide microwave service. A local mutual aid agreement called an "instant aid agreement" between the Fresno Sheriff's Department and Fresno Police Department exists. This agreement was developed and entered into by joint agreement with the Sheriff and the Fresno PD Chief. Similar agreements between the Sheriff and the Chief's of all other police departments in Fresno County exist. These "instant aid" agreements provide for the closest unit, regardless of agency of primary jurisdiction, to respond to emergency incidents upon request of the initial responding agency. Non-emergency, non-life threatening calls for service are not normally considered to be part of this agreement, but if available, agencies do assist each other until the situation is stabilized.

Finding

- F4 The lack of radio interoperability hinders communication between agencies
- Homeland Security is concerned with first responders' inability to communicate with multiple emergency agencies nationwide

Fresno Sheriff Office Response:

- F4 The Office of the Sheriff agrees with this finding.
-

Finding

- F5 At the Fresno Police dispatch, instances have occurred where there are not enough "lines" available to handle the 9-1-1 calls, and they must be queued while waiting for a dispatcher to answer.
- Callers could, in a worst case scenario, receive a busy signal and have to place another call.
 - For the Sheriff's dispatch, volume is less and busy signals do not occur.

Fresno Sheriff Office Response:

- F5 The Sheriff's Department is not able to respond to this finding regarding 911 call overload issues at the Fresno Police Department, due to inadequate knowledge of their operation.
-

Finding

- F6 The Fresno Police Department is scheduled to accept all cellular 9-1-1 calls originating within the city limits sometime in 2006.
- These calls are anticipated to increase call volume by 10 to 40 percent.
 - Space, additional staffing, as well as equipment will be a problem in the current location.
 - The State recommends that all calls be relayed within 10 seconds.
 - During peak hours, the City's dispatch can take up to 20 seconds per call.
 - Cellular volume has not been factored into this response time.
 - The national standard is to have 95 percent of all calls be successfully transferred to the responding agency within 10 seconds.

Fresno Sheriff Office Response:

- F6 The Sheriff's Department is not able to respond to this finding regarding cellular 9-1-1 calls to the Fresno Police Department, due to inadequate knowledge of their operation.
-

Finding

- F7 The City and County agencies involved agree on the need and feasibility for a centralized dispatch center.
- There is no written agreement between the City and County for the consolidation of the dispatch centers.
 - Location is the major disagreement between the City and County.

Fresno Sheriff Office Response:

- F7 The Office of the Sheriff agrees with this finding, and believes that a consolidated Dispatch Center is in the best interests of public safety for all citizens of Fresno County as well as all public safety members (law, fire, medical). Location, based on currently technology, is of no preference.
-

Finding

- F8 In March 2006, a needs assessment was completed by the RPM Design Group for the City; the County reviewed the report.

Fresno Sheriff Office Response:

- F8 The Office of the Sheriff agrees with this finding.
-

Finding

- F9 The Greater Fresno Area Chamber of Commerce hired Management Partners, Inc to review public safety services and make recommendations for improvement.
- The first phase of the report was completed in May 2006.
 - Dispatch Services is one of the ten sections in the report.

Fresno Sheriff Office Response:

- F9 The Office of the Sheriff agrees with this finding.
-

RECOMMENDATIONS

Recommendations

R1 Build a regional communications facility for the purpose of integrating all Fresno County and City 9-1-1 dispatchers with interoperability as the ultimate goal.

- Co-location may be the first step towards integration.

Fresno Sheriff Office Response:

R1 The Office of the Sheriff agrees with this recommendation.

Recommendations

R2 The recommendations in the report by Management Partners, Inc. must be followed.

Fresno Sheriff Office Response:

R2 The Office of the Sheriff does not agree with this recommendation statement, as it is written. While the Sheriff's Department agrees with a joint, co-located, integrated Dispatch Center, it is ultimately the "will of the public served", through their elected City Councils and the Board of Supervisors that must be followed.



Andrew T. Souza
City Manager

October 6, 2006

Presiding Judge of the Superior Court
County Courthouse
1100 Van Ness Avenue
Fresno, CA 93724-0002

SUBJECT: 2005-2006 GRAND JURY RECOMMENDATIONS

Dear Presiding Judge:

Attached are the City's responses to the 2005-2006 Grand Jury Report. The City Council unanimously approved these responses at their September 26th Council meeting. Should you need any additional information, please feel free to contact me at the number below.

Sincerely,

Nicole R. Zieba
Management Analyst III

/rz

cc: Sherry Spears, Grand Jury Room

*******City Responses to the Findings and Recommendations
are denoted in Bold Italics.*******

JOINT COMMUNICATIONS DISPATCH CENTER

INTRODUCTION

An efficient communications system is vital for public safety. 9-1-1 dispatch has a direct effect on response time which is critical in life and death situations.

REASON FOR INVESTIGATION

Fresno County utilizes several different but parallel systems of communication and dispatch between first responders. An integrated dispatch center would alleviate duplication of services and shorten response times. According to a high ranking County official, "...two deaths in law enforcement have occurred as a direct result of the lack of a coordinated consolidated communications system".

BACKGROUND

The City Committee of the 2005-2006 Fresno County Grand Jury investigated the emergency communications aspect of the consolidation issue between the County and City of Fresno. For the purpose of this report, the committee only investigated the need for a Joint Communications Dispatch Center.

Dating back to the 1970's there have been innumerable discussions and promises to do something about integrating services provided by the County and City to their respective citizenry. Issues of money, location, or unwillingness of elected and appointed officials to give up turf have impeded any progress toward consolidating services. Regarding the matter of emergency communications, the list is long and well intended resulting in nothing of substance.

- In 1986-1987, the Fresno County Grand Jury investigated the need for a joint public safety building. Included in the responses to the report were comments from Sheriff Magarian acknowledging a future trend to include communications.
- The Little Hoover Commission Report adopted in March 1992, recommended consolidation of emergency services.
- The 2025 Fresno General Plan dated November 2002, adopted the following:
 - Police Services: E-24-e. Policy: Maximize coordination between the Police Department and the Sheriff's Department and continue to explore opportunities for combining and consolidating services when it provides a means to improve the level of law enforcement provided to the community.

- Fire Services: E-25. Objective: Ensure that fire protection, emergency medical and all emergency services are provided in an adequate, efficient and cost effective manner.
- E-26-b. Policy: Provide for an average response time of not more than five minutes for all emergency requests for service within the metropolitan area.
- The RRM Design Group, hired by the Fresno City Council, developed and prepared a needs assessment for the City of Fresno in March 2006. This report showed a 61,000 sq. ft. communications building located within a larger complex.
- The Fresno City Council and the Board of Supervisors have each had separate committee meetings regarding the consolidation of communications, to no avail. In January 2006, The Greater Fresno Area Chamber of Commerce hired a consulting firm, Management Partners, Inc., to review and recommend procedures for integrating the public safety departments of Fresno City and County. The report was submitted in May 2006.
- The Chamber's Public Safety Integration Committee said this project is a major undertaking, which has the potential to save significant tax dollars by eliminating duplication and improving services within the Greater Fresno Area.
- The Chamber of Commerce has offered to assume the role of facilitator regarding the process of integrating public safety services. The report established timelines for both parties to commit to planning and meeting before the end of the year. The consolidation of public safety services has been accomplished in several large metropolitan areas throughout the country. Integration of like communication services is feasible if the Fresno City Council and the Board of Supervisors would just walk across the street and seriously talk to each other.
- The location of a Joint Communications Dispatch Center should not be based on power, control or turf. The needs and best interests of the citizens of the County should be paramount.
- The various "discussion" phases of the past thirty years must come to an end. Now is the time for action.

DEFINITIONS

The following terminologies are used throughout this report:

- Consolidation – the merger of two or more entities
- Co-location – to place together; arrange side by side
- Integrate – to make into a whole by bringing all parts together; unify
- Interoperability – the ability of any public safety official to talk to whomever they need to, whenever they need to, when properly authorized

RESOURCES

Interviews:

- Current and former Fresno County and City officials
- Fresno County Board of Supervisors and Fresno City Council
- Greater Fresno Area Chamber of Commerce
- Members of the media

Tours:

- Fresno County Sheriff's Dispatch Center
- Fresno Police Department Dispatch Center
- American Ambulance Dispatch Center

Research:

- Prior Fresno County Grand Jury Reports
- Little Hoover Commission Report, March 1992
- The 2025 Fresno General Plan adopted February 2002
- Fresno City Needs Assessment Report, March 2006
- The Greater Fresno Area Chamber of Commerce Report produced by Management Partners, Inc., May 2006
- Correspondence with County and City officials
- Newspaper articles
- Internet

FINDINGS

F1. The functions of dispatching public safety employees and emergency services are basically the same at each dispatch center.

The City agrees, in part, with Finding 1. Although the basic functions for all emergency services dispatch operations are the same, the needs of the various organizations differ greatly relative to the needs of the community they serve. As an example, rural law enforcement includes dive teams, search and rescue functions, Ag Task Forces, and specialized equipment such as long-range helicopter services, which an urban law enforcement agency does not need. This, coupled with a service area that covers everything from mountains to agricultural land, gives the Sheriff's Department specific needs in their communications capabilities that the Fresno Police Department does not share.

There is also a difference between law enforcement communications and fire/EMS communication. For many years, the Fresno Fire Department was dispatched out of the Police Department. Because of the call volume and multiple tasks required, persons answering the 9-1-1 calls (complaint takers) were separate from the persons dispatching the apparatus and communicating with the field response units. Fresno Fire is now dispatched privately through a services contract with American Ambulance where the complaint takers may also act as the dispatchers. The significantly lower volume of calls, coupled with similarities in tasks, allows this to be an effective model, a model that would not be as successful for a high-volume law enforcement emergency communications center.

- F2. The Fresno County Sheriff, Fresno Police Department and American Ambulance have separate dispatch centers handling similar emergencies.
- Fresno County Sheriff:
 - Receives 9-1-1 emergency calls originating within Fresno County
 - Dispatches County fire calls to the California Department of Forestry (CDF)
 - Dispatches County ambulance calls to CDF per existing protocol.
 - Fresno Police Department:
 - Receives 9-1-1 emergency calls originating within Fresno City
 - Dispatches City fire calls to American Ambulance
 - Dispatches City ambulance calls to American Ambulance
 - American Ambulance:
 - Dispatches Fresno City Fire Department
 - Dispatches ambulance service within Fresno City in addition to Fresno, Madera and Tulare Counties
 - American Ambulance has a contract with Fresno County for Emergency Medical Services (EMS).

The City agrees with Finding 2. There are a couple of corrections, however. Under the Fresno County Sheriff, the second and third hash marks should read "Receives as a PSAP and transfers...." A fourth hash mark should be added that notes that the Sheriff's Department also contracts with some rural communities, such as Kerman and Sanger, to provide nighttime law enforcement dispatch functions.

Under the Fresno Police Department, the second and third hash marks should read "Receives as a PSAP and transfers...." A fourth hash mark should be added that notes SCCCPD of Fresno shares FPD's CAD system and shares our radio frequencies.

Under American Ambulance, the second hash mark should include Kings County.

- F3. Existing dispatch centers use their own range of radio frequencies.
- The City and County dispatchers and first responders are unable to communicate with each other except by land line phones.
 - Response time to County islands is often delayed when no mutual aid agreement exists.

The City agrees in part and disagrees in part with Finding 3. The first statement speaking to differing radio frequencies is correct. VHF (Very High Frequencies) allows for coverage over a greater area where UHF (Ultra High Frequencies) allows penetration of these signals through buildings and objects over shorter distances. Based on our response to Finding 1, it makes sense for the County to operate on a different band width than the City would need.

The second statement is false. For many years, State, Federal, local, and County public safety entities have been working diligently on implementing interoperable communications under the Urban Areas Security Initiative (UASI) grants. The Fresno Urban Geographical Area (FUGA) is defined as "approximately 2,230 square miles with boundaries being the Friant/Kern Canal on the east to US Interstate 5 on the West (including Coalinga), and the San Joaquin River on the North to the Kings River on the South." Essentially, it is a 15-mile radius from downtown Fresno with the addition of Coalinga but not going any more north than the Fresno/Madera County border.

This group has allowed for the purchase and installation of Zetron ACOMM consoles that allow every public safety agency in the county the ability to have instantaneous voice communications with any other public safety agency in the County. This technology applies to all hard-mount radios in the County and by November 2006, all portable radios will also have this capability. In addition, there exists a state-wide, dual-band (UHF/VHF) channel referred to as CLEMARS (California Law Enforcement Mutual Aid Radio System) that has allowed voice communications between law enforcement agencies for many years.

The third statement cannot be substantiated. The Fresno County Sheriff's Department may have the data, however, this information was not presented within the contents of this report. Secondly, there exists an agreement between the City and County for mutual aid to County pockets within the City.

- F4. The lack of radio interoperability hinders communication between agencies.
- Homeland Security is concerned with first responders' inability to communicate with multiple emergency agencies nationwide.

The City disagrees with Finding 4. The UASI project, discussed in our response to Finding 3, included installing a series of universal dispatch consoles at law, fire and EMS agencies in the FUGA, which will allow for the bridging of different frequencies that are used by these agencies. These Zetron ACOMM consoles will be connected by a microwave network, which will create the ability to patch together radio channels from all law enforcement, fire and EMS entities in Fresno County when there is a need to communicate. Also, the system is being designed with microwave and fiber for redundancy.

These efforts have also included the installation of dual-band radios in marked law enforcement patrol unit. This will give law enforcement the ability to talk directly to other agencies as well as be able to have these radios rapidly reprogrammed, should they need to respond outside the region, and be able to communicate there as well.

A cache of 100 portable radios (50 UHF and 50 VHF) is also available for any other outside agencies that would respond to our region in the event of a catastrophic event. These radios will allow for hand-held interoperability in the event resources are requested from outside our region or state.

- F5. At the Fresno Police dispatch, instances have occurred where there are not enough "lines" available to handle the 9-1-1 calls, and they must be queued while waiting for a dispatcher to answer.
- Callers could, in a worst case scenario, receive a busy signal and have to place another call.
 - For the Sheriff's dispatch, volume is less and busy signals do not occur.

The City disagrees with Finding 5. The Police Department presently answers 250,000 9-1-1 calls. Adding nine additional 9-1-1 call-taking stations will allow more personnel to answer 9-1-1 calls, thus, reducing the 9-1-1 answer delay.

The first bullet point is false as it relates to Fresno PD. Our agency does not use 9-1-1 trunks but utilizes an ISDN (Integrated Services Digital Network) system with queued slots, thus, no busy signal would be heard. Because the EMS/Fire Dispatch Center is not a primary PSAP (Public Safety Answering Point) and has limited 9-1-1 trunk lines, busy signals may occur when the Police Department attempts to transfer a call to these entities. All primary PSAPs must meet the performance standard. The Fresno Police Department must meet or exceed performance criteria #P.01 set by the State of California of no more than 1 busy signal per 100 9-1-1 calls for service.

- F6. The Fresno Police Department is scheduled to accept all cellular 9-1-1 calls originating within the city limits sometime in 2006.
- These calls are anticipated to increase call volume by 10 to 40 percent.
 - Space, additional staffing, as well as equipment will be a problem in the current location.
 - The State recommends that all calls be relayed within 10 seconds.
 - During peak hours, the City's dispatch can take up to 20 seconds per call.
 - Cellular volume has not been factored into this response time
 - The national standard is to have 95 percent of all calls be successfully transferred to the responding agency within 10 seconds.

The City agrees with Finding 6 with corrections as noted. The Fresno Police Department began receiving cellular 9-1-1 calls on May 17, 2006. As of August 30, 2006, the increase in call volume from wireless 9-1-1 calls to our Dispatch Center was 18 percent.

The second bullet point is true. We operate out of 1,800 square feet, of work space and must consolidate work stations to accommodate our personnel needs in communications.

The third bullet point needs to be corrected. The State standard recommends all calls to be answered, not relayed, within 10 seconds.

The fourth bullet point was unverifiable. The State 9-1-1 manual was referenced and no similar requirement was found. No national standards were found that suggest this criteria as well.

- F7. The City and County agencies involved agree on the need and feasibility for a centralized dispatch center.
- There is no written agreement between the City and County for the consolidation of the dispatch centers.
 - Location is the major disagreement between the City and County.

The City disagrees with Finding 7, based on the need for bridging technology between incompatible software systems. The City has been working diligently, for many years, toward interoperable communications. As previously stated, the UASI work group has implemented voice interoperability through a series of contracts, agreements, and MOUs between public safety entities throughout Fresno County.

The remaining challenge is data interoperability and the present lack of bridging middleware between the varying data systems of the Sheriff's Office, Police Department, and Fire/EMS. Without the necessary middleware, data cannot be exchanged between agencies, therefore, it is of less importance whether agencies are co-locating at this time. Co-location would allow

agencies to work in a new building, but agencies still would not be able to transfer data between each other until this issue is resolved.

The City and County have been working together on the needs assessment and preliminary specifications for a joint communications facility for the past 19 months. This building has been designed to accommodate the law enforcement, fire, and EMS dispatching needs for the County. The site location has not been an element of the preliminary design.

F8. In March 2006, a needs assessment was completed by the RRM Design Group for the City; the County reviewed the report.

The City agrees with Finding 8. The City and County chose RRM in February 2005. FPD, FFD, and the SO funded the initial needs assessment report, which was developed from work groups that included EMS representatives. These work groups have continued to meet as the preliminary specifications are established. The needs assessment report was presented to the City Council and County Board of Supervisors in February 2006. The City, County, and EMS have been collaborating on the second phase design specifications, which is anticipated to be completed, pending the outcome of the joint City/County/Chamber Task Force meetings, in October 2006.

F9. The Greater Fresno Area Chamber of Commerce hired Management Partners, Inc. to review public safety services and make recommendations for improvement.

- The first phase of the report was completed in May 2006.
- Dispatch Services is one of ten sections in the report.

The City agrees with Finding 9.

CONCLUSIONS

- C1. Integration of emergency services in Fresno County would improve services and be cost-effective.
- Integration will improve response time.
- C2. The Fresno City Council and the Fresno County Board of Supervisors have failed to devise or agree upon a consolidation plan.
- C3. The procedures and timelines proposed by the Chamber's report are viable and necessary.

RECOMMENDATIONS

- R1. Build a regional communications facility for the purpose of integrating all Fresno County and City 9-1-1 dispatchers with interoperability as the ultimate goal.

- Co-location may be the first step toward integration.

The City disagrees with Recommendation 1, but offers the following clarification: County-wide voice interoperability for hard-mount radios currently exists. Portable radio voice interoperability for all law enforcement officers county-wide will be in place by November 2006.

As previously stated, there is no plan or present capability to bridge the existing data platforms between Fire/EMS, Fresno PD, and the Sheriff's Department. Each of these entities has expended a significant amount of money in the development and implementation of these systems that meet the specific needs of their agencies. This bridge or middleware is necessary to integrate dispatch services for these disciplines.

Co-location will not address this issue. Once the data bridge is developed, and should a consolidated PSAP be established, spatial distances between the agencies become less of an issue as data is transferred.

R2. The recommendations in the report by Management Partners, Inc. must be followed.

The City disagrees with Recommendation 2, with a qualification. There are 12 recommendations within the contents of the Chamber Report. Many of these recommendations will not be explored under the present formation of the City/County Task Forces and go beyond the scope of the Grand Jury Report. As stated in Recommendation 2, the Grand Jury is asking the City to adopt all of the recommendations within the Chamber Report.

Furthermore, the recommendations of the established Task Forces may materially differ from the recommendations of the Chamber Report. By committing to this recommendation, the City might possibly be in an untenable position as to the Task Force recommendation, should they differ.

COMMENDATIONS

The Greater Fresno Area Chamber of Commerce is to be commended for taking on the roll of an unbiased third party willing to facilitate discussions and negotiations between the County and City of Fresno to integrate emergency dispatch services.

REQUEST FOR RESPONSES

Pursuant to Penal Code § 933.05, the Fresno County Grand Jury requests responses as follows:

Fresno County Board of Supervisors: R1 and R2

Fresno City Council: R1 and R2



Andrew T. Souza
City Manager

October 6, 2006

Presiding Judge of the Superior Court
County Courthouse
1100 Van Ness Avenue
Fresno, CA 93724-0002

SUBJECT: 2005-2006 GRAND JURY RECOMMENDATIONS

Dear Presiding Judge:

Attached are the City's responses to the 2005-2006 Grand Jury Report. The City Council unanimously approved these responses at their September 26th Council meeting. Should you need any additional information, please feel free to contact me at the number below.

Sincerely,

Nicole R. Zieba
Management Analyst III

/rz

cc: Sherry Spears, Grand Jury Room

THE PLANNING APPROVAL AND BUILDING PERMIT PROCESS

INTRODUCTION

The City Committee of the 2005-2006 Fresno County Grand Jury examined the planning approval and building permit process of the Planning and Development Department (PDD) of the City of Fresno.

REASON FOR INVESTIGATION

Increased construction activity in recent years has created large numbers of permit applications slowing the planning approval and building permit process. The processing of applications has taken such an inordinate amount of time that in many cases businesses have given up and located elsewhere. This issue of time has discouraged commercial, industrial and residential development in the City.

BACKGROUND

The Planning and Development Department is responsible for planning the future development of the City of Fresno emphasizing where growth will occur and how it will be accomplished. After the planning approval process, construction documents are submitted for a building permit. This process is complex and time consuming. In the past, incomplete plans were accepted, revised and returned thus delaying the processing time. Once building begins, inspection of each phase of construction is under the purview of the PDD.

Reasons for the lengthy processing time include:

- Volume in the past 18 months to 2 years has doubled and sometimes tripled.
- Projects have gotten more complex. The General Plan promotes high density development which complicates the process.
- The process itself takes time. If the plans are incomplete, they have to be corrected and resubmitted for approval.
- Projects requiring California Environmental Quality Act (CEQA) or Environmental Impact Report (EIR) approval add months to the application process in the planning approval phase.

In 2004, the decision was made to hire outside firms to assist with the planning and building permit process. This practice is called outsourcing. The first contracts awarded were for \$49,999; a City ordinance mandates the City Council must approve all contracts for \$50,000 or more. Because those first contract firms proved reliable, accurate and timely, the department let two contracts for \$300,000 and \$500,000. The City Council vote was 4 to 3 in favor. The most recent Council approval was unanimous. To answer the criticisms from the

building industry and the need to address the workload that sheer volume of applications has placed on the department, there has been a concerted effort to revamp and streamline procedures in the plan approval and building permit processes:

- Meetings have been instituted for architects, engineers, planners and developers informing them of updated policies and procedures.
- In October 2005, an Application Assistance Center, utilizing a manger and seven staff, was opened for the purpose of assisting plan preparers to make sure plans meet the specifications needed to obtain a building permit.
- As a result, there is no need for incomplete plans to be accepted, thus eliminating multiple submissions.
- The concept of combination-inspectors was instituted whereby one inspector could approve multiple phases of a structure thus saving time.
- New computer software has been installed to help track the internal functions of the department.
- Future computer upgrades will enable an applicant to track the exact phase or location of the application.
- A private company has been hired to evaluate PDD procedures that may be wasteful due to overlaps and duplication.
- Files and records are being scanned to compact disc (CD) in an effort to save space and make these records more accessible.

Many within the industry acknowledge the efforts being made by the Planning and Development Department. As Fresno continues to grow, efficient cost-effective procedures for the building industry are essential in order to entice prospective businesses to locate here.

SOURCES

- Leaders within the building industry
- City Councilmen
- Civic leaders
- Planning and Development Department
- Interviews
- Site visit
- 2025 Fresno General Plan
- News media

FINDINGS

- F1. The Application Assistance Center was started in October 2005, as an aid to project applicants helping to make sure their applications were properly filed as completed.
- A manager and staff of seven, representing components of the planning approval process, are placed together in one location as a way to consolidate resources for the public's convenience.
 - Here questions are answered, plans are coordinated, reviewed and changed as needed to save time and reduce the need to resubmit.

The City agrees with Finding 1.

- F2. Meetings are held with architects, engineers, planners and developers to inform them of updated departmental policies and procedures.

The City agrees with Finding 2.

- F3. Incomplete applications are no longer accepted.

The City agrees with Finding 3.

- F4. Projects are being outsourced.
- Outsourced contracts are funded by monies generated from planning and building permit fees.
 - Outsourcing contracts of \$50,000 or more need City Council approval.
 - The first two outsourcing contracts resulted in a City Council vote of 4 to 3 for approval.
 - The last outsourcing contract received unanimous Council approval.
 - To date, approximately \$1.5 million in outsourcing contracts have been approved.

The City agrees with Finding 4 and provides the following clarification to the third bullet point in Finding 4: The first outsourcing contract for \$300,000 resulted in a City Council vote of 4 to 3 for approval. The second set of outsourcing contracts totaling \$500,000 resulted in a City Council vote of 6 to 1 for approval.

- F5. Fifty percent of the building inspectors are now trained as combination-inspectors qualified to check multiple phases of the building process.
- The use of combination-inspectors has helped reduce the number of individual inspections per day.
 - Four combination-inspector positions have been outsourced.
 - In January 2006, requests for inspections were 400 per day. By March 2006, the requests numbered 1350 per day.

- Currently, inspections are down to a manageable 600-700 per day.

The City agrees with Finding 5.

- F6. Projects that are determined to need further CEQA or EIR scrutiny require more time.

The City agrees with Finding 6.

- F7. Plans have been finalized for reconfiguration of the public space within the department to better serve the public.
- Additional chairs and tables will be added and a large flat screen TV will be used for posting information.

Future plans include:

- Computers within the department, for public use, to assist in tracking the progress of an application
- Software enabling the applicant to track an application from his home or business will be possible by logging onto the City's website using an assigned password or number.
- Applications submitted and processed via CD
- While improvements have been made, additional alterations will be needed to ensure optimum customer service.

The City agrees with Finding 7.

CONCLUSIONS

- C1. The Application Assistance Center assists plan preparers in submitting a complete set of documents.
- C2. By not accepting incomplete plans, the department has eliminated the time consuming problem of multiple submittals.
- C3. Outsourcing reduces workload volume.
- C4. Combination-inspectors have resolved the problem of most inspection delays.

RECOMMENDATIONS

The 2005-2006 Fresno County Grand Jury recommends that:

- R1. The Planning and Development Department continue to refuse incomplete plans

The City agrees with Grand Jury Recommendation 1.

- R2. The Planning and Development Department continue to outsource as necessary

The City agrees with Grand Jury Recommendation 2.

- R3. All Planning and Development Department inspectors be trained as combination inspectors

The City agrees with Grand Jury Recommendation 3.

- R4. The Planning and Development Department continue to meet with architects, engineers, planners and developers as needed

The City agrees with Grand Jury Recommendation 4.

- R5. The Fresno City Council continues to approve outsourcing contracts.

The City agrees with Grand Jury Recommendation 5.

COMMENDATIONS

The Planning and Development Department is making a concerted effort and progress toward a timely and efficient plan approval and permit process.

REQUEST FOR RESPONSES

Pursuant to Penal Code § 933.05, the Fresno County Grand Jury requests responses as follows:

- Fresno City Planning and Development – R1, R2, R3, R4
- Fresno City Council – R5

Please be reminded that the responses from elected officials are due within 60 days of the receipt of this report and 90 days for others.

Community Health Committee

**Mental Health Department Fails
Adolescents**

**Peer Pressure and the Teenage Drug
Epidemic***

RESPONSE TO THE
2005-06
FRESNO COUNTY GRAND JURY
INTERIM REPORT #4



COMPILED BY
THE FRESNO COUNTY ADMINISTRATIVE OFFICE

MENTAL HEALTH DEPARTMENT FAILS ADOLESCENTS

The County of Fresno disagrees with the title of this report; Fresno County has not failed adolescents. The County provides inpatient services for children through agreements with entities outside of the County. The County is currently pursuing the provision of these services within the geographic boundaries of Fresno County.

Findings

- F1: There are no facilities for inpatient adolescent mental health care in Fresno County.**
- F2: Adolescents who are a risk to themselves and others require hospitalization.**
- F3: Fresno County contracts for hospitalization of youth at distant locations.**
- F4: Family counseling is problematic for many who have to travel long distances.**
- F5: KDH in Visalia has an excellent facility for the hospitalization of adolescents with severe mental illness.**
- F6: Fresno County can contract with KDH for adolescent inpatient care, if other central valley county partners join in to share the cost.**
- F7: Fresno and four other counties have signed a Letter of Intent to contract for inpatient care at KDH.**
- F8: Untreated mental illness is the leading cause of dysfunctional adolescent behavior.**
- F9: Early diagnosis and adequate treatment can alleviate these behaviors.**
- F10: An average of 40 severely disturbed youth reside in Juvenile Hall each day.**
- F11: The staff training program as currently designed is not adequate for the severely disturbed.**

Findings F1 – F11:

Fresno County agrees with the findings.

Recommendations

- R1: That the new Juvenile Justice Center have one full-time child psychiatrist and two full-time child psychiatric psychologists and twenty-four hour emergency service.**

The recommendation requires further analysis to determine if one full time psychiatrist and two full time child psychiatric psychologists will be the best treatment modality for 40 severely disturbed and disturbing minors in the Juvenile Justice program.

By October the County will be hiring a Board Certified Psychiatrist that will provide us with such analysis, including 10 hours of Psychiatric treatment per week. Such hands-on expert analysis should be completed in December 2006.

The current national shortage of Child Psychiatrists affects the Central Valley in a disproportionate fashion, but the County is looking at other innovative options to provide much needed Child Psychiatric services in all our locations, including the Juvenile Justice Program.

Currently there is an experienced Nurse Practitioner, who will be completing her Psychiatric training in October 2006 from the UCSF program, providing 10 hours a week with a Child Psychiatrist overseeing her work.

There is a 24-hour emergency psychiatric service, with all such emergencies transported to the Children's Crisis Assessment Intervention Resolution Center (CCAIR) unit after

medical clearance at University Medical Center. This is within reasonable standard of care, given resources at this time.

R2: That the Board of Supervisors expend sufficient monies from their general fund and explore all possible federal grant awards to provide mental health services for the severely mentally disturbed juveniles.

Fresno County agrees with the finding. In this budget year (FY 06/07), the Board of Supervisors allocated \$722,092 from the general fund to support mental health services at the Juvenile Justice Campus. Further allocation of funds would have to be taken into consideration along with other county wide budget needs.

The County is currently implementing the recommendation regarding grant awards. The Department of Children and Families, in partnership with Probation, the Superior Court and the County Administrative Office, is pursuing grants and additional funding streams to expand dollars for juvenile justice youth and their families. The County is currently waiting for approval of a grant to support Juvenile Mental Health Court and expects to hear in October 2006 if we are to be awarded funds. The County has also requested State funding from Child Welfare Services Outcome Improvement dollars to support programmatic improvement for Juvenile Justice Youth, and expects this money to be awarded in early fall. The County will continue to pursue grant opportunities as they come forward.

In addition, the Department of Children and Families (DCFS) wrote a plan, with input from the community and Board of Supervisors approval, to receive Mental Health Service Act (MHSA) dollars. The County is waiting for final approval from the State. The expected allocation is to be \$2.7 million with approval anticipated in September. With these dollars, the County will be able to increase the mental health programs available for the children in our community. One of the programs listed in the plan is the expansion of dollars for Functional Family Therapy; this is a therapeutic, research-based program designed to work with youth and their families exiting the Juvenile Delinquency System to assure that these youth and families can address their mental health and social issues and avoid re-entry into the juvenile delinquency system.

The expected dollars generated from Proposition 63, which funds MHSA plans, is expected to be 30% more than originally anticipated. The DCFS will be working with the community to address how to best meet the needs of our children in spending these dollars. While we cannot supplant any of our current programs, we can expand our current programs or develop new programs with community input.

**Fresno Unified School District
Responses to Findings, Conclusions and Recommendations
Presented in the Final Report of the 2005/06 Fresno County Grand Jury**

PEER PRESSURE AND THE TEENAGE DRUG EPIDEMIC

A primary goal of Fresno Unified School District is to provide a safe environment for our students that is conducive to learning. The District seeks to reduce or eliminate factors – such as substance abuse – that interfere with the instructional process and more importantly, harm our students. Studies have shown that students who take drugs do not perform as well in school as their drug-free peers of equal ability. In addition, drug use and its effects disrupt the orderly learning environment schools need in order to be most effective. Therefore, reducing the use of drugs would remove a significant barrier to academic achievement.

The Grand Jury's Community Health Committee recommends that local school districts establish voluntary drug testing programs in the high schools. Peer pressure among young people can be a powerful and persuasive force, and this type of program is believed to provide the encouragement some students need to help them resist the pressure to engage in drug use. The District accepts most of the findings and conclusions in the Grand Jury's report. The lack of complete agreement is based on the need for additional data to more fully substantiate the findings presented; the results cited in the report are based on the experience at only one high school. While the District believes that a voluntary drug testing program should be evaluated for pilot implementation in FUSD high schools, the data presented are insufficient on which to base initiation of such a program.

RESPONSES TO GRAND JURY FINDINGS 1 THROUGH 18

The District agrees with Findings 1 – 7 and 13 – 18.

The District partially agrees with Findings 8 – 12.

Response to Finding 8:

FUSD can not fully agree that “the voluntary drug test program (VDTP) is a successful random drug testing program” due to lack of clarity about the use of ‘successful.’ This could mean that the randomness of the program is successful, or the program is successful for drug prevention, or both. In either case, data from more than one high school is needed to demonstrate the success of the program.

Response to Finding 9:

While the District believes it is likely that “VDTP prompts conversation about drug usage between parents and students,” we can not agree with the statement due to insufficient evidence. Logic would lead to this finding based on the fact that a parent signature is needed for a student to participate; however, the signature is not a certainty that conversations are happening between parent and student.

Response to Finding 10:

There is insufficient evidence presented in the report that “VDTP reduces frequency of drug use among participants.”

Response to Finding 11:

FUSD is not able to fully agree that “VDTP has a positive effect on academic achievement and drop out rates in high schools” due to insufficient data attributing reduction in drop out rates to VDTP. Although we believe there is a correlation, evidence of such was not presented.

Response to Finding 12:

The District can not concur that “there are no legal obstacles to the VDTP” before consulting with legal counsel to determine what, if any, legal issues exist and to address those with stakeholders.

RESPONSES TO GRAND JURY CONCLUSIONS 1 THROUGH 5

The District agrees with Conclusions 1, 2, 4 and 5.

The District partially agrees with Conclusion 3.

Response to Conclusion 3:

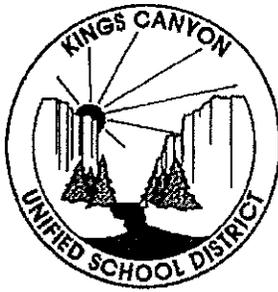
Although the VDTP appears successful in San Clemente High School, more evidential data and long term results that correlate directly to the VDTP are necessary to substantiate that “the VDTP has proven to be a successful prevention program.”

RESPONSE TO GRAND JURY RECOMMENDATION 1

Recommendation 1: “The Health Committee of the Fresno County Grand Jury recommends that the Voluntary Drug Testing Program be instituted in every Fresno County high school by the 2007-08 school year.”

Response to Recommendation 1:

FUSD is committed to providing a comprehensive educational program for all students we serve, including implementing programs that will ensure students have the best opportunity to learn and to become productive citizens. At its September 6, 2006 meeting, the Board of Trustees directed staff to investigate the components of implementing a voluntary drug testing program. The District analysis of the legal and practical ramifications, as well as the potential effectiveness, of a voluntary drug testing program at the high school level will be provided to the Board in January 2007.



675 W Manning, Reedley, CA, 93654 (559) 637-1210 #1276, FAX 637-1292

January 29, 2007

The Honorable Edward Sarkisian, Presiding Judge
Fresno County Superior Court
Members of the Fresno County Grand Jury
Fresno County Courthouse
1100 Van Ness Avenue, Room 102
Fresno, CA 93721

Dear Judge Sarkisian and Honorable Members of the Grand Jury:

The Kings Canyon Unified School District (KCUSD) agrees with and supports the findings and recommendations of the Grand Jury in regards to drug use prevention among teens. While the impact of drugs on students, school sites, and the community is hard to realistically access, we do know that drug-related problems are costly and destroy lives.

KCUSD endorses **Findings 1 – 18**. KCUSD school site personnel struggle with the problem of drugs on campus and drug use among students. Discipline procedures, school site and district policies, grants, counseling, and every resource is utilized to try to keep school sites drug free. KCUSD agrees that preventing the onset of drug use is the most effective and cost-effective measure, but is unfamiliar with the Voluntary Drug Test Program.

RECOMMENDATION: KCUSD agrees with the recommendation to institute the Voluntary Drug Testing Program in every Fresno County high school. KCUSD high schools would be very receptive to the implementation of an effective drug prevention program.

CONCLUSION: KCUSD would be very interested in utilizing the Voluntary Drug Testing Program on district high school campuses, based on the findings and recommendations of the Grand Jury. Some notice would be necessary to provide information about this program to students, staff, and communities before implementation.

Student Services Administrator
James Blied

September 21, 2006

Fresno County Grand Jury
Fresno County Courthouse
1100 Van Ness Avenue, Room 102
Fresno, CA 93721

Re: Response to the 2005-06 Recommendations to Institute a Voluntary Drug Testing Program in every Fresno County High School by the 2007-08 school year.

Fresno County Grand Jury Education Committee Members:

The Sanger Unified School District has reviewed your recommendation regarding the implementation of a Voluntary Drug Testing Program, (VDTP), and must agree with much of the report that you have issued. The implementation of a VDTP in Sanger Unified has been discussed and the discussion will continue but past discussions have raised some concerns that must be addressed before a successful plan can be implemented. No where in your report do you discuss the need to assess the support of the community that you serve to determine the extent of support for or resistance to such a proposal prior to implementation. To be successful the program must have a significant level of support in the community.

Your report fails to cover the need of interventions and support services that must also be available within the community to provide the necessary assistance and support for the families and individuals involved in a positive testing situation. Without the availability to these services you have failed to provide the needed safety net and support for the involved student. You have also stated that this is a program that is a no cost option which is not the case. There is a very real cost to this program that may be offset by grants but lacking a successful grant application must be born by the District to support the program.

Finally you seem to simplify the impact to the site for operating the program and state that there is no liability incurred by operating the program. In today's litigious climate there is no program offered or operated by a school district that does not involve some potential liability. Administration involvement can also be complicated by parental reactions to a positive test by their child and the accusations that may be generated by that result.

As a last note, you seem to fail to note that Jr. High is a level of significant involvement in substance abuse; your sample of information only seemed to reflect Fowler Unified's results and not any information on broader trends. San Clemente has also been

implementing at the Jr. High level and this would be appropriate for consideration as well.

Your recommendation has merit and while the 07-08 request may not be realistic the Sanger Unified School District will continue discussions to determine the feasibility of operating a VDTP within our district.

Sincerely,

Peter R. Filippi
President, Board of Trustees

County of Fresno Committee

Fresno County Coroner

Fresno County's Pension Plan

RESPONSE TO THE
2005-06
FRESNO COUNTY GRAND JURY
FINAL REPORT



COMPILED BY
THE FRESNO COUNTY ADMINISTRATIVE OFFICE

FRESNO COUNTY CORONER

Findings

F1: In March 2003, the Board of Supervisors (BOS) approved the establishment of a capital project for a new PA-Coroner-PG facility.

- \$1.3 million had been appropriated to partially fund the project.
- \$500,000 was taken back by the BOS and placed in the general fund to be used for other purposes.
- The BOS at one time suggested the University Medical Center basement as a possible location.
- There have been discussions regarding co-location of the crime lab and public health services at a new County PA-Coroner-PG facility.

Fresno County agrees with the finding. Of the original \$1.3 million appropriated in March 2003 for a needs assessment and the development of a schematic design, \$500,000 was returned to the County general fund during budget hearings in June 2004. This was at the request of the Board of Supervisors in order to help balance a projected countywide budget shortfall.

F2: In March 2006, Fresno County officials approved selling revenue bonds that can only be used for new buildings.

Fresno County agrees with the finding with a clarification. The County Administrative Officer advised the Board of Supervisors when considering the sale of the tobacco revenue bonds that the revenue could only be used for capital projects rather than the general operating expenses of the County.

F3: The current facility was built in 1948 and has been occupied by the PA-Coroner-PG since 1980.

- The building has 2 levels with approximately 13,100 square feet.
- The current staff numbers 40.
- Minor renovations have been done to upgrade the existing facilities; however, expansion at this location is not feasible.
- The electrical and telephone systems are at their maximum capacity.
- The existing building does not meet Federal/State American's with Disabilities Act (ADA) requirements. No alterations have been made to comply with these mandated regulations.
 - County management took steps to accommodate an employee with ADA limitations by converting a downstairs area to an office space. Portable cooling and heating devices were brought in for temperature control.
 - The building is not wheel chair accessible.
 - There is no ADA parking.
- The mobile morgue unit scheduled for delivery in August 2006 is too large and heavy to navigate over the existing canal bridge entrance.

Fresno County agrees with the findings with some clarifications. The current Coroner facility was occupied in 1982. The mobile morgue unit purchased with Homeland Security Grant funding has arrived and is being completed to specifications. It remains to be seen whether the unit can be delivered to the Coroner's facility over the bridge leading into the compound without damaging it.

F4: There are concerns regarding working conditions and safety issues.

- **The first level ground floor offices are occupied by the PA-PG.**
- **The second level office area is occupied by the Coroner and accessible only by stairs.**
- **Ceiling sprinklers are installed in the work area. However, if a fire were to occur in the stairwell leading to the second level, there is no alternative exit for employees and the visiting public.**
- **There is no heating or cooling in the ground floor work area.**
- **The building is not properly ventilated and odors from the morgue on the ground floor permeate all work areas.**

Fresno County agrees with the findings with some clarifications. All staff members of the Public Administrator, Public Guardian and Coroner occupy the second floor of the building. Only two Forensic Technicians have an office on the first floor of the building. The remaining part of the first floor of the building houses records storage and Public Administrator/Public Guardian property storage as well as the morgue component. Second, the building ventilation does prevent the permeation of odors from the morgue throughout the office space if downstairs doors in the morgue remain closed and windows upstairs remain closed. Occasionally odors will waft up the stairwell, but this now occurs rarely as maintenance of the morgue area and cleanliness has been improved.

F5: The Needs Assessment and Architectural Design are complete.

- **The new facility will be 62,000 sq. ft. and accommodate up to 72 staff.**
- **Land acquisition has not been done. Several sites have been identified. Costs have increased on some sites of interest and some have been sold.**
- **A morgue of this size could be used as a regional facility in case of a national disaster or other types of catastrophic events.**
- **The refrigerator storage space for bodies will increase from 50 to 200.**
- **The disposal of waste has at times been an issue of discussion. Organs, body parts, and the like are properly disposed of per existing state regulations and do not enter the sewer system. Other types of disposable wastes from the morgue are similar to normal household waste that runs through the sewer lines.**

Fresno County agrees with the findings.

Recommendations

The 2005-2006 Fresno County Grand Jury recommends that:

R1: Construction of a new state of the art Coroner's office, morgue, and autopsy suite be given top priority by the Fresno County Board of Supervisors.

Recommendation has been partially implemented. The Coroner's project has been prioritized by the Board of Supervisor's as one of the County's "Category A" capital projects.

R2: Construction should not be contingent upon the co-location with other public health offices.

Recommendation requires further analysis. The County will proceed with the most cost-effective option and consider long-term benefits when making this determination.

R3: This project requires immediate resolution and action.

Recommendation requires further analysis. The County has already begun the process of building design and review of potential sites for the Coroner's facility. However, this project must be balanced against the County's total capital facilities needs.



County of Fresno

LORALEE H. CERVANTES
PUBLIC ADMINISTRATOR – CORONER
OFFICE OF PUBLIC ADMINISTRATOR – CORONER – PUBLIC GUARDIAN

August 29, 2006

Presiding Judge Brad Hill
Fresno County Superior Court
1100 Van Ness Avenue
Fresno, California 93721

RE: Grand Jury Report for 2005-2006
Response to Findings

Dear Presiding Judge Hill:

As the Coroner for Fresno County, I am responding to the 2005-2006 Grand Jury Report findings regarding the Fresno County Coroner's Office beginning on page 31 of the report. The following are my responses:

Findings:

- F1 – Respondent agrees with the findings. \$500,000 of the original \$1.3 million appropriated in March of 2003 for a needs assessment and the development of a schematic design was returned to the County general fund during budget hearings in June 2004 at the request of the Board of Supervisors to help balance what was projected to be a budget shortfall countywide.
- F2 – Respondent agrees with the findings with a clarification. The County Administrative Officer advised the Board of Supervisors when considering the sale of the tobacco revenue bonds that a reasonable and prudent use of the revenue would be capital projects rather than the general operating expense of the County.
- F3 – Respondent agrees with the findings with some clarifications. The current Coroner facility was occupied in 1982. The mobile morgue unit purchased with Homeland Security Grant funding has arrived and is being completed to specifications. It remains to be seen whether the unit can be delivered to the Coroner's facility over the bridge leading into the compound without damaging it.

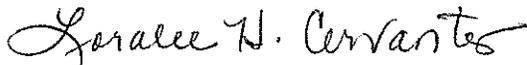
760 West Nielsen Avenue / Fresno, California 93706
Telephone: Public Administrator (559) 268-0139
Coroner (559) 268-0109
Public Guardian (559) 268-0139

Presiding Judge Brad Hill
Fresno County Superior Court
Page Two

- F4 – Respondent agrees with the findings with some clarifications. All staff members of the Public Administrator, Public Guardian and Coroner occupy the second floor of the building. Only two Forensic Technicians have an office on the first floor of the building. The remaining part of the first floor of the building houses records storage and Public Administrator/Public Guardian property storage as well as the morgue component. Second, the building ventilation does prevent the permeation of odors from the morgue throughout the office space if downstairs doors in the morgue remain closed and windows upstairs remain closed. Occasionally odors will waft up the stairwell, but this now occurs rarely as maintenance of the morgue area and cleanliness has been improved.
- F5 – Respondent agrees with the findings.

Thank you for your consideration of these responses.

Respectfully Submitted,



Lorelee H. Cervantes
Coroner-Public Administrator/Public Guardian

Exhibit 1

**RESPONSE TO THE
2005-06
FRESNO COUNTY GRAND JURY
INTERIM REPORT #1**

**COMPILED BY
THE FRESNO COUNTY ADMINISTRATIVE OFFICE**

FRESNO COUNTY'S PENSION PLAN

Preface to Response

As we examine the issue of retirement in the County of Fresno, it is important to remember that pensions are considered one piece of overall employee compensation. The County's goal is to protect defined benefit plans for government employees. While the private sector is shifting away from defined benefit plans, we believe these plans provide the best security for government employees. Additionally, switching to defined contribution plans could result in pressure for public agencies to increase other forms of compensation. With the implementation of appropriate reforms, defined benefit plans would decrease risk to the government and be financially viable.

Fresno County Employees' Retirement Association (FCERA) is not a part of the County: it is a separate, independent entity controlled by Government Code §§ 31520.1 and 31520.5.

Findings

F1: In March 2004, the Board of Supervisors issued \$402,000,000 in POBs to "fund" or cover the promised benefits to those who participated in the County's retirement plan at that time and to partially retire previously issued Pension Obligation Bonds.

- The POBs are general obligations of Fresno County.
- The POBs account for 70% of the County's debt as of June 30, 2004.
- The POBs are scheduled to be paid off over a 30-year period.
- The last payment which is due 2034 is a balloon payment of approximately \$62,500,000.
- The total liability of the POBs is \$545,852,000 in principal and \$634,363,000 in interest as of December 15, 2005.
- This amounts to roughly \$1,361 per person living in Fresno County. (1,118,000,000 / 867,000).

Fresno County partially agrees. In March 2004, the Board of Supervisors did not use any of the \$402,000,000 in Pension Obligation Bonds to partially retire previously issued Pension Obligation Bonds.

F2: Fresno County has budgeted \$77,587,680 for employer retirement contributions for 2005-06.

- \$54,607,936 is for the current year's obligation.
- \$24,979,744 to be placed in a "sinking fund" (savings account) for debt service on the POBs.
- Thus the County's 2005-06 contribution of \$77.6 million is about 55% of property taxes (\$142,791,000) collected for Fiscal Year 2004-05.

Fresno County partially agrees. There is no direct relationship between the Property Taxes collected in 2004-05 and the expenditures for the retirement system in 2005-06.

F3: In 1997, there was a lawsuit in Ventura County the outcome of which would have affected all California counties' retirement plans. In 2000, the Fresno County Board of Supervisors signed an agreement with our local bargaining units.

- This agreement is known as "the Ventura Settlement."

- At that time the Fresno County Retirement Fund was reported to have excess earnings of \$288,000,000.
- At the time of the settlement the estimated cost of the benefits granted was \$288,133,000.
- Using an actuarial report as of June 1998 and no projections of the impact of increased benefits, the Board of Supervisors granted increased benefits for life for those who were covered by the agreement.
- Included in the agreement are “retirees, deferred retirees, beneficiaries, and employees who care members of the FCERA...”
- The liability produced by the Ventura Settlement as of June 30, 2004 was \$534,837,413.

Fresno County agrees with finding. The estimated amount of \$288,133,000 was designated to fully fund the retirement system at the time of settlement. At that time, the parties believed there were sufficient undistributed earnings available to fund that cost. Future (post-settlement) costs of benefits were to be determined by actuarial reports. Those costs were to also be funded by undistributed earnings, and if undistributed earnings were insufficient, then employer and employee contribution rates would be increased.

- F4: A 1995 Amendment to the 1937 Act requires that the Board of Supervisors “*make public* (our italics) at a regularly scheduled meeting of the board, all salary and benefit increases that affect either or both represented employees and nonrepresented employees.**

Fresno County agrees with the finding.

- F5: On May 7, 2003, the Board of Supervisors sued the Retirement Association over the calculation of final pay.**
- This calculation was known as “The Fresno Method.”
 - The Board of Supervisors has prevailed and final pay is now calculated as “...average annual compensation earnable by a member during any year elected by a member...or...requires that any year elected by a member be a period of 365 consecutive days.”
 - This ruling is being appealed by the Fresno Deputy Sheriffs Association.

Fresno County agrees with the finding.

- F6: Safety members have greater pension benefits than general members.**
- Included in the Safety Member Category are all “sworn officers” and firefighters. For a complete list refer to: www.fcera.org and search on Active Members, Member Handbook, Membership.
 - Fresno County currently allows its safety members to retire at age 50 with 5 years of service or any age after 20 years of service. Fresno County includes in “final pay” such items as selected types of overtime, pay in lieu of vacation, uniform allowances and standby pay. For additional examples of items included in final pay for purposes of pension benefit computation refer to: www.fcera.org and search on Board of Retirement, Agendas, April 19, 2006, Item 13, Exhibit 1.

Fresno County agrees with the finding.

- F7: The composition of the Board of Retirement appears to be in violation of the 1937 Act because we read the intent of the Act to utilize the expertise of persons who**

are not affected by the outcome of the decisions other than as a taxpayer. Retirees are affected by the decisions of the FCERA board. The Act requires that the retirement board shall consist of:

- County treasurer
- Four “shall be qualified electors of the county who are not connected with the county government in any capacity, except one may be a supervisor, and shall be appointed by the board of supervisors”
- Two general members elected by the general members
- One safety member (and one alternate safety) elected by the safety members
- One retired member elected by the retired members

Fresno County disagrees with the finding. Please refer to County response to R7 for additional explanation.

F8: Assemblyman Keith Richman, MD of the 38th State Assembly District representing parts of Los Angeles and Ventura counties has introduced Assembly Constitutional Amendment No. 23. This amendment offers a new retirement plan for public employees.

Some of the features are:

- New plan affects only employees hired after July 1, 2007
- A Defined Benefit feature which defines such factors as final salary, normal retirement age and safety officers
- A Defined Contribution feature which would function much like a 401(k) which offers such features as portability, self investment and ability to pass on in an estate

Fresno County agrees with the finding.

F9: We repeatedly heard excuses for past decisions that one would not expect of individuals vested with this level of public trust.

Fresno County is unable to respond to this finding as we're unsure what comments are being referred to.

F10: Fresno County currently offers a two tiered retirement plan.

The Tier I formula is:

A. General Members

- At age 55 the formula is $\text{earnable compensation} \times 2.5\% \times \text{years of service}$.

B. Safety Members

- At age 55 the formula is $\text{earnable compensation} \times 3.275\% \times \text{years of service}$.

The Tier II formula is:

C. General Members

- At age 55 the formula is $\text{earnable compensation} \times 2.0\% \times \text{years of service}$.

D. Safety Members

- **At age 55 the formula is earnable compensation x 3.0% x years of service.**

Fresno County partially agrees. The numbers are potentially correct for these specific ages, although the percentage values change with age.

Recommendations

- R1: The Board of Supervisors must engage an outside, independent firm to conduct a Fiduciary Audit of the Plan. This audit is not a financial audit but rather one that investigates the internal administration of the Plan including, but not limited to, compliance with the law and the Ventura Settlement. The audit will also review Plan documents and ensure that proper disclosures have been made to employees and retirees.**

Recommendation will not be implemented, as it would result in duplicating the product FCERA produces annually by contracting with an outside, independent firm.

- R2: The Board of Supervisors must hire the services of an outside, independent pension administrators, financial professionals and attorneys who are not associated with city, county or state government to advise it on all decisions regarding pensions.**

Recommendation has been partially implemented. The County of Fresno has contracted with outside attorneys for advice and counsel regarding pension issues. Pension administration for the County of Fresno is separate and independent. Fresno County Employees' Retirement Association (FCERA) is governed by the County Employees Retirement Law of 1937; the twenty counties subject to this law are known as 1937 Act Counties. Additionally, the decision to pursue this recommendation is up to FCERA.

The role of FCERA is to act as an independent association as established by the County Employees Retirement Law of 1937 and is subject to the laws governing fiduciaries. FCERA administers retirement benefits for eligible employees of the County of Fresno and participating agencies. FCERA is responsible for controlling and accounting for contributions and investment income under the direction of a nine-member Board of Retirement. FCERA identifies, develops and proposes laws, rules and policies that support the interests of its members.

- R3: The Board of Supervisors must require current actuarial information for its decision making.**

Recommendation will not be implemented. We agree that current actuarial information would be highly favorable. However, we understand there is always a significant lag-time in getting actuarial information.

- R4: After June 30, 2007, Fresno County must offer new hires the Tier II retirement plan only.**

Recommendation requires further analysis. On May 3, 2005, the Board of Supervisors adopted (on a voluntary basis) a lower tier retirement plan for both safety and miscellaneous employees. The adoption of a mandatory lower tier plan for new employees, given Fresno County's bargaining history, requires meeting and conferring with labor organizations. At this time, the County has and will continue to negotiate this issue in the context of successor labor agreements. To date, a mandatory Tier 2 retirement plan for new hires has been negotiated and adopted for 6 of 23 bargaining units.

R5: The Board of Supervisors must notify the bargaining units that the County will not increase any retirement benefits.

Recommendation will not be implemented. No official notice is required in this regard. Typically, we discuss the County's position relative to retirement benefits during labor negotiations. Ultimately, we are required by law to negotiate in good faith over hours, wages, and terms and conditions of employment.

R6: The Board of Supervisors must seek outside legal counsel to explore the feasibility of renegotiating the Ventura Settlement.

Recommendation will not be implemented at this time. Paragraph 21 of the Settlement Agreement expressly permits amendment of the Agreement "by written agreement of those parties affected by the particular amendment sought." In order to accomplish amendment, the parties would have to bargain accordingly and reach a written amended agreement. The Board of Supervisors has the discretion to hire outside legal counsel to negotiate an amended agreement.

R7: The Board of Supervisors must comply with the law as to the number of appointees to the Retirement Board who are not connected with the County government.

Recommendation has been implemented. Government Code section 31520.1 of the 1937 Retirement Act provides for a nine member retirement board. Four members are appointed by the Board of Supervisors who "... are not connected with the county government in any capacity, except one may be a supervisor."

In the past the Board of Supervisors has appointed retired County employees to the Retirement Board, and presently one of the appointees is a retiree. The question is raised whether a retiree is "not connected with the county government in any capacity." That legal issue has not been determined by a court or published Attorney General opinion, and there is no consensus among the other 1937 Act counties.

However, there are persuasive arguments that it is proper for the Board of Supervisors to appoint a retiree to the Retirement Board. First, the statute only prohibits appointing persons connected with the county government. Retirees are connected with the Retirement Association, an entity separate from the County. Second, had the Legislature intended to exclude retirees from Retirement Board membership, the Legislature could easily have expressly said so in the statute. Third, even if no retirees were appointed by a Board of Supervisors, a Retirement Board would probably still have a majority composed of retirement system members, i.e., the statute includes on the Retirement Board the County Treasurer, two active general members of the retirement system elected by the active general members, one active safety member elected by the active safety members, and one retired member of the retirement system elected by the retired members.

R10: The Board of Supervisors must actively support legislation to amend the California State Constitution to modify retirement benefits from a Defined Benefit Plan to a Defined Contribution Plan or a mixture of the two. An example of such legislation is a proposed constitutional amendment ACA 23 which was introduced by Keith Richman. For a complete text of the amendment go to www.leginfo.ca.gov and search on ACA 23.

Recommendation may be implemented. The County continues to monitor a number of proposed legislative reforms to Defined Benefit Plans. With the implementation of appropriate reforms, Defined Benefit Plans would be financially viable and decrease risk to the government.

Fresno County CAO Bart Bohn participated in the California State Association of Counties (CSAC) Task Force which developed recommendations for CSAC regarding reforms to Defined Benefit Plans. The County of Fresno Board of Supervisors endorsed CSAC's resulting recommendations, ultimately passed on to Governor Schwarzenegger for his consideration.

Education Committee

Fresno Unified School District

Reinstate Technical-Vocational Education*

**Fresno Unified School District
Responses to Findings, Conclusions and Recommendations
Presented in the Final Report of the 2005/06 Fresno County Grand Jury**

FINANCIAL ASPECT OF HEALTH BENEFITS PLAN

It is the goal of Fresno Unified School District to invest our resources in a balanced approach: maintain financial stability; provide educational programs that accelerate learning and achievement for every student; and attract and retain talented employees. The District's health benefits plan, as part of the total compensation package for employees, is an essential component of the "employees" prong.

The District concurs with most of the findings and conclusions in the Grand Jury report addressing the health benefits plan and has already implemented changes reflecting the majority of the recommendations. Fresno Unified operates a self-insured health benefit plan for its employees and retirees, which places the financial burden directly on the District to assure adequate budget resources. Accountability for the financial aspects of the plan is achieved through an internal service fund that tracks expenses. An actuarial study is conducted periodically to determine the outstanding liability for employee and retiree lifetime health benefits. As of June 2005, the estimate for this unfunded liability was over \$1.1 billion. However, the negotiated agreement between the District and the Fresno Teachers Association ratified in August 2005 addressed this liability by limiting the District's contributions to the Health Plan and shifting the risk of increased costs from the District to employees through increased contributions.

There was another significant change to the Health Plan affecting benefits for retirees of the District. Prior to July 2005, lifetime health benefits were offered to employees age 57 ½ with 16 years of service, and their spouses and dependents, at no cost to the retirees. Effective July 2005, post-retirement health benefits are offered for a period of five years to certificated employees (and their spouses) at age 60 with 25 years of service. Finally, a Joint Health Management Board (JHMB) was established in 2005/06 to administer the Health Plan. The JHMB includes representatives from each collective bargaining unit and District administration. These financial and management changes have resulted in a more stable long-term outlook for the District's health benefits system.

RESPONSES TO GRAND JURY FINDINGS 1 THROUGH 18

The District agrees with Findings 1 – 9, 11, and 13 – 18.

The District partially disagrees with Finding 10.

The District disagrees with Finding 12.

Response to Finding 10:

The Board of Education and the bargaining units did create a new board to "manage the health benefits and associated cost." However, the new board is not called the "Joint

Management Health Board (JIMBY),” but is called the Joint Health Management Board (JHMB).

Response to Finding 12:

Five of the seven FUSD Trustees receive District health benefits, rather than the “6 out of 7” stated in the report. One of these five is a secondary recipient of health benefits under the spouse’s primary coverage.

RESPONSES TO GRAND JURY CONCLUSIONS 1 THROUGH 3

The District partially agrees with Conclusions 1 and 2.

The District disagrees with Conclusion 3.

Response to Conclusion 1:

The District agrees that the “Health Care Plan Document is out of date” and the “Plan is currently in the process of being updated” by the JHMB. The comprehensive revision is estimated to be completed in 30–60 days. However, the District partially disagrees that the current structure of health benefits is excessive and “must be brought in line with State averages.” Although the health benefit structure seems generous, it must be taken into consideration with a multitude of other items factored into overall compensation. Furthermore, regarding the Grand Jury statement that the District “is not capable of controlling a pay-as-you-go self-insured plan,” the District disagrees. In the most recently negotiated labor agreement, the District took significant action to control the increasing costs of health benefits by limiting the District’s contributions to the Health Plan and shifting the risk of increased cost to employees through increased employee contributions.

Response to Conclusion 2:

The District contends that the Board has oversight responsibility for a \$900,000,000 budget; however, the District disagrees with the statement that the Board is “operating a \$900,000,000 business.” Furthermore, FUSD is not a business but a public agency. The District also contends that Board members should be qualified in management and financial aspects of their Board duties, but disagrees that the “paramount qualification of a Board member should be management and financial expertise.” The District disagrees that “many Board members lack the financial expertise to make informed decisions” in that the Fiscal Services Department and the Chief Financial Officer, in particular, endeavor to proactively provide all the financial information and understanding Board members need in order to make informed decisions. Because the District is the largest employer in the County, the District disagrees that “Board members should be free from conflict of interest.” Limiting Board candidates to those completely free from conflict of interest may screen out qualified candidates and may not be in the best interest of the District. It should be noted that when issues come before the Board that present a direct conflict of interest (or oftentimes even the appearance of one), the Trustee affected recuses her/himself as appropriate. Finally, the District disagrees that “the Board does not seem to have the political will or a sense of urgency in further reducing the unfunded health liability.” Addressing this issue is an integral part of the District’s balanced investments approach.

Response to Conclusion 3:

The District disagrees that JHMB members “should be free from conflict of interest.” The JHMB was structured to provide a balance between the vested parties of the Health Plan: one labor vote, one management vote. This balance reflects a prudent approach to the concept of a jointly managed health plan. Furthermore, this model for management of a health plan system is widely in use throughout the state and nation. Beyond school districts, many governmental organizations employ similar health management plan structures whose voting members include vested parties, and whose voting structure calls for one labor vote and one management vote, requiring cooperative and collaborative decision making.

RESPONSES TO GRAND JURY RECOMMENDATIONS 1 – 5

Recommendation 1: “The Board must hire an independent outside insurance plan consultant to assist in putting the Health Plan out to bid and securing a new plan. The District must get out of the health insurance business.”

Response to Recommendation 1:

The District has already partially implemented this recommendation. The JHMB, as one of its first orders of business, recommended to the Board of Trustees that the District contract with Rael & Leutsen, a reputable health plan consultant. The Board approved the recommendation and Rael & Leutsen has been working the JHMB since the fall of 2005. Specifically, Rael & Leutsen assisted the JHMB in evaluating the services provided by the currently utilized Blue Cross network. During the 2006/07 year, JHMB with the assistance of Rael & Leutsen, plans to issue a request for proposal for health plan network services.

Recommendation 2: “Concurrently, the Board must continue to reduce the unfunded healthcare liability by further increasing employee premiums and co-payments and limiting benefits to achieve parity with the State average.”

Response to Recommendation 2:

The District continues to focus on the overall financial status of the health fund, including the status of the unfunded liability. Although the unfunded liability has been reduced, from almost \$1.2 billion to \$792 million, the unfunded liability remains a significant challenge. However, the District disagrees that the best approach to addressing the unfunded liability *at this time* is through increased employee premiums and co-payments, or through limiting benefits.

Recommendation 3: “The Board must freeze increases to certificated employees until their salary/ADA is in line with the State average.”

Response to Recommendation 3:

The District disagrees on the basis that the Board of Trustees believes it is in the best interest of the District, and therefore continues its commitment to a balanced approach to resource allocation including increased investments in three areas: 1) educational programs for students; 2) financial reserves; and 3) employee compensation. The District is also investing significant resources in new facilities and maintenance of existing facilities.

Recommendation 4: “We recommend that the Board take a leadership role in obtaining an intensive professional training program in fiscal management and oversight. The trainers should be outside consultants who specialize in this type of training. Key FUSD staff should be included to speak to the specifics of the District. This training *must* be mandatory. This recommendation unfortunately reiterates last year’s Grand Jury findings and recommendations. The Grand Jury considers this an urgent need which **MUST BE ADDRESSED** with action not words.” (Emphasis from the Grand Jury report.)

Response to Recommendation 4:

The Board of Education has taken a leadership role obtaining training in fiscal management and oversight, as they have enrolled in the Center for Reform of School Systems’ two-year Reform Governance Board training. One of the major goals of this program is to develop, adopt, and implement an effective management oversight system for ensuring the integrity and performance of major district business systems; and develop, adopt, and implement a data dashboard to monitor key indicators of district performance. Trustees, along with the Superintendent, Chief Financial Officer, and Chief Academic Officer, attended the program’s first intensive six-day educational conference in July, 2006. In addition, Trustees educate themselves on financial management matters through EdSource, an education policy news and data provider, and courses offered by the California School Boards Association. Finally, three Trustees are concluding studies leading to a Masters in Governance degree.

Recommendation 5: “Programs that have been negatively affected by these excesses, such as art, music and technical-vocational education, must be revisited as savings are realized.”

Response to Recommendation 5:

The District immediately restored elementary music as a result of the June 2005 negotiated agreement with the Fresno Teacher’s Association. Since that time, the District’s investment in art and music programs has significantly increased. A total of over \$4.5 million was added to art and music education from 2004/05 to 2006/07.

FRESNO UNIFIED RETIREES' ASSOCIATION

P.O. Box 1717

Clovis, California 93613-1717

Response to the Fresno County Grand Jury

Re: Interim Report #3

INTRODUCTION

This response to the Fresno County Grand Jury's 3rd Interim Report regarding the Fresno Unified School District's health benefits is submitted by the Fresno Unified Retirees' Association. Founded in November, 2004, FURA represents over 3,800 vested retirees. FURA's Articles of Incorporation highlight that the primary mission is to preserve and protect benefits earned during employment with the district.

BASIS FOR RESPONSE

FURA appreciates the hard work and dedication by members of the Grand Jury and understands that much of the information gleaned as a foundation of the report comes from (1) document written by well intentioned community members (2) Ed-Data website (3) information provided by the district (4) district website. Moreover, FURA believes that the Grand Jury should be in possession of other factual information regarding the District and its actions. (e.g., Mercer Group report of 1992, 1999, 2002 regarding health benefit and cost containment; Collective Bargaining Agreements from 1977 to present regarding the life time health benefit; the "check out" document given to each employee upon retirement which clearly states life time health coverage without premium costs).

BACKGROUND

FUSD retiree health benefits are a long-standing vested right of the District's retirees. These benefits were earned by the retirees through many years of devoted service and are, most importantly, a form of deferred compensation. Indeed, the retirement health benefits were granted as compensation because the District was unable or unwilling to grant cost of living pay increases. California Courts have held for more than 50 years that retirement benefits are a form of deferred compensation for public services. Such promised compensation is protected by the contract clause of the California and the US Constitutions. The Superintendent and the Board members were notified of this but to no avail. It is important to note that state law prohibits the District and its labor unions from

negotiating on behalf of the vested retirees, or to reduce their vested benefits. FURA pointed this out to the District and the Board of Education beginning in November, 2004 to no avail once again. Under both federal and state law, an employer cannot unilaterally reduce or eliminate the vested or promised medical/health benefits of retired personnel. In addition, the general rule is that a union cannot negotiate on behalf of retirees since the union, under PERB precedent, only represents current employees. Therefore, the current bargaining units (FTA, CSEA, SEIU) cannot agree with the District to change, reduce or eliminate any rights the former employee possessed at the time of retirement.

DID YOU KNOW?

1. The current superintendent will earn "life time" health benefits after only three years of service. FURA members worked 10, 16 continuous years or even longer to earn the benefit.
2. Board approved salaries for the superintendent's top leadership posts exceed state averages and are excessive.
3. FURA shared with former Interim Superintendent Charles E. McCully and former assistant to the Superintendent, Nancy Richardson, over a dozen proven methods to save many millions in dollars in both the restricted and unrestricted portions of the budget.
4. There are more district level administrators in this administration than the state average of like sized urban districts.

FURA has indicated a willingness to be part of the solution rather than the purported problem. However, the district leadership has misled the public on the retiree health benefit issue.

4. Inquire about the number of part time (4 hour) employees who retain 100% health benefits. Therefore, for a 20 hour work week, these individuals currently receive full health care.
5. It is curious why the members of the Board of Education have abrogated their fiduciary responsibilities by attempting to shift all of their duties and obligations to the Joint Health Management Board. The JHMB, pursuant to the agreement between the unions and the district, is solely responsible for all health plan design modifications with NO board input or approval, and that the JHMB has assumed full responsibility for all retiree health benefits. The law is clear that the duly elected members of the board have the fiduciary and legal responsibility to protect and to defend vested, retiree health benefits and not a joint administrative/union committee.

WHAT ARE LIFE TIME HEALTH BENEFITS?

Your report accurately states that a vested retiree earns this benefit after 16 years of

service and having reached the age of 57 ½. However, the following salient points are not disclosed:

1. Previous to the agreement between the bargaining units and the district in August of 2005, retirees under the age of 65 did not pay a premium, did not pay a health assessment fee and received health care.
2. Retirees at age 65, were required to enroll in Medicare Part A at the retiree's expense.
3. The District continued to cover Medicare Part B (physician, lab, pharmaceuticals)

It is important to recognize that the District becomes the "gap insurer" when a retiree reaches age 65 and that the District no longer is the primary health insurer.

It would be important for the Fresno County Grand Jury to request from the District the three reports prepared by The Mercer Group regarding the FUSD health plan. The first plan was authorized in 1992 and another in 1999 and another in 2002. Retirees in their 60's and 70's and beyond do not have *dependent* children but retirees' spouses are considered a dependent.

A copy of our attorney's letters to the Board of Education and to the Superintendent(s) are attached along with our Governmental Claim denied by the Board in March, 2006.

CONCLUSION

It is important to note that the current, fully vested retirees have earned this benefit and that legally the District cannot impose a take away from what was already earned. The Board of Education has ignored this important point and both the governing Board and the Superintendent have refused on several occasions to meet collaboratively with the Fresno Unified Retirees' Association officers. However, FURA requested through Nancy Richardson, formerly the assistant to the superintendent, that the current Superintendent, Mike Hansen, meet with the FURA steering committee. Mr. Hansen and former labor relations negotiator Eva Chavez did, indeed, meet with the FURA leadership in early August of 2005. Mr. Hansen was attentive regarding questions posed to him by FURA however he did not follow up. One suggestion was salient: FURA asked that Mr. Hansen arrange for the Board of Education to meet with FURA attorney Robert J. Bezemek from Oakland, California, in a closed session regarding the retiree health benefit issue. FURA made it very clear that travel expense would be borne by FURA and that the Board of Education should be exposed to legal premises driving the debate of vested retiree health benefits. No response from Mr. Hansen. In February, 2006, a governmental claim was filed with the District but the Board of Education denied the claim without dialogue with FURA.

Axiomatically, beginning in June of 1977, for employees retiring after June 10, 1976, the District agreed in writing to provide a lifetime health and accident insurance program for its eligible retirees in which the premiums would be paid by the District. The District expressly stated that retirees would receive District paid coverage and that this promise was repeated and repeated in future written board approved documents. FURA maintains that these agreements (codified in Collective Bargaining Agreements) became a valid and binding agreement upon approval of them by the Board of Education and that the Board of Trustees and the District have a legal obligation to carry out its obligation to provide insurance without charging premiums to eligible retirees.

For example, the Grand Jury is reminded to review the case in neighboring Central Unified School District. The Governing Board of Central granted premium free life time health benefits to all vested retirees and to those who retired by July 1, 2005 but that the benefit would not apply to current or future employees. This action was widely reported in the print and electronic media and yet FUSD chose to ignore this course of action.

More importantly, District retirees understood that the District had promised them a fully paid health plan for life and that at age 65, the retiree would go on Medicare Part A (hospitalization) at the retirees' expense and that the District would cover Medicare Part B benefits. The Mercer Report of 1992 explained that these are District paid lifetime benefits. In 1963, the California Legislature adopted Government Code SS 5205, which authorized districts and other public agencies to grant retiree health benefits as an element of compensation. According to the State Teachers Retirement System, nearly 70% of California school districts provide district-paid lifetime health benefits to qualified retirees.

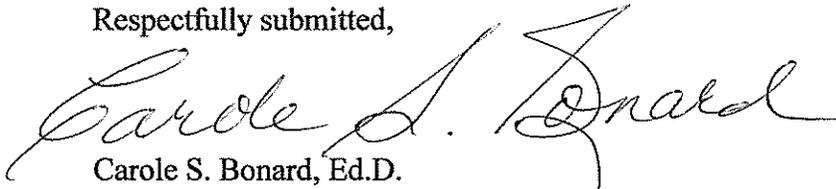
The Grand Jury is reminded to review *Thorning v. Hollister School District* (1992) 11 Cal. App. 4th 1598; *Olson v. Cory* (1980) 27 Cal. 3d.532; *Betts v. Board of Administration* (1978) 21 Cal. 3d. 859; *Kern v. City of Long Beach* (1947) 29 Cal. 2d.848. The right to receive District-paid retiree health benefits is a vested right protected by the California and the United States Constitutions. Moreover, the Board of Education's action to impose premium charges and administrative fees on the vested retirees have breached and impaired the promise made by the District.

The Grand Jury's Interim Report mentioned small fees assessed to retirees. The Grand Jury is reminded that the District's agreements with its bargaining units clearly state that the Joint Health Management Board is empowered to impose increases in premiums and assessments on retirees at any time at the discretion of the JHMB without discussion or approval or input by either the Fresno Unified Retirees' Association or the Board of Education. Therefore, today's premium charges are only the beginning of higher and higher premium charges in the future. Fresno Unified retirees look to our colleagues in Clovis who are paying an average of \$599 per month for retiree health benefits and for those over the age of 65 years, that money assessment plus the cost of Medicare Part A coverage are excessive. FURA is in receipt of many letters from our members stating that the current charges in many cases of \$210 per month creates a true hardship. One FURA

member stated that she would not be able to afford the current \$210 monthly health premium assessment along with the co payments on her 12 medications plus the cost of housing, food and utilities.

A deal is a deal...a promise is a promise...a contract is a contract...the law is the law.
FUSD must adhere to the law.

Respectfully submitted,

A handwritten signature in cursive script that reads "Carole S. Bonard". The signature is written in black ink and is positioned above the typed name.

Carole S. Bonard, Ed.D.
President
Fresno Unified Retirees' Association

C: Robert J. Bezemek, attorney at law
FURA Board of Directors

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November 22, 2004

**Via Fax to 559-457-3786
and First Class U.S. Mail**

Superintendent Dr. Walt Buster
Fresno Unified School District
Education Center
2309 Tulare Street
Fresno, CA 93721

Re: **Retirees' Association Demand Regarding Retiree Health Benefits**

Dear Dr. Buster,

This office represents the Fresno Unified Retirees' Association (FURA). The FURA was created to protect and preserve retirees' District-paid retirement health benefits. The Association represents retirees who served the District as certificated employees, classified employees, including confidential, supervisory and managerial employees.

The FURA retiree health benefits are a long-standing vested right of the District's retirees. These benefits were earned by the retirees through many years of devoted service. They are a form of deferred compensation, which the retirees have depended upon. At the core of this deferred compensation is the District's promise to pay the cost of premiums for retirees' health care through the District health care program.

The FURA and its members are alarmed that the District is proposing to impose premium charges on the retirees by capping its annual contribution, and is attempting to negotiate such retiree contributions with the District's labor unions.

The District and its labor unions have no right to negotiate contributions by current retirees to premium charges. Nor can the District legally impose premium charges on retirees who enjoy the vested right of District-paid retiree health benefits. Accordingly, we demand that the District immediately cease and desist from proposing or agreeing to impose such premium charges or caps. The District's October 18, 2004 and November 15, 2004 editions of its

Negotiations News reveal that the District is on the verge of violating retirees' contractually-vested rights. The Association will not tolerate impairment of these critically-important rights.

The FUSD is hardly alone in having promised its employees that upon retirement they would receive, following lengthy satisfactory service, District-paid retiree health benefits. Decades ago the Legislature encouraged all of California's public employers to afford their employees the security of post-retirement health benefits. In so doing, the State followed the example of the private sector, where similar promises were made. Within this District these promises attracted employees to work for the District, and induced long service.

California courts have held for more than half a century that retirement benefits are a form of deferred compensation for public services. Such promised compensation is protected by the contract clause of the California and Federal Constitution. Olson v. Cory (1980) 27 Cal.3d 532, 538. "Once vested, the right to compensation cannot be eliminated without unconstitutionally impairing the contract obligation." Id. Requiring increased employee contributions to pension systems has been held to unconstitutionally impair contract obligations. Allen v. City of Long Beach (1955) 45 Cal.2d 128, 133.

California courts have also applied this body of law to promised retiree health benefits, holding that the imposition of premium charges on retirees violated the retirees' vested rights. Thorning v. Hollister School Dist. (1992) 11 Cal.App.4th 1598, 1607, 15 Cal.Rptr.2d 91 (rev. den. 1993)

The Hollister decision is consistent overwhelming private sector precedent which has enforced promises of retirement health benefits and forbidden employers from unilaterally reducing those benefits. See, e.g., Upholsterers' International Union v. American Pad & Textile Co., 372 F. 2d 427 (6th Cir. 1967), Policy v. Powell Pressed Steel Co., 770 F. 2d 609 (6th Cir. 1985), *cert denied* 475 U.S. 1017; Weimer v. Kurz-Kasch, Inc. 773 F. 2d 669 (6th Cir. 1985); United Steelworkers of America v. Connors Steel Company, 855 F. 2d 1499 (11th Cir. 1988); Bower v. Bunker Hill, 725 F. 2d 1221 (9th Cir. 1984); Terpinas v. Seafarer's Int. Union, 722 F. d 1445 (9th Cir. 1984), Keffer v. H. K. Porter Co., 872 F.2d 60, 64 (4th Cir. 1989) (citing Yard-Man and recognizing the "far-reaching understanding of the context in which retiree benefits arise. ... [They] are typically understood as a form of delayed compensation or reward for past services ... [which would not] be left to the contingencies of future negotiations."); Connors Steel Co., 855 F.2d at 1505 ("We fully concur with the decisions of the Court of Appeals for the Sixth Circuit in [Yard-Man and Weimer]."); United Steelworkers v. Textron, Inc., 836 F .2d 6, 9 (1st Cir. 1987); Joyce v. Curtiss-Wright Corp., 810 F. Supp. 67, 72 (W.D.N.Y. 1992) (noting that "most other circuits have adopted" the Sixth Circuit's approach articulated in Yard-Man); Newman-Crosby Steel, 822 F. Supp. at 866 ("Retiree benefits are generally considered to be 'status' benefits that are expected to continue as long as the employee is retired."); UMW v. Nobel, 720 F. Supp. at 1178-79; Local Union No. 150-A, UFCW v. Dubuque Packing Co., 756 F.2d 66, 70 (8th Cir.1985) (finding that the "right to receive health and welfare benefits arises from the retiree's status as a past employee" and "is not dependent on a continued or current relationship with the Company"); Eardman v. Bethlehem Steel Corp., 607 F. Supp. 196 (W.D.N.Y. 1984); Mioni v. Bessemer Cement Co., 123 L.R.R.M.(BNA) 2492, 2495 (W.D. Pa.1985); Dist. 29,

UMW v. Royal Coal Co., 768 F.2d 588, 590 (4th Cir. 1985), *cert. denied*, 485 U.S. 935 (1988) (finding lifetime obligation owed by trust fund defendant); In re Consol. Mut., 566 N.E.2d 633 (N.Y. 1990); Armistead v. Vernitron Corp., 944 F.2d 1287 (6th Cir. 1991) (finding lifetime benefits for unionized employees per a collective bargaining agreement, on contract theory under LMRA § 301 and ERISA, as well as promissory estoppel theory); UAW v. White Farm Equip. Co., 119 L.R.R.M. (BNA) 2878 (D. Minn. 1984); Thonen v. McNeil-Akron, Inc., 661 F.Supp. 1252 (N.D. Ohio 1986); Jansen v. Greyhound Corp., 692 F.Supp. 1029 (N. D. Iowa 1987); Zotto v. Scoville, Inc., 1987 U.S. Dist. LEXIS 14579 (D. Conn. Jan. 9, 1987); Shultz v. Teledyne, Inc., 657 F. Supp. 289, 292-293 (W.D. Pa. 1987); United Paper Workers Int'l Union v. Muskegon Paper Box Co., 704 F. Supp. 774, 129 L.R.R.M. (BNA) 3055 (W.D. Mich. 1988); Mamula v. Satralloy, Inc., C-2-83-0258, 1988 U.S. Dist. LEXIS 4019 (S.D. Ohio Jan. 4, 1988); Rutledge v. Dayton Malleable, Inc., 485 N.E.2d 757 (Ohio 1984); United Steelworkers v. Midvale Heppenstahl Co., 94 Lab. Cas. (CCH) ¶ 13528 (W.D. Pa. 1981), *aff'd without op.*, 676 F.2d 689 (3rd Cir. 1982). Post-ERISA arbitration decisions also track Yard-Man's analysis. *See, e.g., B.S. & B. Inc. & Tec Tank*, 80-1 CCH Arb. Benefits Cas. (BNA) 1635 (D.N.H. 1983); United Steelworkers Local 2341 v. Johnston Group, Inc., 7 Employee Benefits Cas. (BNA) 1013 (1986) (Cole, Arb.); Diehl v. Twin Disc, 102 F. 3d 301 (7th Cir. 1996)[employer documents unambiguously require continuation of the benefits throughout retirement]; Deboard v. Sunshine Mining and Refining Company, 208 F. 3d 1228 (10th Cir. 2000) [the court held that an employer intended to create vested rights to lifetime health insurance coverage in the collective bargaining agreement.]

Since retiree health benefits in the private sector do not automatically vest under ERISA, Federal Courts perform an analysis similar to that employed by California courts in deciding if an employer has created a vested right. Federal courts "look to the intent of the parties and apply federal common law of contracts to determine whether welfare [health] benefits have vested." Gill v. Moco Thermal Industries Inc., 951 F. 2d 858, 860 (6th Cir. 1992)

Under California law, the right to deferred compensation vests upon acceptance of employment. Kern v. City of Long Beach (1947) 29 Cal.2d 848, 852-853, 856. This is so "even though the right to immediate payment of [the benefits] may not mature until certain conditions are satisfied." Miller v. State of California (1977) 18 Cal.3d 808, 815, 135 Cal.Rptr. 386. In Kern, the court held a city could not deny a pension to a fire fighter by repealing the pension system 23 days before his required 20 years of service. In Wallace v. City of Fresno (1954) 42 Cal.2d 180, 183, the court held that an amendment prior to the plaintiff's required 25 years of service which disallowed pensions to convicted felons could not make the plaintiff ineligible for his pension upon conviction.

Public employees also acquire vested rights to additional benefits granted during employment. Betts v. Board of Administration (1978) 21 Cal.3d 859, 866; Olson, 27 Cal.3d at 540. By definition, each of the faculty members hired under the District's original policy became vested in retirement health benefits either upon initial hiring or during continued employment. No language in the retiree health benefit policy reserves the right of the governing board to

change the health benefits by requiring premium contributions or to eliminate benefits by changing eligibility conditions. Therefore, the policy establishes vested rights.

The District's disregard of these important and settled principles is made manifest by its November 15, 2004 Newsletter, in which it reveals its intention to persuade or coerce the Unions representing current employees to negotiate caps or limits on already-vested retiree health benefits. Yet the law is equally settled that the District's labor unions are not entitled to negotiate reductions in benefits for existing retirees.

Current District retirees are not represented by District labor unions. And the law forbids unions to negotiate away vested rights of retirees whom it does not represent. Allied Chemical etc. v. Pittsburgh Plate Glass (1971) 404 U.S. 157, 181. Allied Chemical held that retirees were not employees under Federal labor law, and that Unions could not negotiate away retirees' benefits without retirees' individual consent. See also San Leandro Unified School District, PERB Case No. 450, 9 PERC ¶ 16017 (1984).

Federal courts have also enjoined increased co-pays and deductibles. In Golden v. Kelsey-Hayes Co., 73 F.3d 648 (6th Cir. 1996) an employer imposed annual deductibles, increased co-pays to 20 percent, and imposed a monthly premium contribution on retirees. Golden, *supra*, 73 F.3d 648, 652; *affirming* Golden v. Kelsey-Hayes Co., 845 F. Supp. 410, 412 (E.D. Mich. 1994). The court held, consistent with other courts, that "reductions in retiree insurance coverage constitute irreparable harm" because retirees as a group have less resources, are more vulnerable to emotional distress due to additional cost, are more likely to suffer uncertainty and worry over new cost. It recognized that due to their fixed incomes, small increases in medical costs create extreme financial hardship to retirees. 845 F. Supp. at 415-416, relying on Schalk v. Teledine, Inc., 751 F. Supp. 1261 (W.D. Mich. 1990), *aff'd*, 948 F.2d 1290 (6th Cir. 1991); United Steelworkers of America v. Textron, Inc., 836 F.2d 6 (1st Cir. 1997); Marmula v. Satralloy, Inc., 578 F. Supp. 563 (S.D. Ohio 1983). In Jansen v. The Greyhound Corporation, 692 F. Supp. 1029 (N.D. Iowa 1987) the retirees faced imposition of changes in benefits which had been negotiated with the union representing active employees. These changes included annual deductibles, 20 percent co-pays, higher stop-loss limits, and a charge of \$2 per prescription. Finding that these changes significantly reduced retirees' benefits, and that retiree benefits could not be affected by union negotiations for active employees, the court issued a permanent injunction. *Id.* at 1032, 1037-1038.

The District has publicly bemoaned the recent surge in health benefit costs. The Association is equally dismayed at recent increases. Still, such increases provide no justification for shifting costs onto retirees where such an action would impair contractually vested rights. The defense that health care costs are capable of dramatic increase, imposing crushing liabilities on employers and allowing retirees lesser costs than those not yet retired, while causing sympathy cannot excuse impairment of contracts:

"Employers . . . certainly don't have to grant such benefits in perpetuo. If they

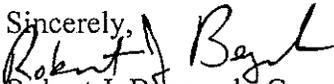
did so in the past, not anticipating the recent rise in health cost, they should not expect the courts to bail them out by undoing the contractually determined allocation of risk on the question. Courts do not sit to relieve contract parties of their improvident commitments . . ." Bidlack v. Wheelabrator Corp., 993 F.2d 603, 609 (7th Cir. 1993)

Retirees, unlike active employees, cannot choose between health care benefits and wages, and do not have years of future employment in which to recoup current losses.

In recent years, several California public school or community college districts wrongly concluded they could impair retirees vested rights to retirement health benefits by either unilaterally reducing, or negotiating, reductions in those benefits or imposition of premium charges. Those Districts all lost when challenged in court: twice in Contra Costa Community College District, San Leandro Unified School District, twice in San Ramon Valley Unified School District, West Contra Costa Unified School District, and Hollister School District. This District will be no different if it tries to illegally reduce its retirees' benefits.

There can be no doubt that imposing premium charges on retirees who were promised a "District-paid" retiree health plan amounts to a substantial impairment of their vested rights. The District's promise to pay retiree health benefit premiums has always been a crucial part of the retirees' employment conditions. The primary measure of substantiality is whether a modification affects a basic or integral term of a contract, or whether it defeats the expectations of the affected party. Allied Structural Steel Co. v. Spannaus, 438 U.S. 234 (1977); CTA v. Cory, 155 Cal. App. 3d 494, 511 (1984); Sonoma County Organization of Public Employees v. County of Sonoma (1979) 23 Cal. 3d 296, 308-309. Imposition of premium charges of \$100 per month would surely meet this standard. The retiree benefit plan here was a basic term of the retirees' employment with the District, and their reliance on the District's payment of premiums is undeniable. Aging retirees, many of whom are on relatively low pensions, often confront a bewildering array of health problems. They have an understandable need for premium-free retiree health benefits. The District has long been aware of the importance of this plan to its retirees. Surely the District can imagine how an assessment of \$1,200 in yearly premium charges for a retiree on a pensions of \$14,000 would cause substantial suffering. That scenario is real, not hypothetical.

This Fresno Unified School District should therefore disabuse itself of the notion that it can impair its retirees' contractually-vested, promised and expected, and already earned retirement health benefits.

Sincerely,

Robert J. Bezemek, Counsel for FURA

cc: Brenda Emerson and Larry Moore, FTA (by First Class U.S. Mail and Facsimile
Dr. Carole Sarkisian-Bonard, FURA:

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OF COUNSEL
MARTIN J. FASSLER

VIA FAX AND FIRST CLASS U.S. MAIL

March 1, 2005

Ms. Luisa Medina
President, Board of Education Members
Fresno Unified School District
2309 Tulare Street
Fresno, CA, 93721

Mr. Charles McCulley, Interim Superintendent
Fresno Unified School District
Education Center
2309 Tulare Street
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Gregory J. Dannis, Esq.
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Re: Fresno Unified Retirees Association-Entitlement to Benefits

Dear Ladies and Gentlemen:

I write on the subject of Retiree Health Benefits, and in response to Mr. Dannis' letter dated December 2, 2004. When Mr. Dannis and I spoke several weeks ago, I indicated we would be making this written response. This letter addresses the arguments the District advances concerning the vested nature of the District's retiree health benefit plan. As will become evident, FURA has carefully considered the District's views, but adheres to its opinion that the District is legally forbidden from imposing premium charges on current retirees. This letter explains why the District's arguments are unavailing.

I. The District Promised That Retirees Would Not Pay Premiums for Retiree Health Benefit Coverage

In 1977 the District adopted a policy promising District-paid retiree health benefits. All current retirees who were employed when that Policy was adopted, and who were hired after its

Medina, McCulley, Dannis
March 1, 2005

adoption and prior to any superceding plan, are protected by the Plan.

The Plan indisputably promised that the District would be responsible for the cost of the health plan. In other words, qualifying retirees would not bear the cost of premiums for retiree health benefit coverage, with two specific exceptions: (1) non-disabled retirees were required to pay actuarially-determined premiums for retirement coverage prior to age 57 ½ ; and (2) Medicare-eligible retirees were required to enroll in Medicare and pay the cost of Medicare Part B premiums. This plan format is typical of the sort adopted by school districts throughout the state during the 1960s and 1970s. By the Plan's terms, the District promised to pay all premiums for retirees after the age of 57 ½. This original Plan, even if succeeded by a different plan or plans, still protects employees hired under it in accordance with settled principles of California law. Betts v. Board of Administration (1978) 21 Cal.3d 859 ("Betts") (holding an employee's contractual pension expectations are measured not only by benefits in effect when employment commences, but also by those conferred during the employee's subsequent tenure).

Current retirees who were hired under subsequent versions of the Plan or subsequent Plans also are entitled to a District-paid health Plan, meaning that the District agreed to bear the cost, with the two exceptions noted above. If, as the District argues, it was contemplated that retirees were not promised a life-time, cost-free plan, the two exceptions written into the plan would have been unnecessary. Moreover, the plan would have, and should have, expressly reserved the right to shift the costs of the plan, and impose premiums, onto future retirees. But no such reservation of rights was inserted into the Plan.

These retirees health benefit plans are part of the deferred compensation of the retirees. In other words, the retirees have already performed the work for which they are now being compensated with retiree health benefits. This promise of deferred compensation must be met - the courts of this State have not tolerated public agencies' disavowal of promises made to induce employment and long-term service. California courts have long recognized that public employees have vested, contractual rights to pensions. Betts, supra, 21 Cal.3d at p. 863; Kern v. City of Long Beach (1947) 29 Cal.2d. 848. These rights, however, are not limited to pension cases but also extend to other post-retirement benefits. For example, in Thorning v. Hollister School District, the Appellate Court recognized that health and life insurance benefits were not dissimilar from pension benefits, and could not be unilaterally terminated. (1992) 11 Cal.App.4th 1598, 1606-1607. The District's letter oddly fails to acknowledge the Thorning case, nor does it address more than a score of cases evincing California's strong public policy which favors those rights. See, e.g., Olson v. Cory (1980) 27 Cal. 3d 532.

Like the retirees in Thorning, the FUSD Retirees' right to paid health insurance benefits is a fundamental benefit, the importance of which cannot be understated. Once made, such a promise cannot be disregarded by the District without violating the Constitution. Kern at p. 852-

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853. As discussed above, the FUSD Retiree health benefit plans are part of the deferred compensation of the retirees. The language of the policy makes it apparent that these benefits were meant to endure throughout retirement. For FUSD retirees, imposition of premium charges would breach the promise made, and have substantial adverse effects on retirees, affecting their standard of living. Many retirees cannot obtain alternate coverage due to pre-existing medical conditions and cost. So, they would be forced to spend large portions of their pensions, or deplete their savings, just to maintain FUSD health coverage. The cost could induce some to not spend on needed care, aggravating existing medical conditions.

II. Promises Made in Collective Bargaining Agreements Must be Kept

Collective bargaining and exclusive representation of employees by labor unions was statutorily authorized by the Rodda Act, Government Code Section 3540 et seq. The District promised retiree health benefits to employees in these CBAs. Promises of post-retirement benefits made in collective bargaining agreements are binding on the District, because they conferred vested rights on employees in the form of deferred compensation.

After reviewing a series of collective bargaining agreements starting in the late 1970s, it is obvious that these agreements consistently promised employees that upon retirement, they would receive district-paid health benefits for life, once they reached age 57 and ½.

In our letter of November 22, 2004 we cited more than 30 cases decided over a span of 50 years holding that promises of future retiree compensation made in collective bargaining agreements were binding on the employers making the promise. The District's letter does not address a single one of these cases.

III. The Language The District Quotes is Limited to the 1992 Prescription Benefit Promise And Does Not Qualify Prior Promises Which Already Vested; The District Never Reserved the Right to Impose Premium Charges After Retirement.

The District's first argument rests on language which it says comes from the Plan itself:

"If an Employee and/or Retiree are covered under this Plan ... this Plan shall pay up to 100% of the total Allowable Expenses including annual deductibles and co-pays ... (Plan Document, MEB GP-3)."

The District argues that this language allows but does not obligate the District to pay up to 100% of the annual deductibles and co-pays. This language does not authorize the District to impose premium charges on the retirees for their health benefits.

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Although it is useful to review the Plan language, the language the District cites is of no help to its arguments. This language appears in a *1992 version of the plan*, in a section dealing specifically with *prescription drug benefits, not health benefits*. If it was not adopted until 1992, as it seems, it has no application to anyone hired before it took effect and thus would have little impact on nearly all retirees represented by FURA. However, the wording makes no reference to the cost of the plan (e.g. premiums) or the post-retirement imposition of premium charges. Instead, it focuses on "allowable expenses."

Allowable prescription drug expenses under the plan's terms are quite different from health plan premiums, and there is no language in the plan which includes health plan premiums among the "allowable expenses." Instead, "allowable expenses" refers to the costs of particular medical charges allowed under the plan for prescriptions. These are commonly referred to as deductibles and co-payments. The language cited is at most ambiguous even as to prescription benefits, but it has no application whatsoever to medical benefits, which are discussed elsewhere in the Plan booklet.

Our review of the Plan documents shows that the only mention of premiums is in the section dealing with COBRA benefits, where the plan makes it clear that employees who leave the employ of the District may continue plan coverage by paying the premiums themselves, in accordance with COBRA. There is no language within the Plan informing the future retirees that the District reserved the right to impose premium charges after they retire. Absent such clear language, the language which supports the reasonable expectations of the retirees is the language which will be given effect by a court.

Retirement benefits become vested if no express reservation of power to change the benefits is reserved. Those cases in which it has been held that changes were not an impairment of contract have relied upon statements within the retirement benefits provisions which reserve the power to amend or upon statements external to the provisions which explicitly refer to those provisions in allowing amendment. See, e.g., Int'l Ass'n of Fire Fighters v. City of San Diego (1983) 34 Cal.3d 292, where it was held that modification of employee contribution rates was intrinsic to the retirement system, since the ordinances which established the system did not fix contribution rates but actually provided for their revision. The court noted that in many of the precedent cases *finding an impairment*,

"[e]mployees' vested contractual rights were modified by amendment of the controlling provisions of the retirement system in question to reduce (or abolish) the net benefit available to the employees. 34 Cal.3d at 302.

Without an express reservation of rights, precedent cases have struck down post-retirement reductions in benefits.

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Similarly, the court in Walsh v. Board of Admin. of PERS (1992) 4 Cal.App.4th 682, found there was no modification of the legislator's retirement system because the Constitution contained an express reservation of power to limit members' benefits prior to their retirement. Id. at 700, 704.

Nowhere did the Fresno Unified School District reserve the right to demand retiree contributions to premiums; the District's obligation is not limited to any fixed amount. The parties to District contracts can easily avoid vesting by language such as "this agreement does not create vested rights" or providing that after retirement, the District reserves the right to impose premium charges. But nothing of this sort was either considered or adopted. The District can also negotiate individually with retirees, offering something of value for an agreement to assume some responsibility for premiums. But the District cannot act unilaterally to impose premiums, nor may it negotiate with the District's unions to impose premiums. The District may regret the bargain it struck with its retirees over a period of two decades, but a deal is a deal.

Even if extrinsic evidence were considered, the evidence supports the retirees interpretation. The Plan was announced in 1977. Retirees were informed that a "District financed" health benefits plan had been adopted, to extend "district-paid" health benefits "into retirement." The District explained that once a retiree reached age 57 and ½, "the District will assume the premium payments." Although the plan was occasionally modified during the next 18 years, and the language of the collective bargaining agreements may also have been slightly altered, at no time did either the plan, or any collective bargaining agreement provide that after retirement premium charges could be imposed. Of course, pre-retirement changes can be negotiated by the District and its Unions which impose premiums on future employees. However, it is clear that no language clearly informed the current retirees that the District reserved the right to impose post-retirement premium charges. And no extrinsic evidence referred to anything within the plan which reserved the right to impose premium charges on retirees after they retired.

In summary, the language the District refers to is limited to prescription benefits, was adopted after most of the retirees' rights had already vested, and refers to charges other than premiums. Furthermore, there is no language within the plan reserving the right to impose premium charges on retirees after they retire. Therefore, the language cited does not detract from the retirees' arguments. To the contrary, the language the District cites supports our interpretation by its irrelevance and absence of controlling language.

IV. The Retirees Have Not Waived Their Rights By Executing A Retirement Form

In its letter, the District claims that every retiree executed a form upon retirement which "grants" the District, through the negotiations process, a right to modify the level of benefits

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provided to retirees. The form referred to, entitled "FUSD Retiree Paid Health and Accident Benefits Plan Agreement" is ineffective to waive benefits previously earned.

First, the language it claims grants the District this right was not included in the body of the form but buried in a preliminary, "Whereas" clause:

"WHEREAS, it has been determined between the parties hereto that the payments to be made by the district under this agreement are subject to the existing and future collective bargaining agreements and official board action, and subject to the retiree and applicable dependent(s) fulfilling the requirements hereinafter enumerated..."

"Whereas" clauses, also known as "recitals," are merely explanations of the circumstances surrounding the execution of the contract and are not binding obligations. Nor can they create any rights beyond those set forth in the operative terms of the contract, i.e, its substantive body. 17A C.J.S. (1999) § 317, p. 340. Further, if a "whereas" clause or recital acts as a factual representation, it can be shown to be untrue. Restatement Contracts2d, § 218(d). The "whereas" clause the District points to is neither an accurate statement of then-existing rights nor a proper conferral of new rights, and is therefore, inoperative.

Second, the form was executed *without consideration flowing to the prospective retiree*. The retirees had already vested in their benefits, and accrued the right to receive them by meeting age and service requirements. The so-called "Agreement" offered them nothing. In fact, under the District's interpretation, it took something from them: their right to receive district-paid benefits. Since nothing was offered beyond what they were already entitled to, the so-called Agreement lacked consideration and is ineffective to afford the District new rights.

Third, the "whereas" clause reference to "payments to be made by the District" does not authorize the District to shift premium charges to the retirees. Indeed, in paragraph six (6) of the operative body of the Agreement, the District promises to pay the retirees' premiums:

"That the district shall assume the premium payments when the retiree reaches the age of fifty-seven and one-half (57 ½) years. If the retiree should retire prior to age 57 ½ years, the monthly premium payments shall be borne by the retiree ... until age 57 ½ is attained..." (FUSD Retiree Paid Health and Accident Benefits Plan Agreement, circa 199, emphasis added)

Fourth, the language the District selectively cites, on its face, arguably ambiguous. The reference to "payments to be made" being subject to the existing and future agreements could refer not to premium payments, but to the co-pays and deductibles of the District plan, and the scope of benefits provided. Such matters have, we understand, historically been determined in

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negotiations. Although I am not prepared to discuss in this letter the extent to which any or all such additional attributes of the plan are, or are not, vested, the fact is that the language cited does not refer, on its face, to premium payments. Thus, if we were to deal strictly with the language, and disregard the other problems with the argument, extrinsic evidence would support the retirees' contentions that the reference does not deal with premium charges.

And last, the employees were presented the purported "Agreement" under the most coercive of circumstances, that is, during their last few days of employment, as they completed their retirement paperwork. They were *not advised* that by signing the "Agreement," they were waiving vested rights. Absent a knowing and intelligent waiver, supported by adequate consideration, the "Agreement" cannot divest retirees of pre-existing rights to District-paid retiree health benefits. Hittle v. Santa Barbara County Employees Retirement Association, (1985) 39 Cal.3d 374 (reiterating California case law that holds the first requirement of any waiver of statutory or constitutional rights is that it be knowingly and intelligently made).

In Hittle an employee was not advised that by withdrawing his retirement contributions, he was waiving his right to future retirement benefits. The Supreme Court held that his retirement system was bound to its original promise. It explained that a purported waiver is not legally effective unless the party executing it has been "fully informed" of the existence of the right being waived, its meaning, the effect of the waiver presented to him, and his full understanding of the explanation. Id. at 389. The Court emphasized that the burden is on the party claiming waiver to prove it by "clear and convincing evidence" and that "doubtful cases will be decided against a waiver." Id. at 390. The Court also relied on the principle that California favors pension benefits and construes them liberally to assure that they are given full effect in order to protect the retiree against economic insecurity. The District's interpretation would mean a continuous state of instability, in which retirees could never count on whether they would pay premiums or not. Such instability would need to be clearly explained in the waiver, but it was not.

The District does not address any of these settled principles. The District shows no awareness of the Supreme Court's decision in Hittle, and the principles and cases it rested on.

V. The Sappington Case Offers No Solace to the District

Finally, the District's citation to Sappington v. Orange Unified School District (2004) 119 Cal.App. 4th 949 is inapposite. Sappington stands for the proposition that a group of retirees could not establish their entitlement to a District-paid PPO, as opposed to an HMO, based on flimsy evidence admitted at trial regarding the promise made by the District. The dispositive issue was narrow: "whether the retirees have a vested right to free PPO coverage." Id. at 953. The policy at issue stated that the District "shall underwrite the cost of the District's Medical and Hospital Insurance Program" for eligible retirees. Id. at 954. The retirees argued the promise to

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“underwrite” meant that the District would pay the entire subscription cost of PPO coverage. The court decided that the use of the term “underwrite” “per se does not constitute a promise to pay the entire cost for enrolling in a District health plan.” *Id.* The court concluded that the District never promised a particular health plan, only to provide “a program.” The court concluded that the promise did not obligate the District to include any particular kind of plan, such as PPO coverage as opposed to various HMOs. *Id.*

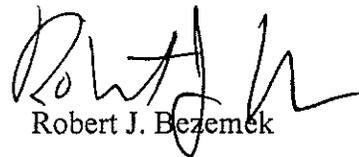
The Sappington retirees relied entirely on a 20 year course of conduct to argue that the District was obliged to provide both a PPO and an HMO plan. The Court of Appeal said that the history “does not mean that [the retirees] understood they were *contractually entitled* to such alternatives.” *Id.* at 768, emphasis in original.

Finally, the Court ruled that the retirees failed to cite any evidence that they, individually or as a group, “had a reasonable expectation the District would always provide free PPO coverage as part of the medical insurance plan.” *Id.* (In contrast, there is overwhelming evidence that in Fresno, the retirees, both individually and collectively, reasonably expected not to be charged premiums for their health care, after retirement.)

The Sappington Court decided the issue of what was promised on narrow evidentiary grounds. In stark contrast, the FURA has convincing evidence the District promised to provide health plans to retirees without premium costs (with narrow exceptions for most retirees under 57 and ½ years of age.) In the instant case, the evidence the District made such a promise is, in fact, irrefutable.

In closing, the retirees want to emphasize that they expect that the District will honor the promises made and reaffirmed over many years, to induce long and dedicated service by hundreds of District retirees. The retirees feel strongly about their rights, and FURA wants the District to know they are prepared to act collectively to assure that they receive their vested, deferred compensation.

Very truly yours,



Robert J. Bezemek

cc: Peter Mehas, Superintendent, Office of Education (via fax and mail)
Barry Bennett, Esq. (via fax only)

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OF COUNSEL
MARTIN J. FASSLER

July 7, 2005

President and Members of the
Board of Education
Fresno Unified School District
2309 Tulare Street
Fresno, CA, 93721

Re: FURA - Retiree Health Benefits

Dear President and Members of the Board of Education:

I represent FURA. FURA (the Fresno Unified Retirees Association) is an organization consisting of hundreds of retirees of the Fresno Unified School District. I write to demand that the District reject a recent proposal to impose substantial health benefit charges on retirees.

FURA has learned of the District's "tentative agreement" to a plan which would impose premium charges on retirees. Apparently the Board is considering mandating assessments of \$30 per month for a retiree, and \$30 for the spouse, for pre-age 65 retirees; a monthly assessment of \$10 ("Health Plan Reserve Assessment") for retirees and dependents/spouses alike up to age 75; and annual limits on the amount of the money the District will pay toward retiree health care. The proposal also imposes significant co-pays and deductibles for all retirees, and establishes a formula under which a "joint health management board" "shall act immediately" to "increase eligible employee and/or retiree contributions..." In certain cases the "Health Plan Reserve Assessment" "shall automatically and immediately be increased for all ... eligible pre-65 year old retirees."

For the reasons set forth in this letter, FURA requests that the District cease and desist from taking any action to approve charging retirees for health benefit premiums, imposing monthly payments and/or assessments, and imposing limits on District payments toward retiree health care. The reasons for this request are explained below.

“[M]en do not labor for chances on a roulette wheel and employers do not ... pay wages with lottery tickets.”¹

The above-referenced quotation is just another way of saying that a contract is sacred. And a contract in which an employer pays for someone's labor is more than sacred, it is protected by the Constitution. When this nation was created, the Founding Fathers enshrined the sanctity of contracts in the Constitution. Article 1, Section 10 provides that no state shall impair the obligation of contracts. James Madison, writing in the *Federalist* papers, explained that the Contracts Clause of the Constitution was the “constitutional bulwark in favor of personal security and private rights,” adding that impairment of a contract was “contrary to the first principles of the social compact...”² When the State of California was created, its founders followed suit in Article 1, Section 9, forbidding the impairment of contracts. Today these constitutional provisions are the main safeguard against public agencies solving their fiscal problems by illegally shifting costs onto retirees. Yet the Fresno Unified School District likens 25 years of promises to pay the premiums for retirees' health care to “chances on a roulette wheel.” It believes that promises expressed in contract after contract can be disregarded. The District is wrong.

This letter explains why the District's apparent plan to impose premium and other charges on retirees for health benefits, to impose caps on annual payments, and to threaten future increases, violates their contractual rights.

The District Promised to Pay Retirees' Premiums

Nearly thirty years ago, the Fresno Unified School District entered into a contract which promised employees that when they retired, the District would provide them with a health plan free of premiums. This promise was continued in 8 consecutive contracts. This is a legally binding promise. The “district-paid” health plan is no mere gratuity, it is part of **earned** compensation. Over 4,000 retirees earned this compensation by working many years for the District. During these years, the District sometimes acknowledged that it was not paying “competitive” salaries, but that its health plan made up for it. Countless employees were induced to apply and **remain** with the District because of this promise. These employees worked the requisite time to qualify for the lifetime benefit.

¹ *Roxbury Carpet Co. 73-2 Lab. Awards*, CCH ¶ 8521, at p. 4938-4939 (Summers 1973)

² *The Federalist* No. 44, at 282, c. Rositer ed. 1961.

At retirement, these employees began to receive their deferred compensation, the promised health plan in which the District paid the premiums. The Fresno District was not unique in providing these benefits - according to a recent STRS survey, about 70% of California's school district made similar promises.³ STRS notes that "through collective bargaining... most K-12 and community college districts fund health care coverage for retired employees until they reach age 65." *Id.* at p. 4. The study conducted in 2000 by the California Department of Education noted that 62% of reporting districts contributed 100% of the premium for retirees under 65, and 35% contributed 100% of the premium for retired employees over 65. *Id.* p. 40. Thus, the District's long-standing plan is not unusual.

That these promises were made by FUSD is hardly surprising. In the 1960s the Legislature concluded that California workers did not have adequate health coverage. So it passed a law which authorized, in fact encouraged, school districts to confer health benefits on employees and retirees. When Fresno made its promise, it was fulfilling the Legislature's intent.

The District's Promise Was Unequivocal

There can be no doubt whatsoever that the District made a promise, a promise it intended its employees to rely upon. The first FTA-District contract stated:

"District-paid Health and Accident premiums for retirees will begin on or about June 1, 1977, for certificated employees retiring after June 10, 1976."⁴ (emphasis added)

Similar promises were given to other bargaining units, and to administrators.

In the next 8 FTA-District contracts, spanning nearly a quarter century, the District reaffirmed this promise in unmistakable language. The second FTA-District contract is typical:

"The District will provide paid Health and Accident benefits for retirees in

³ See "A Review of Potential Health Care Benefit Programs Provided by the California State Teachers' Retirement System," (May 2001).

⁴ 1976-1978 FTA-District collective bargaining agreement, p. 68

accordance with the following provisions: 1. Retirees shall have retired on or after June 10, 1976, with **district-paid premiums** obligated as of June 1, 1977..."⁵ (emphasis added)

Contracts for other units, and policies for administrators, included this principle of District-paid coverage.

The Promise is Protected by the Federal and State Constitution

A hundred years ago, when employers began offering pensions and other post-retirement benefits to employees, the courts tended to look upon them as mere "gratuities" that employers could offer and eliminate at their will.⁶ This view was soon eroded. Courts correctly recognized that post-retirement benefits, particularly pensions which were the focus of the initial cases, were an important element of compensation. The courts found that an employer's promise of future retirement benefits constituted "consideration" for work performed. In other words, pensions were a form of "deferred compensation" which employees earned as they worked, and then collected when they retired.⁷ California recognized this principle as early as 1917 in *O'Dea v. Cook*, (1917) 176 Cal. 659, with the Supreme Court ruling that if pensions or other retirement benefits were not considered compensation for services as they were rendered, they would be gratuities granted for services previously rendered, which is prohibited under the Constitution of California (Article IV, section 17). *O'Dea*, 176 Cal. at 661. Such benefits are not gratuities, because each day of work is consideration for the promised future benefits.

Courts also found "consideration" in the goodwill that such post-retirement benefit plans offered a more motivated, loyal workforce less likely to quit work or abandon vested retirement benefits.⁸ The dedicated Fresno Unified retirees worked scores of

⁵ See, e.g., the FTA-District 1978-1981 collective bargaining agreement, p. 133.

⁶ See *McNevin v. Selvay Process Co.*, 53 N.Y.S. 98 (NY App. Div. 1898), *affd.* 60 N.E. 1115 (NY 1901)

⁷ *Kern v. City of Long Beach* (1947) 29 Cal.2d 848, 852-853, 856. *Ball v. Victor Adding Machine Co.*, 236 F. 2d 170, 173 (5th Cir. 1956)

⁸ Both pensions and retirement health benefits "help induce faithful public service and provide agreed subsistence to retired public servants who have fulfilled their employment

years, relying on the promised retirement health benefits.

In Fresno, the retirees developed a firm and natural expectation that upon retirement they would receive their deferred compensation, in the form of their premium-free health plan, for work already performed. This expectation resulted not just from the explicit promise contained within the first, and then repeated in 8 more collective bargaining agreements, but from statements made by administrators and others to induce their continued service, and at time to encourage their retirement.

For almost a century, California and Federal courts have protected the post-retirement promises made to retirees. The U.S. Supreme Court recognized the “high value” the Framers placed “on the protection of private contracts.”⁹ As the Court explained,

“... contracts enable individuals to order their personal and business affairs according to their particular needs. Once arranged, those rights and obligations are binding under the law, and the parties are entitled to rely upon them.” 438 U.S. at 245.

Because a promise is a promise, subsequent collective bargaining agreements are not allowed to impair the terms of the post-retirement benefit promises previously made. Likewise, vested post-retirement rights cannot be bargained away by unions. “Under established contract principles, vested retirement rights cannot be altered without the pensioner’s consent.”¹⁰ Thus, the District cannot “negotiate” with any of the unions representing its employees to reduce vested retirement benefits of current retirees.

The retirees are cognizant of the District’s assertions that it has fiscal problems and a large unfunded liability for future retiree benefits. But the courts have held that promised compensation to retirees, in the form of employer-financed retiree health

contracts.” *Carman v. Alvord* (1982) 31 Cal. 3d 318, 325; *Thorning v. Hollister School District*, (1993) 11 Cal. App. 4th 16 1598, 1607. See also *Hart v. United Brotherhood of Carpenters*, 352 A. 2d 423, 426 (Del. 1976) and *Cantor v. Berkshire Life Ins. Co.*, 171 N. E. 2d 518, 522 (Ohio 1960).

⁹ *Allied Structural Steel Co. v. Spannaus* (1977) 438 U.S. 234, 245.

¹⁰ *Allied Chemical and Alkali Workers of America, Local Union No. 1 v. Pittsburgh Plate Glass Co.* (1971) 404 U.S. 157, 181, n. 20.

benefits, cannot be burdened to relieve a district of its fiscal concerns. Thus, a huge, estimated, unfunded liability for retiree benefits cannot justify impairment of a contract. *Association of Blue Collar Workers v. Wills* (1986) 187 Cal. App. 3d 780, 792-793 (coincidentally a case involving the City of Fresno).

The courts have not allowed employers to avoid their promises because health benefits are involved. For example, in *Bidlack v. Wheelabrator Corp.* 993 F.2d 603 (7th Cir. 1993) retirees sued to enforce life-time health insurance benefits. The court rejected the employer's argument that it should entertain a presumption against vesting. The defense that health care costs were capable of dramatic increase, imposing crushing liabilities on employers and allowing retirees a windfall at the expense of those not yet retired, found no judicial sympathy:

"Employers . . . certainly don't have to grant such benefits *in perpetuo*. If they did so in the past, not anticipating the recent rise in health cost, they should not expect the courts to bail them out by undoing the contractually determined allocation of risk on the question. Courts do not sit to relieve contract parties of their of their improvident commitments . . ." *Id.* at 609.

While the courts have allowed that some minor changes may be imposed *before retirement*, to maintain the viability of a retirement system, the courts have *consistently disallowed post-retirement changes*.¹¹ In so ruling they have explained that if a governmental entity could "reduce its financial obligations whenever it wanted to spend the money for what it regarded as an important public purpose , the Contract Clause would provide no protection at all."¹²

The Association recognizes that many of the District's retirees can ill afford the imposed premium payments, and the dollar caps, which the District seems intent on imposing. The retirees relied upon the promise the District made. Yet by imposing premium charges and annual caps, and threatening even more increases, the District has disregarded the promises it made over and over throughout the years. Thus, the Retirees' Association opposes any action to impose premium charges on retirees or impose caps on annual District expenditures for retiree benefits. Such limits are contrary to promises

¹¹ *Allen v. City of Long Beach*, 45 Cal 2d 128, 131.

¹² *United States Trust Co. v. New Jersey* (1977) 431 U.S. 1, 26; *Legislature v. Eu* (1991) 54 Cal. 3d 492, 534.

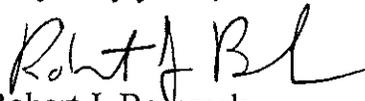
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made as part of bargains with thousands of retirees, and simply open the door to even worse future degradations of retirees' vested rights and considerable anxiety by retirees who depend on the District's fulfilling its promises.

These premium charges and the cap are only a part of the District's changes in health plans. The numerous and significant increases in co-pays and deductibles will prove extremely costly to retirees. It is reasonable to conclude that these increases will have a greater, disparate impact on the older group of retirees than the younger, active employees, because older adults generally have a greater need for medical care than younger adults. The active employees, of course, obtained a benefit in exchange for the imposition on them of premiums and other increases - a salary increase and working condition provisions. Retirees received no such benefits, only the breach of promises made and observed for three decades. Yet the District still insists on imposing premium charges and caps on retirees. So in addition to violating promised vested rights, these premium charges, caps and increases in co-pays and deductibles will have a disparate impact on the District's retiree population based on age.

The Association calls on the District to reject its tentative agreement which would impair the vested rights of the District's many retirees and their spouses and dependents. The District should respect the promises it has made.

Very truly yours,



Robert J. Bezemek
Counsel for FURA

cc: FURA

0202-demand letter to District re changes 0707-05

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February xx, 2006

**Governmental Claim
Filed Against
Fresno Unified School District
By FURA and Boyd Cline, et al.**

1. The name and post office address of the claimants:

Name of Claimants	Address of Claimants
Fresno Unified Retirees' Association (herein referred to as "FURA"), on behalf of itself and all retirees who are members of FURA, and on behalf of all similarly situated retirees of the Fresno Unified School District (herein referred to as "District"), who retired from the District on or after June 10, 1976, and who qualified for and have received district-paid retiree health benefits, and all spouses and covered dependents of all retirees as described herein. (Note that all retirees who are members of FURA are listed in attachment A)	FURA c/o Carole Sarkisian-Bonard, Ed. D. P. O. Box 1717 Clovis, CA 93713-1717
Carole Sarkisian-Bonard, President of FURA	5765 South Clovis Ave. Fresno, CA 93725
Boyd Cline, Vice President	2821 West Wellington Fresno, CA 93711-1161
Barbara Thomas, Treasurer	7573 N. Fancher Clovis, CA 93619
Vivienne Oxley, Assistant Treasurer	250 Peach Ave. Clovis, CA 93612
Melinda Homola, Secretary	7394 North Laguna Vista Fresno, CA 93711
Eseline Fiori, Assistant Secretary	1411 North Harrison Ave.

2. The Post Office Address to which the person presenting the claim desires notices to be sent:

Robert J. Bezemek
Law Offices of Robert J. Bezemek, PC
1611 Telegraph Ave., Suite 936
Oakland, CA 94612

FURA
Attention: Carole Sarkisian-Bonard
P.O. Box 1717
Clovis, CA 93713-1717

3. The date, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted:¹

I. Impairment of Vested Rights and Breach of Contract

(1) Beginning in or about June 1, 1977, for employees retiring after June 10, 1976, the District agreed to provide a lifetime health and accident insurance program for its "eligible" retirees, in which the premiums would be paid by the District. The District expressly stated that retirees would receive District-paid coverage, coverage in which the District would pay the premiums for the retirees' health benefits. The District's promise to pay the premiums was reiterated in a series of collective bargaining agreements. Administrators were informed by the District that it would provide lifetime health benefits to retirees, with the District being responsible for premiums. Each of these collective bargaining agreements was approved by the District's Board of Trustees and bound the District to fulfill the ministerial act of purchasing or providing retiree insurance benefits without the retirees having to pay any premiums or assessments for such benefits, once they met eligibility requirements. Each of these agreements became a valid and binding agreement upon approval of them by the District's governing board. The District and its Board of Trustees have a ministerial obligation to carry out its obligation to provide insurance without charging premiums to eligible retirees, who are claimants herein, and their eligible surviving spouses.

2) At all times the District had a contractual relationship with Claimants under which the District had an obligation to pay retirees their deferred compensation in the form of retirement health benefits free of premiums and/or assessments and/or fees. This contract came into effect upon retirees employment, or when granted to retirees during the term of said employment, and upon retirees performance of services and meeting eligibility requirements.

3) Employees hired by the District beginning in or about June 1, 1977 understood that if they served the requisite number of years, and met the eligibility requirements such as age, and after retirement the District would pay the premiums for their retiree health benefit plan. Eligibility was established by entering retirement status directly from employment with the District, and reaching the requisite age, combined with the required years of service. When the plan was created those retirees who were less than 57 and ½ years old were required to pay monthly premiums. Once the employee reached age 57 and ½ years, the district assumed responsibility for the premiums. The district paid the premiums for all retirees who retired at age 57 and ½ and beyond. In addition, at age 65, all retirees and spouses were required to apply for Medicare Parts "A" and "B." At the time the plan was created, eligible employees were required to have completed at least ten (10) years of service with the District.

4) The District's promise to pay the premiums for coverage under the District's health and accident program was initially set forth within collective bargaining agreements covering the period of on or about September 1, 1976 through on or about June 30, 1978, for employees in the bargaining units represented by the Fresno Teachers Association, Service Employees International Union Local 535, California School Employees Association Locals 125 and 143, and the Building and Construction Trades Council of Fresno, Madera, Kings and Tulare Counties (herein "BTC" or "Building Trades Council"), and, on information and belief, other organizations. These same benefits were granted to administrators and confidential employees, and any other employees who were not in bargaining units represented by labor organizations in accordance with Board Policy, including but not limited to Board Policy 4154, 4254 and 4354, and predecessor policies

5) In subsequent collective bargaining agreements, the District continued to promise District-paid premiums for health and accident benefits for eligible retirees. In these agreements the District promised retirees who met eligibility requirements that they would receive District-paid premiums. Because each retiree claimant met eligibility requirements, the District became contractually obligated to provide retirees with health insurance and to pay the premiums for such benefits. The same promise was made by the District to its administrators and confidential employees who were not included within bargaining units.

6) The District's promise was included in, *inter alia*, the following FTA-District collective bargaining agreements:

FUSD and FTA, Collective Bargaining Agreement dated July 1, 1978 to June 30, 1981

FTA/FUSD Collective Bargaining Agreement dated July 1, 1981 to June 30, 1984
FTA/FUSD Collective Bargaining Agreement dated July 1, 1983–June 30, 1986
FTA-FUSD Collective Bargaining Agreement dated July 1, 1985–June 30, 1988
FTA Collective Bargaining Agreement dated July 1, 1988–June 30, 1991
FTA-FUSD Collective Bargaining Agreement dated July 1, 1992–June 30, 1995
FTA-FUSD Collective Bargaining Agreement dated July 1, 1996–June 30, 1999
FTA-FUSD Collective Bargaining Agreement dated July 1, 1999–June 30, 2002
FTA-FUSD 2002-2003 and 2003-2004 Collective Bargaining Agreements

The promise was also included in collective bargaining agreements with other bargaining units, including units represented by SEIU Local 535 (herein SEIU), CSEA Locals 125 and 143 (herein “CSEA”), and the Building Trades Council, covering generally the same periods of time.

7) The District periodically advised employees of the district financed benefits plan which they would receive upon retirement, if they met eligibility requirements.

8) In or about October 8, 1981, the District and the FTA agreed to modify the eligibility requirements by requiring 16 years of service in the District for those hired after January 1, 1982. This provision was contained within the District/FTA collective bargaining agreement dated July 1, 1981 to June 30, 1984. Similar or identical eligibility language was included within the collective bargaining agreements covering all other bargaining units, and the same eligibility provision for years of service was applied to administrators hired on or after January 1, 1982.

9) At all times since June 1, 1977, the District has allowed employees total years of service with the District, for purposes of determining eligibility for district-paid retiree health benefits, to be calculated by counting all service an employee has had with the District, regardless of position or classification held.

10) All claimants herein, including those similarly situated retirees for whom claimants bring this claim, were employed either (1) when the District first agreed to provide District-paid retiree health benefits; or, (2) were hired after the District agreed to provide District-paid retiree health benefits.

11) Following adoption of the retiree health benefit plan on or about

June 1, 1977, administrators, classified employees, and certificated employees who retired and who at time of retirement met the eligibility requirements, received District-paid retiree health benefits. Year after year, from July 1, 1977 to the present, the District paid the premiums for the retirees, including any increased cost of premiums from one year to another. Since on or about June 1, 1977 until on or about August 24, 2005, the District's promise to pay the premiums for retirees eligible for retiree health benefits under the plan, remained in effect.

12) Employees were advised of these benefits during recruitment efforts undertaken by District personnel, in the series of collective bargaining agreements which included the promise, and in other communications made at the time of retirement or before they retired.

13) District-paid, lifetime retiree health benefits are deferred compensation for services rendered, and are an inducement to become employed or remain employed by the District. These benefits were and remain an integral part of the employee's contemplated compensation from the District. They were not and are not a gratuity, but constitute earned compensation.

14) As noted above, the District promised that it would be responsible for the premiums associated with the District's retiree health benefit plan. Periodically the District distributed to employees and retirees a brochure which bore the titles "Health Care Plan" and "Outline of Coverage." The 1979 brochure stated that employees "retiring with STRS or PERS on and after June 10, 1976 shall be eligible for district paid coverage at age 57 ½ ." (12/79 brochure).

15) In or about July 1992, the District "published" a Employee Health Care Plan in which the District indicated that the term "fiduciary" meant "the District, the Employer, the Plan Administrator and any ... entity that assumes responsibilities of the District ... with respect to the management of the Plan ..." The Plan specifies that, "All expenses of administration of the Plan shall be paid by the District." (1992 Plan, p. MEB PA-1, p. 40)

16) District retirees understood that the District had promised them a fully paid health benefit plan for life. District administrators shared this understanding. District superintendents also shared in this understanding. The District has periodically reiterated its promise of District-paid benefits in various documents. For example, on or about June 15, 2002, in its presentation to the "Fact Finding Panel" created pursuant to the Rodda Act and action of the Public Employment Relations Board, the District informed the Panel that,

"Fresno USD is one of a small number of school districts that provide fully paid health benefits for retired employees, their spouses

and dependents for life....” (District presentation, June 15, 2002, p. 22)

In the same presentation, the District explained to the Fact-Finding Panel that,

“District retirees, their spouses and their dependents enjoy district paid medical benefits for life; this element of compensation is unusual, expensive, and represents a significant element of compensation.” (District presentation, June 15, 2002, p. 28)

And the District further explained,

“... School district obligations for health and welfare benefits in California end upon retirement unless otherwise negotiated. A number of districts have negotiated post-retirement benefits, generally to age 65 or five years after retirement. Fresno USD has no such limitation; retiree benefits are provided for life if the employee served in the District for 16 years. Not only is the employee coverage for life, but the coverage includes the spouse and any dependents....” (District presentation, June 15, 2002, p. 35)

17) The right to receive District-paid retiree health benefits is a vested right protected by the California and the United States Constitutions. See *Thorning v. Hollister School District* (1992) 11 Cal.App.4th 1598; *Olson v. Cory* (1980) 27 Cal.3d 532; *Betts v. Board of Administration* (1978) 21 Cal.3d 859; *Kern v. City of Long Beach* (1947) 29 Cal.2d 848.

18) The right to receive the benefits accrued to the claimants when each individual employee retired with sufficient District employment and when the individual attained age 57 ½. By the terms of the promises, the District promised to pay all premiums for retirees after the age of 57 ½.

19) Disabled retirees of the District are entitled to premium-free benefits regardless of age at retirement, provided they are disabled retirees under STRS or PERS.

20) The District also promised to pay the premiums for retiree’s spouse and/or dependents. If a retiree receiving the benefit predeceased a spouse, then the benefit would continue for the spouse.

21) These retiree health benefits are part of the deferred compensation of the retirees. Prior to retiring, the retirees performed work in order to receive lifetime District-paid benefits as compensation. Retiree health benefits are part of

the compensation. This deferred compensation, in the form of retiree health benefits, induced long-term service with the District, and loyal employment. These retiree health benefits were a fundamental benefit, which formed a central part of the employees' compensation. Once promised, the District cannot disregard its promises to retirees without violating their contractually vested rights, and therefore the Constitution. Both the California and the United States Constitution protected vested, contractual rights to retiree health benefits. Promised compensation is protected by the Contract clause of the United States and State Constitutions. *Olson v. Cory* (1980) 27 Cal.3d 532, 538. "Once vested, the right to compensation cannot be eliminated without unconstitutionally impairing the contract obligation." *Id.* Requiring retiree contributions in the form of premiums and assessments unconstitutionally impairs contract obligations with the District. *Allen v. City of Long Beach* (1955) 45 Cal.2d 128, 133.

22) The right to deferred compensation vests upon acceptance of employment. *Kern v. City of Long Beach* (1947) 29 Cal.2d 848, 852-853, 856. This is so "even though the right to immediate payment of [the benefits] may not mature until certain conditions are satisfied." *Miller v. State of California* (1977) 18 Cal.3d 808, 815; *Kern v. City of Long Beach, supra*; *Wallace v. City of Fresno* (1954) 42 Cal.2d 180, 183. Public employees also acquire vested rights to additional benefits granted during employment. *Betts v. Board of Administration* (1978) 21 Cal.3d 859, 866; *Olson v. Cory*, 27 Cal.3d at 540. By definition, each claimant, and retiree on whose behalf this claim is brought, became vested in retirement health benefits either upon initial hiring or during contingent employment between June 1, 1977 and the present. No language in the collective bargaining agreements or policies referenced herein reserved the right of the District to change the retirees' health benefits by requiring premium contributions or administrative fees or assessments after those employees retired. The District is therefore prohibited by law from imposing premium charges or assessments on the claimants.

23) The imposition of premium charges or administrative fees or assessments on these retirees would breach and impair the promise made by the Fresno Unified School District. Said charges would abrogate the terms of the claimants deferred compensation after they performed the services necessary to receive these benefits. The District never reserved any right or power to eliminate, after a retiree retired from the District, District-paid premiums for retiree health benefits. The District had no fiscal necessity such as is allowed by the Constitution, to impair the vested rights of the District's retirees. The District had no Constitutionally legitimate financial or budget need to impair these vested rights. As a direct and proximate result of the breach described herein, claimants have been and will continue to be harmed in that they will receive lesser retirement benefits.

24) During collective bargaining negotiations in 2005 and 2006, the District entered into agreements with various labor organizations which by their terms authorized the claimants herein to be charged premiums and administrative fees or assessments in order to receive retiree health benefits. Under the negotiated agreements, retirees and their eligible spouses and dependents, can be charged premiums and/or administrative fees or assessments.

25) Assessing premiums and/or administrative fees or assessments on retirees who have a vested right to District-paid premiums for retiree health benefits, impairs those vested rights and violates the contractually vested promises made to the claimants. Vested retiree health benefit rights cannot be bargained away through negotiations or agreements between the District and any of its employee unions. "Under established contract principles, vested retirement rights may not be altered without the pensioner's consent." *Allied Chemical & Alkali Workers of America, Local Union No. 1 v. Pittsburgh Plate Glass Co.* (1971) 404 U.S. 157, 181 (n. 20). In purporting to modify the promise made to claimants, the District has defeated the reasonable expectations of the claimants.

26) On November 22, 2004 the retirees, through legal counsel, advised the District that it could not impair the contractually vested, promised and expected, District-paid retirement health benefits which were received by the retirees. A copy of this letter is attached hereto as Exhibit B and incorporated herein by reference as so set forth fully at length. On March 1, 2005 the retirees, through legal counsel, requested that the District honor the promises it made and reaffirmed over the years, to provide District-paid retirement health benefits to its retirees. A copy of this letter is attached hereto as Exhibit C and incorporated herein by reference as so set forth fully at length. On July 7, 2005 the retirees, through legal counsel, wrote the District that it had learned of tentative agreements the District had reached with labor organizations which would allow the District to charge premiums and annual assessments to retirees for retiree health benefits which the District had previously promised to pay. The retirees requested that the District respect the promises it had made. A copy of this letter is attached hereto as Exhibit D and incorporated herein by reference as so set forth fully at length.

27) Notwithstanding the above request, the District nevertheless negotiated and adopted collective bargaining agreements with all District labor organizations which provide for the imposition of premiums and assessments on retirees. The imposition of premiums and assessments would violate promises made to the retirees of District-paid retiree health benefits.

28) Each of the negotiated agreements includes a "Hold Harmless" clause in which the District agrees to hold harmless and indemnify the labor organization

from any actions as a consequence of the provisions to charge retirees premiums and assessments.

29) The District's agreement with the Fresno Teachers Association, allowing the imposition of premiums and assessments, was ratified by the District governing board on or about August 24, 2005 and by the Fresno Teachers Association on or about August 1, 2005.

30) The District's agreement with the SEIU Local 535 allowing the imposition of premiums and assessments was reached on or about September 6, 2005, and ratified by the District governing board on or about January 11, 2006 and the Union on a date not presently known.

31) The District's agreement with CSEA Local #125 allowing the imposition of premiums and assessments was reached in or about January 2006, ratified by the District governing board on or about January 25, 2006 and CSEA in or about January 2006. The District's agreement with CSEA Local 143 allowing the imposition of premiums and assessments was reached on or about September 6, 2005 and ratified by Local 143 on or about September 29, 2005, and by the District governing board on or about October 26, 2005.

32) The District's agreement with the BTC allowing the imposition of premiums and assessments was reached in or about December 21, 2005, and ratified by the District governing board on or about January 11, 2006.

33) Under these agreements, a "Joint Health Management Board," or JHMB is created to administer health benefits for employees and retirees. The agreements also provide that the "JHMB will assume full responsibility for all retiree health benefits ..." However, by law, the District is responsible to provide retiree health benefits to its retired employees and cannot transfer its responsibility as it did without impairing the vested rights of its retirees.

34) The District's agreements with FTA, SEIU, CSEA and the BTC further provide that the JHMB:

1. is empowered to impose increases in premiums and assessments on retirees, in the discretion of the JHMB.

2. is required, under certain conditions, to increase the retirees' "Assessment" of \$10 to negate shortfalls, and except for the 2005-2006 school year, such an imposed increase shall be imposed "automatically and immediately" on the retirees under specified conditions.

35) A copy of the CSEA “agreement” is attached hereto as Attachment “E” and incorporated herein by reference to illustrate the illegal nature of the provisions which provide for or allow premium charges or assessments to the claimants herein. The terms and conditions of this Agreement are essentially the same as those negotiated with SEIU, the BTC and the FTA. Further, based on information and belief, each Union has a “most favored nations clause” to assure that any more favorable terms in any other collective bargaining agreement is applied to the Union with the clause.

36) Each claimant herein is either a beneficiary of the District’s agreement to provide retiree health benefits as specified in a collective bargaining agreement, or a beneficiary of District policy to provide retiree health benefits, or both. The District, by the acts and conduct alleged in this Claim, including threatened acts, has breached its contractual agreements with claimants.

II. Breach of Fiduciary Duty in Regard to Program Changes and Notice of Program Changes

37) We incorporate all prior paragraphs of this claim.

38) The District’s Board of Trustees acts as fiduciaries to protect the retiree health benefits of the claimants. The District has adopted a series of health plan documents which provide: “Fiduciary means the District, the employer, the plan administrator and any individual . . . or other entity that assumes responsibilities of the District, the employer, or the plan administrator with respect to the management of the plan or the disposition of its assets.” (*Fresno Unified School District Employee Health Care Plan* amended and restated effective July 1, 1992, p. GD-5.)

39) The health benefit plan established by the District for claimants created a trust relationship between the beneficiaries of the District’s promised deferred compensation in the form of a District-paid retirement health benefit plan, and the District’s Board of Trustees and those who administer retirement health benefits for the retirees. The District, the members of its Board, and those implementing its health benefits, must exercise their fiduciary trust in good faith and must deal fairly with the retirees claimants. The District’s Board of Trustees, and its employees charged with administering the retiree health benefit plan, including but not limited to its superintendent, are by virtue of their fiduciary relationship to the retirees charged with the fiduciary relationship which means that in all matters connected with this trust, the trustee is bound to act in the highest good faith towards its beneficiaries, and may not obtain advantages therein by misrepresentation, concealment, threat, or adverse pressure.

40) Under the health plan documents, there is no provision requiring premiums to be paid by retirees.

41) If the District decided at some point that it would charge retirees premiums and/or assessments or fees, it would be a matter of significant concern to retirees, most of whom live on fixed incomes. Many classified retirees receive pensions accurately described as "paltry." Knowledge of upcoming charges for premiums or assessments or fees would be crucial to retirees' planning, and of interest to them should they wish to challenge an impairment of their vested rights.

42) The District had a fiduciary duty to fully inform claimants of any obligation they had to pay premiums or assessments or fees following their retirement.

43) Claimants assert that the District ordinarily presented most retirees at the time of retirement with a document entitled "Agreement," that the District would assume the premium payments for retirees when the retiree reached the age of 57 ½ years, except for disability retirements as certified by STRS, who were granted paid premium benefits immediately upon retirement.

44) On or about October 17, 2005 the District wrote to retirees introducing them to the "Joint Health Management Board," which had purportedly been formed pursuant to new collective bargaining agreements. A copy of this letter is attached hereto as Exhibit F. In the letter the District failed to apprise retirees that under collective bargaining agreements reached between the District and various labor organizations, it would assess premiums and assessments to retirees. The District failed, and continues to fail, to inform retirees that the District has (1) negotiated agreements allowing the imposition of premiums and assessments; and (2) will be imposing directly, or through its JHMB, premiums, fees and/or assessments on retirees. In failing to provide such notice the District, its Board of Trustees, and its agents, officers and representatives has breached its or their fiduciary duty to the claimants herein.

45) In failing to advise the employees at or before the time of retirement, that the District allegedly reserved or claimed the right to impose premium payments after retirement, the District breached the fiduciary duty it owes to the claimants herein.

46) The District, its officers, agents and representatives, breached its fiduciary duty by not informing retirees that subsequent to retirement the District might, could or would cease paying the full cost of premiums for retirees who had reached the age of 57 ½, and were otherwise eligible to receive premium

payments as alleged herein, for each of them and their spouses and/or dependents.

47) The District negotiated agreements covering most retirees and claimants, which purport to establish a "Joint Health Management Board," and to establish a "maximum District contribution to health and welfare benefits for all ... retired employees at [a fixed level], effective July 1, 2005." (See *FUSD Office of Labor Relations offers to SEIU, CSEA and FTA, executed by each organization.*) The District agreed that the JHMB would be permitted to impose "premium contributions and assessments" on retirees, and to mandate "direct [premium contributions] from retirees." The District also agreed that the JHMB "will assume full responsibility for all retiree health benefits ..." and shall in certain cases "act immediately to increase ... retiree contributions or assessments ..." *Id.*

48) In transferring its responsibility to the JHMB to provide retirees with health benefits without being charged premiums and assessments, as it did, the District, its Board of Trustees, and its officers, agents and representatives breached their fiduciary duty to retirees.

49) The District purportedly has begun to implement the above provisions as to retirees.

50) In each instance in which the District negotiated collective bargaining agreements with labor organizations which imposed, or allowed the imposition, premiums and assessments on retirees, the labor organizations did not represent the claimants herein.

III. Equitable Estoppel

51) We incorporate all prior paragraphs of this claim.

52) As alleged above, the District represented to employees that, as retirees, they would receive district-paid retiree health benefits, for life, with premiums being paid starting at age 57 and ½ (younger for those retiring with disability retirements through STRS and PERS), who met eligibility conditions. The District, its officers, agents and representatives, intended for claimants, as prospective employees and employees, to rely upon these representations.

53) The information provided to retirees concerning their retiree health benefits was made with knowledge, actual or virtual, of the true facts, by the District, its officers, agents and/or representatives.

54) Retirees were ignorant of the fact that, after retirement, the district would negotiate to impose, or impose, premium or other charges on retirees.

55) The District intended that retirees, in accepting employment, or continuing in employment by the District, would rely on District representations concerning their retiree health benefits.

56) The District by its conduct as alleged herein, induced retirees to rely on or act based upon such representations. Retirees, as a consequence, accepted employment, and continued long and loyal service to the District.

57) Retirees who are claimants herein reasonably relied on these District representations to their detriment. These retirees have suffered, or will suffer and will continue to suffer, loss as a result of the above.

58) The District is equitably estopped to impose premiums or fees or assessments on claimants, or to negotiate any agreements with labor organizations which allow for or require the imposition of premiums or assessments on retirees.

59) The District also concealed, until recently, that it would, after claimants retired, impose premiums or other charges on retirees.

60) Information withheld from retirees, that the District intended to impose premiums after retirement, was made with the knowledge, actual or virtual, of the true facts, by the District, its officers, agents and/or representatives.

IV. Promissory Estoppel

61) We incorporate all prior paragraphs of this claim.

62) As alleged herein, the District clearly intended for eligible retirees to receive lifetime, district-paid health benefits. The District should reasonably have expected its promises to induce employment and long service by claimants.

63) The District promised such benefits in order to induce employment, and long, loyal employment, by claimants. The claimants relied on such promises and accepted and/or provided long, loyal service to the District.

64) If the District were allowed now to impair this promise by charging premiums and/or fees or assessments, an injustice would occur.

65) The District is bound by the doctrine of promissory estoppel to fulfill its promises to claimants.

4. A general description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the time of presentation of the claim:

We incorporate herein by reference as though set forth fully at length the full text of Section 3 above. In addition,

A. District Failure and Refusal to Honor and Fulfill Vested Rights of Retirees to a District-Paid Retiree Health Benefit Plan

The District has impaired the vested rights of retirees by negotiating agreements allowing the imposition of premiums and assessments on claimants, and by taking steps to and/or requiring the payment of premiums, fees and/or assessments by retirees. Once implemented, retirees will be required, as a condition of receiving their benefits, to pay premiums, fees and assessments in an amount exceeding \$10,000 in the aggregate, and on a continuing basis.

B. Breach of Fiduciary Duty

The District's Board of Trustees has breached its fiduciary duty to the retirees as alleged herein above by, *inter alia*,

1. by failing to inform retirees and claimants herein that they will be, or are subject to be charged premiums and assessments for their retiree health benefits; and,

2. by transferring its duties to retirees and claimants to the JHMB under the circumstances present here..

C. Equitable Estoppel and Promissory Estoppel

The District is estopped under doctrines of equitable and promissory estoppel, to impose premiums, fees and assessments on the claimants herein.

D. All Other Legal Theories Applicable Are Subsumed Within this Claim

Claimants assert that the District is liable to retirees and claimants based on any and all other theories as would apply to the facts involved in this matter, whether known or unknown to claimants, including but not limited to fraud, misrepresentation, conspiracy to defraud or misrepresentation, and abuse of discretion.

5. The name or names of the public employee or employees causing the injury, damage, or loss, if known:

Superintendent Michael E. Hanson
Former Interim Superintendent Walt Buster
President and Members of the Board of Education, including but not limited
to President of the Board: Ms. Luisa Medina
Clerk of the Board: Mrs. Janet Ryan
Members of the Board:
Mr. Manuel Nunez
Carol Mills, J.D.
Mrs. Valerie Davis
Ms. Patricia Barr
Tony Vang, Ed.D.
Fresno Unified School District
Does 1-100

6. The amount claimed: "If the amount claimed exceed ten thousand dollars (\$10,000), no dollar amount shall be included in the claim. However, it shall indicate whether jurisdiction over the claim would rest in municipal or superior court."

The amount claimed is presently unknown, but will exceed \$10,000 once claimants are informed of and begin paying premiums, fees and assessments. Jurisdiction over the claim and an action to enforce claimants rights to vested rights and other violations alleged herein rests in the superior court.

Dated: February ____, 2006

By: _____
_____ Robert J. Bezemek, Attorney
Signed on behalf of claimants

Note: add language re violation of Board Policy for non-unit members.

**Fresno Unified School District
Responses to Findings, Conclusions and Recommendations
Presented in the Final Report of the 2005/06 Fresno County Grand Jury**

REINSTATEMENT OF TECHNICAL-VOCATIONAL EDUCATION

The Trustees and staff of Fresno Unified School District are committed to ensuring that: 1) all of our students are proficient at grade level California Content standards; 2) all students whose primary language is not English, learn English; 3) we provide broad educational opportunities to prepare all of our students for their future; 4) all of our students complete their entire education; and 5) students attend safe schools. We therefore welcome the opportunity to work collaboratively with our education and business partners to create comprehensive career-technical education programs.

The District accepts most of the findings and conclusions in the Grand Jury's report but also believes that the recommendations are incomplete for three reasons. First, technical-vocational education must be defined because it is important that we do not recreate vocational education programs in which entire groups of students were systematically tracked into a low expectation, low support, and low opportunity high school education. The recently adopted California Technical Education standards provide a good starting point for the implementation of an effective career preparation program. Second, the recommendations place too much burden on high school principals and staff to fix a problem that extends far beyond the campus. Many of these challenges must be addressed by state legislators, institutes of higher education, and business leaders, as well as the Board of Trustees.

Finally, and most important, these recommendations and others must be more thoroughly explored and then connected through a comprehensive implementation plan to ensure long-term success of career technical education programs. To successfully implement a career technical education program throughout our district we must do more than merely adopt new standards, teach new classes, and hire new staff. We must also provide students with a career exploration program that begins in elementary school. We must provide supportive career counseling and change long standing beliefs that technical education is for students who cannot succeed in college preparatory courses. We must ultimately remove the pressure that students, parents, and educators feel about going to college, and make career preparation the ultimate goal of high schools.

RESPONSES TO GRAND JURY FINDINGS 1 THROUGH 15

The District partially disagrees with Finding 1.

The District agrees with Findings 2 – 15.

Response to Finding 1:

While "less than 22% of the jobs in the next decade will need a college degree" and "only 8 of the 50 fastest growing jobs in California will need a four-year college degree," the District contends that those jobs for which a degree is not required tend to be lower paying jobs.

According to the U.S. Bureau of Labor Statistics, people who have a college degree will earn more than twice as much as people without a high school diploma. In addition, people with a masters degree will earn nearly twice as much as people with only a high school diploma. Therefore, while it may be true that fewer jobs will require a college degree, those jobs for which a college degree is required provide higher salaries and better long-term opportunities for our students.

RESPONSES TO GRAND JURY CONCLUSIONS 1 THROUGH 7

The District agrees with Conclusions 1 – 7.

RESPONSES TO GRAND JURY RECOMMENDATIONS 1 – 4

Recommendation 1: “Technical-vocational education must be offered in all high schools in Fresno County.”

Response to Recommendation 1:

All students deserve an education that prepares them for a career. It is therefore critical to define specifically what is meant by technical-vocational education programs. In the past, California high schools offered voc-ed classes, typically as an alternative to rigorous academic courses of study. Students were often tracked into these programs because someone – a parent, a teacher, a counselor, or even the student – made the decision that it was a more appropriate choice than the college preparatory program. These individual decisions, often made with the best intentions, led to the systematic downward tracking of students in poverty and students in certain ethnic groups.

Fresno Unified does offer 39 technical-vocational classes in our high schools, and 14 classes are offered at CART (Center for Advanced Research and Technology, a joint Fresno-Clovis program). The recently adopted California Technical Education (CTE) standards provide a good road-map for implementing more comprehensive technical education programs back into high schools because they do not reduce expectations for student achievement. With CTE, all students are required to complete rigorous academic content standards that would prepare them for a career. High schools would facilitate career exploration and skill development, rather than selecting and separating students.

Recommendation 2: “High schools that already offer some technical-vocational classes must offer a wider variety of classes, and teachers must teach skills for present jobs and for jobs that are just emerging.”

Response to Recommendation 2:

It would be good to expand current vocational classes; however, it is critical that expanded and/or new programs use CTE standards at their foundation. It is important to note that the Grand Jury report identified that there is a shortage of teachers for these courses (see Recommendation 4).

Recommendation 3: “Create a ‘Fresno County Forum on Technical-Vocational Education’ to be called in 2006-2007 to include representatives from secondary and community college levels

of education and the business community to be headed by a business group that has worked closely with schools.”

Response to Recommendation 3:

The District would welcome the opportunity to participate in a forum that includes other school districts, community colleges, and business partners as well as four-year colleges and teacher education programs.

Recommendation 4: “If high school principals or school districts are unable to recruit certificated technical-vocational instructors, they must find experienced and qualified people to teach one or more classes on a Designated Subject Credential.”

Response to Recommendation 4:

While FUSD agrees with this recommendation in concept, it is difficult to implement because of the previously mentioned shortage of potential instructors. The recruitment challenge persists because there are few instructors who are:

- skilled in a trade or technical field with five or more years of experience;
- interested and skilled at teaching high school courses; and
- willing to work at a teacher salary when trade salaries are typically higher.

September 18, 2006

Fresno County Grand Jury
Education Committee
1100 Van Ness Avenue, Room 102
Fresno, CA 93721

Attn: Howard Reed, Chair

Recently I was contacted by the Fresno County Superintendent of Schools regarding your 2005-06 recommendations for Technical-Vocational Education in Fresno County.

As I read through the 2004-05 and 2005-06 reports it became apparent that the information provided to your committee did not include data from Valley Regional Occupational Program.

Valley ROP is a Joint Powers Agreement (JPA) ROP. Valley ROP was established in 1971 and consists of Kings Canyon Unified, Kingsburg Joint Union High School, Parlier Unified, Sanger Unified and Selma Unified School Districts. As opposed to County-operated Fresno ROP, as a JPA ROP Valley ROP functions as a separate school district having a Governing Board that is made up of one Trustee from each member district school board and a district administrator. These district appointed Board Members make all policy, personnel and budgetary decisions.

At our September 14, 2006, Board Meeting I discussed your report and recommendations with my Board. Several of the findings in both the 2004-05 and 2005-06 reports were not representative of our ROP.

It was decided by the five district trustees that one letter be written to address the recommendations.

I would like to invite you and your committee to take a tour of our outstanding program. We have dynamic programs in the areas of Nursing, Automotive Technology, Computer Aided Drafting, Digital Animation, Cabinetmaking, Computer Aided Manufacturing, etc. We have over 100 classes and 45 teachers at the six high schools and serve over 2,400 students annually.

In addition to quality classes we have very close working relationships with site and district administrations.

I would also like you to consider attending our Fall Business Advisory Dinner on October 30, 2006, 5:30 p.m.-7:30 p.m. at Kady's Kountry Kitchen in Kingsburg. We host dinner and advisory meetings for our business partners at this meeting, I have included information with this letter.

My Board has also asked that I invite you and your committee to attend a future Board Meeting. I think you would be pleasantly surprised at the commitment to Technical-Vocational Education by our districts.

Thank you for your time and consideration regarding our program and I look forward to hearing from you soon.

Deborah Marvin, Director
Valley Regional Occupational Program

Spears, Sherry

From: Susan Joneson [Susan_Joneson@sanger.k12.ca.us]
Sent: Thursday, December 14, 2006 5:35 PM
To: Hagaman, Natasha
Subject: Response to Grand Jury Report
Follow Up Flag: Follow up
Flag Status: Flagged

Dear Ms. Hagaman:

Attached you will find the Response to the Grand Jury's Final Report submitted to you in hard copy by Peter R. Filippi, President of the Board of Trustees of Sanger Unified School District.

Should you have any questions, please contact me.

Sincerely,

Susan Joneson
Administrative Assistant
Sanger Unified School District
1905 7th Street
Sanger, CA 93657
Tel: (559) 875-6521
Fax: (559) 875-0311
Email: susan_joneson@sanger.k12.ca.us

September 18, 2006

Fresno County Grand Jury
Fresno County Courthouse
1100 Van Ness Avenue, Room 102
Fresno, CA 93721

Re: Response to the 2005-2006 Recommendations to Reinstate Technical-Vocational Education

Fresno County Grand Jury Education Committee Members:

In addition to our response forwarded to you as a part of the collective response from the Valley ROP, the JPA that Sanger Unified belongs to along with four other districts, please accept these additional comments.

First I find it interesting that during the course of your study there appears to be no contact with, nor reference to, Valley ROP. This JPA has been in existence for 35 years and has for that period of time provided quality technical/vocational educational offerings to the students of the member districts. Currently at Sanger High we have 29 sections offered through Valley ROP serving a total of 836 students in courses which cover topics from digital production to law enforcement. In addition to the courses offered as a part of our partnership through Valley ROP we have in place 23 more sections of courses in the technical/vocational areas serving an additional 690 students. I think you will have to agree that a total of 52 sections of courses being offered at Sanger High in the technical/vocational arena at this time show a strong commitment to maintaining offerings in this area for our students.

At this time I would say that we are doing all that we are able to with the resources that we have available to us. We would agree that technical/vocational offerings are important for our students but no district can focus on this area at the expense of core instruction. We have often said that we can use our money to do anything we would like to do; we just do not have the money to do everything that we would like to do. That is our dilemma, while we recognize the need; there are not the resources available to do more than we currently are. If you are truly concerned about this need then we would encourage you to do what we have not been able to, convince Sacramento to provide us with the funding necessary to provide expanded technical/vocational educational programs in our districts.

Sincerely,

Peter R Filippi
President, Board of Trustees

September 18, 2006

Fresno County Grand Jury
Fresno County Courthouse
1100 Van Ness Avenue, Room 102
Fresno, CA 93721

Re: Response to the 2005-06 Recommendations to
Reinstate Technical-Vocational Education Study.

Fresno County Grand Jury Education Committee Members:

The following is the collective response from the Trustees of the JPA Valley Regional Occupational Program Member Districts consisting of the Kings Canyon Unified School District, Kingsburg Joint Union High School District, Parlier Unified School District, Sanger Unified School District and Selma Unified School District.

R-1 In partnership with the above-mentioned school districts, Valley ROP strongly supports and provides Technical-Vocational Education opportunities for high school students. In addition to district vocational electives, Valley ROP offers over 100 classes at the six high schools and serves over 2,400 students annually. We would be able and willing to offer more classes at each school site if additional funds were available.

R-2 At the JPA ROP member districts high schools, Valley ROP offers Career Technical Education classes in thirteen of the fifteen CTE Industry Sectors. Eighty-five percent of our Nursing Students are employed upon completion and one-hundred percent of our Wildland Fire Science students are employed at the completion of the class. At the current time Valley ROP is offering classes in emerging fields such as digital photography, digital electronics, digital animation, environmental science, and web page design. We offer small engine repair classes to assist EETC meet their labor market demand.

R-3 In compliance with Title V, Valley ROP requires that all our teachers create, maintain, and utilize Business Advisory Committees. The committees are composed of local business and industry representatives and meet twice a year. Three (3) business/industry representatives must be in attendance in order for the meetings to meet the requirement. The agenda items include review and approval of course outlines, recommendations for new and emerging courses, local labor market demand updates, and "value adding" to courses.

R-4 Valley ROP employs seven (7) full-time Designated Subjects credentialed teachers and four (4) part-time Designated Subjects teachers; therefore, almost 40% of our Technical-Vocational teachers hold Designated Subjects teaching credentials.

Orlan Boyd, Trustee
Kingsburg Jt. Union High School District

Ray Enns, Trustee
Kings Canyon Unified School District

Jim Gonzalez, Trustee
Sanger Unified School District

Bertha Gutierrez, Trustee
Parlier Unified School District

Johnny Smith, Trustee
Selma Unified School District

January 17, 2007

To: 2005-2006 Grand Jury
From: Greater Fresno Area Chamber of Commerce
Re: The Fresno County Grand Jury Final Report, 2005-2006

Grand Jury Members,

The Greater Fresno Area Chamber of Commerce has reviewed the Education Committee's recommendation on the reinstatement of technical-vocational education. The Chamber has concluded there are one recommendations and one point of clarification with the report.

Point of Clarification:

- I. On page 50 under Conclusions: C4: it reads, " Only 22% of the jobs in the next decade will need a college degree, but many other jobs will require some short or long-term training following high school graduation.

Response:

- A. Is that 22% specific to the Valley? Can that number be verified?

Recommendation:

- I. On page 51 under Recommendations: R1: it reads, "Technical-vocational education must be offered in all high schools in Fresno County."

Response:

- A. Due to the amount of funding that would be needed to fund these programs, the recommendation should be: "All high-schools are currently encouraged to offer technical-vocational classes, but will be mandated to offer these classes after (X amount of) years."

This concludes the Greater Fresno Area Chamber of Commerce's response to the 2005-2006 Grand Jury Report. If you have any questions or concerns, please contact Al Smith, 559/495-4816.

Regards,

Al Smith
Chief Executive Officer & President,
Greater Fresno Area Chamber of Commerce



1450 HERNDON AVENUE
CLOVIS, CA 93611-0567
559.327.9000
www.clovisusd.k12.ca.us

September 26, 2006

Presiding Judge Edward Sarkisian
Fresno County Grand Jury
Fresno County Courthouse
1100 Van Ness Avenue
Fresno, CA. 93724-0002

GOVERNING BOARD

Sandra A. Bengel
Brian D. Heryford
Ginny L. Hovsepian
Richard Lake, C.P.A.
Elizabeth J. Sandoval
Jim Van Volkinburg, D.D.S.
Susan M. Walker, D.H.Sc.

Dear Judge Sarkisian:

Thank you for allowing the Clovis Unified School District (CUSD) to respond to the recommendations of the 2005-06 Fresno County Grand Jury related to the ***Reinstatement of Technical-Vocational Education*** in Fresno County high schools. Please allow this letter to serve as the response of the CUSD Governing Board to the four (4) recommendations of the Fresno County Grand Jury related to this subject.

1. Technical-vocational must be offered in all high schools in Fresno County.

The CUSD Governing Board is committed to offering quality technical-vocational education programs at all comprehensive high schools operated by CUSD. Enclosed is a report that summarizes the programs offered at our high schools and the student enrollment for the 2006-07 school year.

In addition, CUSD along with the Fresno Unified School District operates the Center for Advanced Research and Technology (CART). Since its opening, more than 700 students from CUSD have attended CART each year. The primary purpose of CART is to provide students with "real world" experiences in several different careers while, at the same time, maintaining a high level of academic rigor by incorporating academic classes (English, Math, Science, etc.) in technical-vocational labs.

As shown on the last page of the enclosed report, more than 5,000 CUSD high school students are enrolled in a technical-vocational program during the current school year.

ADMINISTRATION

Terry Bradley, Ed.D.
Superintendent
Virginia R. Boris, Ed.D.
Associate Superintendent
Daniel E. Kaiser, Ed.D.
Associate Superintendent
William C. McGulre
Associate Superintendent
Janet L. Young, Ed.D.
Associate Superintendent

- 2. High Schools that already offer some technical-vocational classes must offer a wider variety of classes, and teachers must teach skills for present jobs and for jobs that are just emerging.**

The Governing Board is committed to continue to work with local business and industry professionals to develop technical-vocational programs to meet the needs of local businesses. Staff members from CUSD are working with an advisory committee which includes business and industry representatives to identify industries that will have the greatest need for a highly trained work force during the next ten (10) years. Contingent upon the availability of resources, our Governing Board is committed to continued provision of modern, well equipped teaching stations for our technical-vocational classes.

- 3. A "Fresno County Forum on Technical-Vocational Education" to be called in 2006-07 to include representatives from secondary and community college levels of education and the business community, to be headed by a business group that has worked closely with schools.**

The CUSD Governing Board is excited about participating in this forum. Representatives of CUSD have been very active in the Fresno Jobs Initiative and have worked closely with the business community and higher education in the development of CART and the McFarlane-Coffman Ag Center located on the Reagan Educational Center.

- 4. If high school principals or school districts are unable to recruit certificated technical-vocational instructors, they must find experienced and qualified people to teach one or more classes on a Designated Subject Credential.**

CUSD currently employs eight (8) teachers in our technical-vocational programs who are working under a Designated Subjects credential. All other instructors are fully credentialed for the technical-vocational classes to which they are assigned. We are committed to assign only highly qualified personnel to teach in our technical-vocational programs.

On behalf of the entire CUSD Governing Board, thank you for making technical-vocational education an area of high priority for the 2005-06 Fresno County Grand Jury. We look forward to working with business and industry professionals as well as representatives from higher education to train students that will meet the needs of local businesses and industries.

Sincerely,


Ginny Hovsepian, President
CUSD Governing Board

cc: Members of the CUSD Governing Board
Terry Bradley, District Superintendent

658 E. Adams Avenue
Fowler, CA 93625
(559) 834-2591
(559) 834-3390 (FAX)
<http://www.fowler.k12.ca.us>

Fowler Unified School District

Marshall School · Malaga School · Fremont School · Sutter Middle School · Fowler High School
Casa Blanca Continuation/Opportunity School

December 11, 2006

The Honorable Edward Sarkisian, Jr.
Presiding Judge, Superior Court
1100 Van Ness Avenue
Fresno, CA 93721

Dear Judge Sarkisian:

On behalf of the Fowler Unified School District Board of Education, I would like to respond to Recommendations R1-R4 in the Grand Jury's Education Committee report. This written response is based on Fowler Unified's strong commitment to Vocational Education as exemplified in the information listed below.

During the 2004-2005 school year, the administration at Fowler High School decided that the vocational education program needed to be revised in light of current offerings that were not preparing students for today's job market. In response, Principal Russell Freitas conducted a school-wide survey to determine what types of vocational programs the students wanted to incorporate into the master schedule. Working with the Fresno County Office of Education and the Regional Occupation Program, a number of new courses were added during the 2005/2006 school year. They were criminology, sports medicine/athletic trainer and computer maintenance. During the 2006/2007 school year, a Virtual Business Enterprise Class was added to our list of vocational education opportunities. All vocational education courses are taught by teachers with appropriate subject matter and/or vocational education credentials.

We will continue to add vocational education classes to our master schedule at Fowler High School that reflect student interest and need. Our commitment has been further solidified with the addition of Darlene Martin (a current FUSD Board Member) on the ROP Board. As you can see below, for a small, rural high school, Fowler High School provides a broad array of vocational education courses for students.

Board of Trustees

Peter Cholakian · Darlene Martin · Henry Murrieta · Jimmy Simonian · Jerry Turner

John Cruz, Ed.D., Superintendent · Eric Cederquist, Assistant Superintendent · Lucile King, Director of Instructional Services

Criminology
Computer Literacy
Computer Applications
Computer Web Design
Computer Maintenance
Computer Publications
Virtual Enterprise
Ornamental Horticulture and Landscaping
Floral Design
Advanced Agricultural Science
Consumer Home Economics
Agricultural Mechanics
Agricultural Welding
Sport Medicine and Athletic Training

If I can be of further assistance, please do not hesitate to call me.

Sincerely,



John Cruz, Ed.D.
Superintendent



Washington Union High School District

January 19, 2007

Honorable Edward Sarkisian, Jr.
Presiding Judge, Superior Court
1100 Van Ness Avenue
Fresno, California 93721

John Pestorich
District Superintendent

Joey Campbell
Principal

RE: Washington Union High School District Response to
Fresno County Grand Jury Report

Cathy Green
Administrative Assistant

Dear Judge Sarkisian,

The Washington Union High School District has received and reviewed the Fresno County Grand Jury's report regarding vocational education in Fresno County schools. The Washington Union High School District concurs with the finding of the Fresno County Grand Jury that correctly identified the need for increased vocational educational opportunities to be made available to students in Fresno County.

BOARD OF TRUSTEES

There are several factors which contribute to the decreased emphasis in the vocational areas:

Jim Curtis
President

Frank Butterfield
Vice President

1. Schools are under extreme pressure to meet state and federal accountability standards.
2. New educational funding opportunities are resultantly targeted toward core remediation.
3. There is a shortage of qualified vocational instructors resulting from their ability to earn a competitive salary within their area of expertise.

E.W. "John" Musson, Jr.
Clerk

Chuck Freitas
Member

In the Washington Union High School District, the Board and Administration recognize the value of vocational education and the importance of meeting the needs of students who choose other than the four year college pathway. Therefore, we have made every possible attempt to maintain integrity in our vocational program. We currently offer a robust vocational curriculum as evidenced by the attached course list. Of particular interest is our Medical Institute Program, with a growing enrollment base of 120 students. Washington Union High School was recently commended for it's vocational programs by Governor Schwarzenegger during his site visit. With regard to Recommendation R3, the Washington Union High School District looks forward to becoming an active participant in the proposed "Fresno County Forum on Technical-Vocational Education".

Elaine Mehrten
Member

Derek Cruz
Director
Curriculum &
Student Achievement

Lucio Cortez
Director
9th Grade Academy

In conclusion, the Washington Union High School District would like to thank the Fresno County Grand Jury for their work on behalf of the students in our attendance area.

Glen Freeman
Director
Panther Services

Arden M. Jones
Principal
Easton High School

Respectfully Submitted,

Jim Curtis
President, Board of Trustees

Gurnice Smith, Ed.D.
Director
Adult Education/ISP

JP/ceg

Cc: County of Fresno Administrative Office

**Washington Union High School
Vocational Education Courses
2006-2007**

Course Title	Enrollment
Accounting 1 & 2	15
Introduction to Agriculture	41
Integrated Ag Biology P	56
Art 1P	270
Art 2P	83
Studio Art 3P	9
Floral Design 1	51
Floral Design 2	12
Computer Applications	7
Health Institute Education	19
Senior Projects	123
Agriculture Leadership	12
ROP Medical Health - Senior	51
ROP Medical Health – Junior	35
ROP Architecture	15
Computer Literacy	265
Agriculture Computer Literacy	39
Yearbook Design 1	30
Yearbook Design 2	6
Library Science	29
Associated Student Body Leadership	36
Introduction to Business	13
Entrepreneurship/Marketing	16
Computer Aided Drafting 1, 2, 3	43
Woodworking Technology 1	86
Woodworking Technology 2	25
Newspaper Journalism	22
Ag Mechanics 1 & 2	49
Introduction to Medical Careers	15
ROP Construction Technology 1 & 2	18
ROP Ag Equipment Repair	19
ROP Videography	41
Migrant Work Study	12
Child Care Assistant	14
Cafeteria Assistant	10
Student Assistant	182

August 24, 2006

The Honorable Edward Sarkisian, Presiding Judge
Fresno County Superior Court
Members of the Fresno County Grand Jury
Fresno County Courthouse
1100 Van Ness Avenue, Room 102
Fresno, CA 93721

Dear Judge Sarkisian and Honorable Members of the Grand Jury:

On behalf of Fresno Compact, and pursuant to Penal Code §933.05, I want to respond to Recommendation R3 which states, "A Fresno County Forum on Technical-Vocational Education to be called in 2006-2007 to include representatives from secondary and community college levels of education and the business community, to be headed by a business group that has worked closely with schools."

Fresno Compact concurs with the conclusions and recommendations of the Grand Jury and commends the Grand Jury for continuing to study the status of technical-vocational education in Fresno County schools. The Fresno Compact Committee works diligently throughout the year to help schools prepare and turn out students who have the skills that are needed by employers today – skills beyond basic reading, writing and arithmetic. The return of technical/vocational education to the public school system will ultimately lead to an improved regional economy due to an enhanced and more skilled workforce.

Thank you for the opportunity to participate in this process. We look forward to seeing the Grand Jury's recommendations come to fruition.

Sincerely,



Larry Johanson, Immediate Past Chair
Fresno Compact

LJ/lt

Law Committee

Citizen Complaints

Multi-Agency Gang Enforcement (MAGEC)

In-Home Support Services Fraud Division

Exhibit 1

**RESPONSE TO THE
2005-06
FRESNO COUNTY GRAND JURY
INTERIM REPORT #2**



**COMPILED BY
THE FRESNO COUNTY ADMINISTRATIVE OFFICE**

MULTI-AGENCY GANG ENFORCEMENT CONSORTIUM (MAGEC)

Findings

F1: Gang related arrests are up 40% since 2003, according to MAGEC.

Fresno County agrees with the finding.

F2: The average age of gang members in 2005 is between 14-31, compared to 17- 24 in 2003.

Fresno County agrees with the finding.

F3: Even though the number of gangs has decreased by 23 since 2003, gang membership is never static. New gangs form, gangs divide, separate gangs consolidate, older gangs dissolve and MAGEC still keeps track of them.

Fresno County partially agrees with the finding. Regarding the number of reportable gangs, additional factors should be considered, such as the data collection methods and other operational changes.

- During this particular report period, the number of documented gang contacts was reduced significantly; not because there were fewer gang members, but because other workload increases and technology changes formed barriers to gang documentation productivity. The Sheriff's Department is working to restore pro-activity, and the technical barriers are currently being corrected with development of the Public Safety Information System (PSIS) which is currently being installed.
- During this particular time period, automated purging of gang and gang member records was implemented. Consequently, reported changes to populations are skewed lower from what would have resulted from previous methods.
- During this particular time period, in spite of related productivity decreases and changes to methods skewing reportable populations, the overall number of reportable and recorded gang populations within the County of Fresno increased by approximately 11%.

MAGEC has significantly reduced gang criminal activity by arresting and incarcerating many gang members. However, those efforts, although absolutely necessary and beneficial, were not in and of themselves sufficient to overcome the overall community problem relating to gangs.

F4: Out of 167 gang related trials, only one person was not prosecuted. This was because of mistaken identity.

Fresno County disagrees with the finding. In 2005, MAGEC prosecutors obtained convictions against 207 defendants.

F5: The District Attorney's Office continues to have three full-time prosecutors for gang related cases, one investigator, on Hmong translator and support staff.

Fresno County partially disagrees with the finding. The District Attorney Hmong Resettlement Specialist is housed at MAGEC, however that position is not specifically assigned to the MAGEC Unit. During the 2006/07 Budget Hearings the Fresno County Board of Supervisors authorized additional District Attorney positions for MAGEC. The District Attorney is currently in the process of filling those new positions (see response to R1).

F6: In 2005, MAGEC arrested 29 people who produced and acted in a DVD depicting criminal gang activity in Fresno.

Fresno County agrees with the finding.

F7: Temporary and permanent civil injunctions issued by the courts continue to prohibit gang members from associating with other gang members, intimidating people, using guns, other weapons, drugs, alcohol or trespassing and requiring that they obey laws and curfews.

Fresno County agrees with the finding.

F8: MAGEC's time is dedicated 100% to gang enforcement, with 897 felony arrests in 2005.

Fresno County agrees with the finding, with the following clarification; 100% of their time is related to gang enforcement or gang-related enforcement.

F9: MAGEC has 38 sworn officers in the team, but according to MAGEC, the unit could immediately put to work at least 25 more officers.

Fresno County agrees with the finding.

F10: MAGECs' team is a consortium of personnel from the following agencies:

- California Department of Justice**
- California Youth Authority**
- Clovis Police Department**
- Federal Bureau of Investigation**
- Fresno City District Attorney's Office**
- Fresno County Sheriff's Office**
- Fresno Police Department**
- Kerman Police Department**
- Reedley Police Department**

Fresno County disagrees with the finding. The list of contributing agencies as reported is inaccurate / incomplete. Current participants committing personnel include:

- California Department of Justice
- California Highway Patrol
- Clovis Police Department
- Fresno Police Department
- Fresno County District Attorney
- Fresno County Sheriff's Department
- Reedley Police Department
- Sanger Police Department

Other area police departments, California State Parole, and Fresno County Probation do supply limited personnel and information resources on a case by case basis.

F11: None of the above agencies have their own dedicated gang task force, but share in MAGEC.

Fresno County agrees with the finding.

F12: At one time the Fresno County Probation Office had one officer in MAGEC, who was later withdrawn.

Fresno County agrees with the finding.

F13: MAGEC must have “probable cause” to immediately enter a premises or they are delayed.

Fresno County agrees with the finding.

F14: With a probation officer present “probable cause” is immediate because “most gang members are in violation of probation.”

Fresno County generally agrees with the finding; many, if not most, gang members are in violation of probation and parole.

F15: Both Madera and Tulare Counties have established gang task forces with training by MAGEC.

Fresno County agrees with the finding.

F16: MAGEC’s budget in 1997 was \$242,000 per-year and has decreased since to \$94,000 per year. The budget is set by the State of California.

Fresno County disagrees with the finding. MAGEC’s budget in 1997 was \$248,000 per year and has decreased since to \$93,000 per year. The budget is set by the State of California.

F17: Fresno County was selected with MAGEC to be a node for “Cal Gang”, a statewide database. This system has now developed into a nationwide database for gangs titled “Gang Net”.

Fresno County partially agrees with the finding. The Fresno County Sheriff is the Cal Gang regional node administrator and the representing member of the Cal Gang Executive Board. MAGEC is not a direct participant.

When formed during the early 1990’s, Cal Gang was locally supported only by the Sheriff’s Department. In conjunction with several other county sheriffs’ departments and the cities of Los Angeles, San Diego, and San Jose, Cal Gang was formed through collaboration and limited financial support of the California Department of Justice. Each node administrator bears financial and labor burdens to implement and maintain the system. The State of California, through financial grants as provided by the Governor and as coordinated by the Department of Justice, contributes to offset hardware and network communications expenses.

The Fresno County Sheriff, like other node administrators, provides administrative and training support for all other law enforcement agencies located within the node area. Our node area is bounded by the Counties of Stanislaus, Merced, Madera, Fresno, Tulare, and Kings.

Although administered by the Fresno County Sheriff, all participating law enforcement agencies equally contribute to its success as they share and use available information.

In 1997, Cal Gang was co-located within MAGEC offices as a means to better serve MAGEC and participating agency gang prosecution efforts. Its service has proven to be invaluable and irreplaceable in the identification, apprehension, and aggravated prosecution of literally several hundreds of gang offenders.

F18: The MAGEC task force has had a 1989 Dodge van over six years that has been unreliable for starting, air conditioning (105° with full armor gear), and is difficult to maintain.

Fresno County agrees with the finding.

Recommendations

R1: MAGEC continue to receive increased support from County and City governments.

Recommendation will be implemented to the extent possible; the County provides resources to the greatest extent possible to address all areas of crime, including gang issues. During the 2006/07 Budget Hearings the Fresno County Board of Supervisors authorized the following additional District Attorney staff positions for MAGEC: (3) Deputy District Attorneys, (1) Senior District Attorney Investigator and (1) Office Assistant.

R2: The Fresno County Probation Office recognize the need and reinstate a probation officer to the MAGEC team.

Gang enforcement is a priority of the County, along with gang prevention and intervention. The recommendation has not yet been implemented because it would require reassigning a probation officer from another equally important and / or mandated function. Current felony field services caseloads average over 400 probationers. The Probation Department is currently exploring methods of redeploying staff so that an officer can be assigned to MAGEC without reducing services elsewhere.

R3: Two newer dependable vans be acquired or funded for the work necessary for MAGEC.

Recommendation is being partially implemented. The Sheriff's Department is already in the process of replacing one of the vans assigned to MAGEC. The existing van is owned by the County and administered by the Sheriff's Department. Although aging and prone to problems as described, the County and Sheriff make repairs and maintain it as needed to maintain serviceability. MAGEC operational requirements are not most effective by use of new highly visible and noticeable vehicles. As such, the Sheriff's Department Fleet Operations is replacing the older van with a newer, but not brand new van that is currently being modified to suit MAGEC needs. Timing of the replacement vehicles are affected by budget and other logistical constraints.



County of Fresno

LINDA PENNER
CHIEF PROBATION OFFICER

July 31, 2006

The Honorable Edward Sarkisian, Jr., Presiding Judge
California Superior Court – Fresno
1100 Van Ness, Dept. 50
Fresno, CA 93721

RE: RESPONSE TO 2005-2006 GRAND JURY REPORT

Dear Judge Sarkisian:

The Probation Department is referenced in Findings F12, F13, and F14 of the 2005-2006 Grand Jury Report. The following is our responses to those items.

Findings:

F12: At one time the Fresno County Probation Department had one officer in MAGEC who was later withdrawn.

Agree

F13: MAGEC must have “probable cause” to immediately enter a premise or they are delayed.

Agree

F14: With a Probation Officer present, “probable cause” is immediate because most gang members are in violation of probation.

Generally agree; many, if not most, gang members are in violation of probation and parole.

Recommendations

R2 The Fresno County Probation Office recognize the need for the reinstatement of a Probation Officer to the MAGEC team.

The Probation Department continues to recognize the need to place a probation officer with the MAGEC team. Gang enforcement is a priority with the department, along with gang prevention and intervention. The recommendation has yet to be implemented, because it would require reassigning a probation officer from another equally important and/or mandated function. Current felony field services caseloads average over 400 probationers, therefore reassigning an officer without replacement staff is problematic.

OFFICE OF THE CHIEF PROBATION OFFICER

1100 Van Ness / Suite 874 / 8th Floor / Fresno, California 93721 / Phone (559) 488-3640 / FAX (559) 262-4327

Equal Employment Opportunity • Affirmative Action • Disabled Employer

The Department is, however, exploring methods of redeploying staff so that an officer can be assigned to MAGEC without reducing services elsewhere.

A handwritten signature in black ink, appearing to read "Tom Clarkson" followed by a stylized flourish.

Linda Penner
Chief Probation Officer

LP:sf

Cc: Denise Whitehead, Presiding Judge, Juvenile Delinquency Court, Fresno County of Fresno
Bart Bohn, County Administrative Officer
Marian Mosley, Grand Jury Foreman
Ruby Hefley, Chair, Juvenile Justice Commission
Elena Flores, Principal Administrative Analyst
Probation Executive Council



Andrew T. Souza
City Manager

October 6, 2006

Presiding Judge of the Superior Court
County Courthouse
1100 Van Ness Avenue
Fresno, CA 93724-0002

SUBJECT: 2005-2006 GRAND JURY RECOMMENDATIONS

Dear Presiding Judge:

Attached are the City's responses to the 2005-2006 Grand Jury Report. The City Council unanimously approved these responses at their September 26th Council meeting. Should you need any additional information, please feel free to contact me at the number below.

Sincerely,

Nicole R. Zieba
Management Analyst III

/rz

cc: Sherry Spears, Grand Jury Room

MULTI-AGENCY GANG ENFORCEMENT CONSORTIUM (MAGEC)

INTRODUCTION

The Fresno County Grand Jury of 2005-2006 believes it is important to again review the status and success of the Multi-Agency Gang Enforcement Consortium (MAGEC), as recommended by the Fresno County Grand Juries of 2001-2002 and 2003-2004.

BACKGROUND

"On January 3 of 1994, the Fresno County Sheriff's Office formally established their gang enforcement team titled C.R.A.S.H. (Combined Resources Against Street Hoodlums)." In 1997, the sheriff proposed one unique law enforcement body is established. MAGEC was formed with approval of the California State Governor."

"The men and women of MAGEC, believe that a multi-agency and a multi-level approach to combat gang crime is the most comprehensive and effective method in existence."

PROCEDURES FOLLOWED

The Law Committee investigation involved interviews with the office of MAGEC, review of Final Reports of Fresno County Grand Juries of 2001-2002 and 2003-2004, responses to their reports and Fresno County Sheriff's Office/MAGEC website. We offer our support and commendation with this report.

FINDINGS

F1. Gang related arrests are up 40% since 2003, according to MAGEC.

The City agrees with Finding 1.

F2. The average age of gang members in 2005 is between 14-31, compared to 17- 24 in 2003.

The City agrees with Finding 2.

F3. Even though the number of gangs has decreased by 23 since 2003, gang membership is never static. New gangs form, gangs divide, separate gangs consolidate, older gangs dissolve and MAGEC still keeps track of them.

The City agrees with Finding 3.

- F4. Out of 167 gang related trials, only one person was not prosecuted. This was because of mistaken identity.

The City agrees with Finding 4.

- F5. The District Attorney's Office continues to have three full-time prosecutors for gang related cases, one investigator, one Hmong translator and support staff.

The City agrees with Finding 5.

- F6. In 2005, MAGEC arrested 29 people who produced and acted in a DVD depicting criminal gang activity in Fresno.

The City agrees with Finding 6.

- F7. Temporary and permanent civil injunctions issued by the courts continue to prohibit gang members from associating with other gang members, intimidating people, using guns, other weapons, drugs, alcohol or trespassing and requiring that they obey laws and curfews.

The City agrees with Finding 7.

- F8. MAGEC's time is dedicated 100% to gang enforcement, with 897 felony arrests in 2005.

The City agrees with Finding 8.

- F9. MAGEC has 38 sworn officers in the team, but according to MAGEC, the unit could immediately put to work at least 25 more officers.

The City agrees with Finding 9.

- F10. MAGECs' team is a consortium of personnel from the following agencies:
California Department of Justice
California Youth Authority
Clovis Police Department
Federal Bureau of Investigation
Fresno City District Attorney's Office
Fresno County Sheriff's Office
Fresno Police Department
Kerman Police Department
Reedley Police Department

The City agrees with Finding 10.

F11. None of the above agencies have their own dedicated gang task force, but share in MAGEC.

The City agrees with Finding 11.

F12. At one time the Fresno County Probation Office had one officer in MAGEC, who was later withdrawn.

The City agrees with Finding 12.

F13. MAGEC must have "probable cause" to immediately enter a premise or they are delayed.

The City agrees with Finding 13.

F14. With a probation officer present "probable cause" is immediate because "most gang members are in violation of probation."

The City agrees with Finding 14.

F15. Both Madera and Tulare Counties have established gang task forces with training by MAGEC.

The City agrees with Finding 15.

F16. MAGEC's budget in 1997 was \$242,000 per year and has decreased since to \$94,000 per year. The budget is set by the State of California.

The City agrees with Finding 16.

F17. Fresno County was selected with MAGEC to be a node for "Cal Gang", a statewide database. This system has now developed into a nationwide database for gangs titled "Gang Net".

The City agrees with Finding 17.

F18. The MAGEC task force has had a 1989 Dodge van over six years that has been unreliable for starting, air conditioning (105° with full armor gear), and is difficult to maintain.

The City agrees with Finding 18.

CONCLUSIONS

C1. The success of MAGEC is reflected in the decrease in the number of gangs, the increase in arrests, the successful prosecution of court cases,

national recognition and requests from neighboring counties for training by MAGEC.

- C2. Gangs are recruiting both younger and older members than in the past.
- C3. Civil injunctions issued by the courts continue to be an effective tool for gang control in specific neighborhoods.
- C4. MAGEC needs 25 more officers.
- C5. MAGEC is in need of two dependable vans.

COMMENDATIONS

The Multi-Agency Gang Enforcement Consortium is to be commended for the very effective work it does in keeping control of dangerous gangs, which threaten and coerce citizens in Fresno County. They have been a force in educating other counties and states in a new way of thinking and acting in the war against gangs.

The District Attorney's Office is also to be commended for the unwavering support it gives to MAGEC.

RECOMMENDATIONS

Based on what was learned in this review, it is recommended to the Fresno County Board of Supervisors, the Fresno City Council and the Fresno County Probation Office that:

- RI. MAGEC continue to receive increased support from County and City governments

The Fresno Police Department has 10 officers and 2 sergeants devoted to working full time on the MAGEC team. The Bureau Commander for the Special Units Bureau is assigned to provide management oversight for the team. As a result of the increase in the number of criminal cases being filed by the MAGEC team, a Fresno Police Cadet has been recently added to MAGEC to assist with the increased administrative tasks. Staffing of the MAGEC team will be analyzed regularly to ensure adequate staffing levels are maintained.

- R2. The Fresno County Probation Office recognize the need and reinstate a probation officer to the MAGEC team.

(Fresno County Probation response)

- R3. Two newer dependable vans be acquired or funded for the work necessary for MAGEC.

The need to acquire two vans, and possible funding sources for the vans will be discussed at the next MAGEC Policy and Direction Team meeting scheduled for September 11, 2006.

REQUESTS FOR RESPONSES

Pursuant to Penal Code §933.05, the Grand Jury requests responses as follows:

- The Board of Supervisors: R1 and R3
- The Fresno City Council: R1 and R3
- The Fresno County Probation Office: R2

Please be reminded that the responses from elected officials are due within 60 days of the receipt of this report and 90 days for others.

RESPONSE TO THE
2005-06
FRESNO COUNTY GRAND JURY
FINAL REPORT



COMPILED BY
THE FRESNO COUNTY ADMINISTRATIVE OFFICE

IN-HOME SUPPORT SERVICES FRAUD DIVISION

BACKGROUND:

It is the IHSS Public Authority's policy to require fingerprinting of providers and to clear the results against the County Judicial Database to ensure felony conviction clearance. The background section for the Public Authority states the opposite under letters L and M and should be amended.

F1: The Fresno County District Attorney's Special Investigation Unit (SIU) is the first fraud unit for IHSS in California.

F2: The SIU, also called IHSS Fraud Division, is staffed with one Deputy District Attorney, two District Attorney Investigators and one Program Technician.

F3: The SIU is the only IHSS fraud unit to send defendants to prison.

F4: The SIU is the only fraud unit in California to use a surveillance van.

F5: The SIU is the only unit to use an unmanned van with a motion-activated camera.

F6: The SIU does not have a nighttime video recorder to allow surveillance after dark.

F7: The SIU gives requested workshops to other counties throughout the state.

F8: The SIU gives yearly mandated workshops to social workers in IHSS.

Fresno County agrees with Findings F1 through F8.

F9: Social workers in the first Fresno workshop gave 85 referrals for alleged fraud.

Fresno County partially disagrees with Finding F9. The number of referrals for the month after the workshop totaled 85.

F10: Since the SIU was fully staffed in October 2003, it has produced the following results:

- **704 Referrals for Investigation**
- **412 Backlogged Cases to be Investigated**
- **292 Completed Investigations**
- **201 Cases Referred for Prosecution**
- **133 Cases Prosecuted**
- **68 Cases Remaining for Prosecution**
- **\$953,420 Estimated Loss Detected Since 2003**
- **\$651,926 Restitution Ordered**

F11: The SIU this year estimates that fraud will increase in Fresno's IHSS program.

F12: The total annual SIU budget funded by IHSS is \$560,000.

F13: The SIU annual budget is 0.5% of the annual IHSS benefit payments of \$112 Million.

- F14: The two District Attorney Investigators complete ten cases per month.**
Fresno County agrees with Findings F10 through F14.
- F15: The cost to prosecute each fraud case is at least \$5,000.**
Fresno County disagrees with Finding F15. The average loss per IHSS Fraud case is \$5000.
- F16: The affiliation of the 10,124 providers in Fresno County is 6,580 are relatives and 3,090 are not relatives. Only 454 are hired from the IHSS Public Authority registry.**
- F17: The major types and percentages of providers prosecuted for fraud are:**
- 48% Provider Claiming Care, Not Providing Service
 - 24% Recipient is Deceased
 - 18% Incarcerated, Claiming Provider Position
 - 10% Recipient is Hospitalized, Provider Claiming Care
- F18: The major types and percentages of recipients prosecuted for fraud are:**
- 40% Overstated Needs
 - 30% Unreported Changes in Household
 - 25% Demanding Share of Providers' Pay
 - 5% Misreported Income
- F19: Providers convicted of fraud are removed from the IHSS roll.**
- F20: Recipients convicted of fraud are allowed to reapply and remain recipients.**
- F21: Monies retrieved by the courts do not go back to the IHSS budget, but are reimbursed to the County, State and Federal Government.**
- F22: A helpful tool in court cases is an IHSS "admonition" form regarding fraud called "Rights and Responsibilities", which is being used for intake applications for providers and recipients.**
- F23: According to SIU these forms are seldom being used by social workers.**
- F24: The State of California now has a database to track providers convicted of fraud.**
- F25: The SIU does not track whether convicted providers are from the registry.**
Fresno County agrees with Findings F16 through F25.
- F26: Over \$9.4 Million in benefit payments are paid monthly in Fresno County \$11 Million paid annually.**
Fresno County disagrees partially with the Finding F26 due to a grammatical correction. The statement should read "Over \$9.4 million...in Fresno County \$112 million paid annually."
- F28: Existing law provides that criminal background checks can be requested of the California Department of Justice (DOJ) by IHSS recipients.**
Fresno County agrees with Finding F28.

Recommendations

R1: The Fresno County District Attorney's Office 2007-2008 budget must include additional investigators for the IHSS Fraud Unit to relieve the backlog of fraud cases

It is recommended that further analysis for justification of this item be completed within the next six months for inclusion in the budget for FY 2007-08. The analysis should ensure that an appropriate mix of quality assurance, fraud prevention and investigation activities are performed in order to meet existing needs; take into consideration funding challenges; maximize available resources and funding; and, have the ability to claim the resulting expenses.

A recent State Department of Social Services County Fiscal Letter 05/06-43 provided clarification regarding the county's ability to claim expenditures for the IHSS fraud investigation activities. The State Department of Health Services (DHS) has responsibility for the investigation of suspected fraud in Title XIX funded programs pursuant to state and federal regulatory requirements. Senate Bill 1104, Statutes of 2005, extended DHS authority to investigate fraud in the IHSS Residual program; however, County Welfare Departments may conduct fraud investigations in the residual program as well and claim appropriate costs, which will be reimbursed 70% by the State, with a 30% County match. The county residual program cases have no federal share-of-cost; due to the implementation of the IHSS Waiver, of the total IHSS caseload, approximately 3% are the residual program cases.

However, counties can claim state and federal reimbursement for activities leading up to the investigation of suspected fraud in IHSS cases. Senate Bill 1104 added Section 12305.71 to the Welfare and Institutions Code which requires that each county establish a dedicated, specialized unit or function to ensure quality assurance and program integrity, including fraud detection and prevention, in the provision of supportive services. Staff in the dedicated, specialized unit or function is required to perform routine, scheduled review of cases to ensure that recipients' needs are assessed accurately. County quality assurance staff is also required to resolve and respond appropriately to claims data match discrepancies or other state level quality assurance and program integrity information that indicates potential overpayments to providers or recipients. Additionally, county quality assurance staff is required to monitor the delivery of supportive services to detect and prevent potential fraud by providers, recipients, and others and maximize the recovery of overpayments.

R2: The Fresno County District Attorney's Office provide a nighttime video recorder for the IHSS Fraud Unit.

Additional analysis is being conducted to justify the associated staffing levels required for implementation of this item. Within the next six months we hope to have a recommendation for the FY 2007-08 budget.

R3: The Fresno County Board of Supervisors approve the District Attorney's request to add investigators to the IHSS Fraud Unit.

This recommendation requires further analysis: it is recommended that further analysis for justification of this item be completed within the next six months for inclusion in the Budget for FY 2007-08.

- R4: The In-Home Support Services Office and IHSS Public Authority make up a packet for new recipients and providers that includes the “Rights and Responsibilities” admonition form for committing fraud.**

This recommendation has been implemented. The IHSS Intake Packet includes the IHSS Recipient Responsibility Checklist and the Provider Responsibility Checklist; both of these forms address fraud.

- R5: The In-Home Support Services Office and IHSS Public Authority monitor that “Rights and Responsibilities” forms are signed by all providers and recipients.**

This recommendation has been implemented. The IHSS staff monitors the “Rights and Responsibilities” forms to make sure they are signed by all providers and recipients. The forms are not required by the State and are not a condition of receipt of services. The IHSS regulations issued by the California Department of Social Services do not mandate that recipients and providers return the signed form. However, it should be noted that IHSS recipients and providers will be highly encouraged to return the signed forms. It is the policy of the IHSS Public Authority that all forms, including those referencing fraud and misuse of time/tasks, be completed and signed by the recipients and providers prior to the processing of the enrollment packet.



County of Fresno

ELIZABETH A. EGAN
District Attorney

September 14, 2006

The Honorable Edward Sarkisian
Presiding Judge, Fresno County Superior Court
1100 Van Ness Avenue
Fresno Ca 93721

Dear Judge Sarkisian:

1. The following are my responses to the findings and recommendations of the 2005-06 Grand Jury Final Report pertaining to the Fresno County In Home Supportive Services Program and our In Home Supportive Services Fraud Investigations Unit.

Findings

The Fresno County District Attorney's Office agrees with findings F1 – F8.

The Fresno County District Attorney's Office partially disagrees with finding F9. The number of referrals for the month after the workshop totaled 85.

The Fresno County District Attorney's Office agrees with finding F10, which reflects activities through April 30, 2006.

The Fresno County District Attorney's Office agrees with findings F11 – F14 and F16.

The Fresno County District Attorney's Office disagrees with findings F15. \$5000 is the average loss per IHSS Fraud case.

The Fresno County District Attorney's office agrees with findings F16 – F25.

The Fresno County District Attorney's Office partially disagrees with F26. 9.4 million in benefit payments are paid monthly in Fresno County with 112 million paid annually.

Recommendations

R1 – the District Attorney’s Office supports a third Investigator for the IHSS Fraud Unit and will fill that position as soon as the Board of Supervisors authorizes it.

R2- Recommendation 1 will be implemented. The IHSS Unit recently acquired new video surveillance equipment.

2. The following are my responses to the findings and recommendations of the 2005/06 Grand Jury Final Report pertaining to Citizen Complaints:

Findings:

The Fresno County District Attorney’s Office agrees with findings F1 – F6.

Recommendation:

The recommendation has been implemented. The Office of the District Attorney will continue to advise and provide assistance to the Fresno County Grand Jury.

This concludes my comments on the findings and recommendations of the Grand Jury for the year 2005-06.

Sincerely,



Elizabeth A. Egan
Fresno County District Attorney

Cc: Board of Supervisors
Natasha Hagaman, CAO’s Office

Combined Responses

**Peer Pressure and the Teenage Drug
Epidemic**

Reinstate Technical-Vocational Education



fresno county office of education

Larry L. Powell
Interim Superintendent

September 28, 2006

The Honorable Edward Sarkisian, Jr.
Presiding Judge of the Fresno County Superior Court
Members of the Fresno County Grand Jury
Fresno County Courthouse
1100 Van Ness Avenue, Room 102
Fresno, California 93721

Dear Judge Sarkisian and Honorable Members of the Grand Jury:

As I review the Education Committee Grand Jury Report for 2005-2006, I would first like to thank the Grand Jury for recognizing the positive work of the Fresno County Office of Education Safe and Drug Free Schools program in addressing the drug epidemic in our County high schools. I also commend the Grand Jury's choice to further investigate the vocational and technical aspects of elementary and secondary education programs in Fresno County. I especially commend the members of the Education Committee for recognizing the importance of technical and vocational education. As noted in your report, these programs support the overall learning of students by applying math, reading, and writing skills, and better prepare our students for our workforce and local economy.

As you know, the Regional Occupation Programs (ROP) have strengthened the academic demands of their programs so as to meet both federal and state testing components, and have expanded the breadth of course subjects offered to reflect the evolving job economy and student interest. Although the Valley and Fresno Regional Occupational Programs have a long and healthy history of working with the leading business and industry organizations in the County, as a response to the Grand Jury's recommendation, both the Valley and Fresno ROPs will expand their advisory nights. These events are a collaborative effort of the schools, community colleges, and major businesses and organizations that meet and set goals that further the ROP program. The advisory nights allow the community to review the current programs, and to introduce new businesses and agencies with the goal of obtaining their support and involvement in the ROP programs. It is also a public forum for the business community to evaluate the programs for real-world relevance. In addition to broadening the community involvement in advisory night, the Fresno ROP business and organization advisors will target select business and community leaders for attendance at its annual Board of Management meeting.

Again, I thank the members of the Grand Jury for their work on these issues of great importance to our community. This office is committed to providing the students of Fresno County with the skills, knowledge, and educational opportunities that will prepare them to be take their place in this century's global workforce.

Very truly yours,

LARRY L. POWELL
FRESNO COUNTY SUPERINTENDENT OF SCHOOLS

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Kathy Spate
Arnold Vera



Dwight M. Miller,
Superintendent

The Honorable Edward Sarkisian, Jr.
Presiding Judge, Superior Court
1100 Van Ness Avenue
Fresno, Ca 93721

Dear Judge Sarkisian:

The following constitutes the response of the Caruthers Unified School District to the Findings and Recommendations of the Fresno County Grand Jury.

Findings: Peer Pressure and the Teenage Drug Epidemic

The District concurs, generally with Findings 1-18.

F13 Grants are available for the cost of testing. The Voluntary Drug Testing Program (VDTP) would qualify as an appropriate expense for the special funds that school districts receive from both state and federal sources.

F14 The Fresno County Office of Education (FCOE) has assisted in finding the best local company for conducting the tests and negotiating a group rate for all schools in Fresno County. There has never been any indication that the FCOE will or has the capacity to assist in obtaining grants to fund or implement this program.

Recommendation:

The Caruthers Unified School District (CUSD) Board of Trustees, District and school administration have long demonstrated a strong commitment to providing a safe and orderly environment at all district schools. Caruthers High School (CHS) has used random visits by drug dogs to communicate the message that drug use is not acceptable at CHS. In addition, the CUSD invested considerable funds into a campus surveillance system at all school sites. This system has been a very effective deterrent to many negative behaviors both during the school day and beyond. CHS administration has considered the VDTP and will be implementing the program in August 2007.

Findings: Reinstate Technical-Vocational Education

CUSD concurs with Findings 1-15.

Recommendations:

R1 Technical-vocational education must be offered in all high schools in Fresno County.

CUSD has been very committed to Career Technical Education (CTE) and in spite of the increased academic accountability facing CHS. We never stopped. In many respects, CHS could be considered a model school for its commitment to CTE.

Examples include:

- Three full time Vocational Agriculture teachers with extended contracts. This is very significant for a high school of 600 students. A majority of students at CHS are enrolled in an Ag class. Examples of capstone classes offered are Ag Construction, Floriculture and Welding.
- The Health Careers Academy: Anatomy and Physiology, Careers in Health. The UCSF Medical School staff has indicated that they have included CHS for a possible partnership in 2008 to supplement local efforts to prepare students for jobs in the medical field.
- Careers in Law Enforcement I and II are the most popular elective classes on campus. The classes are taught by a retired Deputy from the Fresno County Sherriff's Office and prepare students for the many options in the legal system.
- Careers in Education is also a popular elective class with articulation credit to CSUF.
- Diesel Mechanics class is a special ROP class begun in 2006 and taught at the Southwest Transportation Agency facility by one of their mechanics.
- Significant preliminary work has been done to develop a Business Careers pathway beginning in 2008.

R2 In progress.

R3 CUSD will be represented at the local forum on CTE.

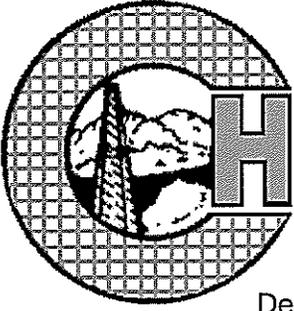
R4 Any credentialing issues for CTE teachers have been resolved.

Sincerely,



Dwight M. Miller
Superintendent
Secretary Board of Trustees
Caruthers Unified School District

DMM/slm



COALINGA-HURON UNIFIED SCHOOL DISTRICT
"Building Bright Futures"

657 Sunset Street
Coalinga, CA 93210

(559) 935-7500
Fax (559) 935-5329

December 12, 2006

The Honorable Edward Sarkisian, Jr.
Presiding Judge of the Fresno County Superior Court
Members of the Fresno County Grand Jury
Fresno County Courthouse
1100 Van Ness Avenue, Room 102
Fresno, California 93721

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of Instructional Services

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Director of Special Ed.

Jim Reckas
Director of Facilities/MOT

Dear Judge Sarkisian and Honorable Members of the Grand Jury:

I appreciate the hard work exemplified by the Education Committee Grand Jury Report for 2005-2006. It is nice to know that the Grand Jury is addressing the drug epidemic in our schools. It is also commendable that the Grand Jury chose to further investigate the vocational and technical aspects of elementary and secondary education programs in Fresno County. It is wonderful that the Education Committee recognizes the importance of technical and vocational education. As noted in your report, these programs support the overall learning of students by applying math, reading, and writing skills, and better prepare our students for our workforce and local economy.

The Coalinga-Huron Unified School District is trying to expand its technology/vocational offerings as the resources and finances permit, and will continue to do so as it is readily apparent our local workforce has tremendous need for a vocationally trained workforce.

The tremendous devastation to families and communities brought about by drug abuse is overwhelming, as it has surpassed the county's and local communities capacity to deal with it, both in the policing and mental health areas. Our district works closely with families and public agencies, and has employed numerous pupil personnel (counseling) experts to assist students and families alike in this important work.

I want to thank the members of the Grand Jury for their work on these issues of great importance to our community. The Coalinga-Huron Unified School District is committed to providing the students of the district with the skills, knowledge, and educational opportunities that will prepare them to take their place in this century's global workforce.

It is our hope that the high priority that was given by the Grand Jury's focus on these specific areas will help to initiate appropriate legislation for services to assist the schools in both the areas of student drug abuse and technical/vocational education.

Sincerely,

Ramon J. Zubiri
C.H.U.S.D. Board of Trustees

Golden Plains Unified School District

"WE STAND UNITED FOR KIDS"

22000 Nevada Street • P.O. Box 937 • San Joaquin, California 93660
(559) 693-1115 • FAX (559) 693-4366

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District Superintendent

December 18, 2006

The Honorable Edward Sarkisian, Jr.
Presiding Judge, Superior Court
1100 Van Ness Avenue
Fresno, CA 93721

Dear Judge Sarkisian:

The Golden Plains Unified School District Board of Trustees concurs with the Grand Jury's findings, conclusions and recommendations from the Education Committee as they pertain to reinstating technical-vocational education programs within the K-12 curriculum. We believe that by reinstating technical-vocational education programs, the economy of the area will definitely improve due to an enhanced and more skilled workforce. We believe that a "Fresno County Forum on Technical-Vocational Education" which will include representatives from secondary and community college levels of education and the business community, will be extremely helpful not only for the business community, but also for the many students who will benefit by participating in a technical-vocational program.

In response to the recommendation made by the Community Health Committee that the Voluntary Drug Testing Program be instituted in every Fresno County high school by the 2007-08 school year, our Governing Board believes that the concept is a good one. However, until we have discussed it with our high school parents, the board does not want to commit to the program. Once our parents have been educated about the Voluntary Drug Testing Program, and if the parents and students volunteer to participate in the program, the district will be more than pleased to participate.

Sincerely,



Joann E.S. Evans
Superintendent



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Roger A. Halberg, District Superintendent
Deborah A. Wood, Assistant Superintendent Personnel
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February 7, 2007

The Honorable Edward Sarkisian, Jr.
Presiding Judge of the Fresno County Superior Court
Members of the Fresno County Grand Jury
Fresno County Courthouse
1100 Van Ness Avenue, Room 102
Fresno, California 93721

Dear Judge Sarkisian and Honorable Members of the Grand Jury:

Kerman Unified School District is in receipt of the 2005 – 2006 Grand Jury Report on *Peer Pressure and Teenage Drug Epidemic*, as well as the report entitled, *Reinstate Technical - Vocational Education*.

Regarding the Grand Jury's report titled; *Reinstate Technical – Vocational Education*, I am pleased to report that Kerman Unified has a highly regarded career technical education program encompassing Building Trades (we build a home every other year), Wood Shop, Computer Assisted Drafting Architectural, Web Page Design, Computer Graphics, Car Maintenance (we are seeking national, NATEF, certification of our student mechanics), Agriculture Mechanics class, Virtual Enterprise, Small Business Management, and Floral Design. Many of these courses are part of the Regional Occupation Program for Fresno County and some carry the 2+2 rating that earns students credit at the junior college level. There are many challenges to maintaining the career technical education program in an age of high stakes accountability, one of which is recruiting credentialed candidates. The Kerman Unified Board of Trustees has made it a priority to offer a vocational training program for our students. Kerman Unified would be glad to participate in a forum with other schools regarding this issue.

In regards to the Grand Jury Report titled, *Peer Pressure and Teenage Drug Epidemic, When Just Saying "No" is not Enough*, Kerman Unified thanks you for the recommendation for high schools to institute voluntary drug testing by the 2007 – 2008 school year. Kerman Unified has considered this option in the past and has used the funding we receive for other means of addressing student drug use in our society. Drug programs are expensive, and so far, the statistical reports have not merited the economic commitment to this approach. Kerman Unified will continue to evaluate the approach used to address the teenage drug and alcohol use problem and will implement changes as needed to meet local needs.

Thank you for sharing your findings and recommendations with Kerman Unified School District.

Sincerely,

A handwritten signature in black ink that reads 'Roger A. Halberg'.

Roger A. Halberg
Superintendent

RAH:bj

ec: nhagaman@co.fresno.ca.us

Laton Unified School District

P.O. BOX 248

LATON, CALIFORNIA 93242

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RICK ADAMS
RICHARD M. ALVES
KAREN AZEVEDO
LATHELE GRAVANCE
EARL J. YECNY

RALPH VANDRO
DISTRICT SUPERINTENDENT

January 16, 2007

The Honorable Edward Sarkisian, Jr.
Presiding Judge, Superior Court
1100 Van Ness Avenue
Fresno, CA 93721

Bart Bohn, Administrative Officer
Hall of Records
2281 Tulare Street, #301
Fresno, CA 93721-2198

Regarding: 2005-2006 Grand Jury Request

Dear Honorable Sarkisian and Mr. Bohn:

In response to the Fresno County Grand Jury 2005-2006 Report:

1. The Community Health Committee Recommendation –

R1 At Laton Unified School District we concur with the Grand Jury findings and are in the process of setting up the Drug Testing Program in accordance with the Fresno County Drug Testing and laws regarding it to be implemented for the 2007-2008 school year.

2. The Education Committee Recommendations –

R1 Laton High School already has Career-Technical education in areas of Veterinary Science, Criminal Justice, Computer Graphics, Ag Welding and Construction, and Virtual Enterprise (Small Business Management). Units in ROP Career Technical education is a requirement to graduate from Laton High School.

R2 Laton High School is teaching using the California State Standards and making every effort for preparing students for post secondary education.

R3 Laton Unified School District will be glad to participate in any forum that might be held in the future regarding Career-Technical Education.

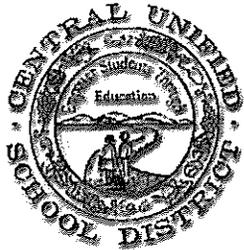
R4 At this time, Laton High School has been able to hire certificated technical-vocational instructors.

Sincerely,



Jim Reed
Principal, Laton High School
Laton Unified School District

JR:jm



CENTRAL UNIFIED SCHOOL DISTRICT

BOARD OF TRUSTEES

Cindy Berube
Terry Cox
Judith Geringer
Theresa Hagans
Diana Milla
Phil Rusconi
Mike Yada

December 12, 2006

The Honorable Edward Sarkisian, Jr.
Presiding Judge, Superior Court
1100 Van Ness Ave
Fresno, CA 93721

Re: Response to 2005-2006 Grand Jury Requests

Dear Judge Sarkisian,

Per the request of the Grand Jury, Central Unified Board of Trustees reviewed the recommendations on "Peer Pressure and the Teenage Drug Epidemic" and "Reinstate Technical-Vocational Education." I've enclosed a detailed report that was submitted to The Board of Trustees for their review and approval. Following is a brief summary of the recommendations that were approved at the regular board meeting held on September 12, 2006:

1. Peer Pressure and the Teenage Drug Epidemic –

Central Unified School District will implement a Voluntary Drug Testing Program for the 2006-2007 school year for grades nine thru twelve.

2. Reinstate Technical-Vocational Education –

Recommendation #1 – Technical-vocational education be offered in all high schools in Fresno County.

Response: Unlike many other schools in the state, Central High School has not had to eliminate CTE offerings to offer math and English support. Our 8 period day offers many student the opportunity to receive academic support while still participating in CTE and ROP electives. We are continuing to support our CTE and ROP programs.

Recommendation #2 – High schools that already offer some technical-vocational classes must offer a wider variety of classes, and teachers must teach skills for present jobs and for jobs that are just emerging.

District Administration

Marilou Ryder, Ed.D. Superintendent · Sarah Kolligan, Associate Superintendent, Educational Services · John Mulligan, Associate Superintendent, Executive Services
Chris Williams, Assistant Superintendent, Human Resources · Laurel Ashlock, Assistant Superintendent, K-12 Adult/ED · Mike Berg, Chief Operations Officer
4605 N. Polk Avenue · Fresno, CA 93722 · (559) 274-4700

December 12, 2006
Response to 2005-2006 Grand Jury Requests
Page 2

Response – Central USD continues to work with our regional ROP to examine emerging career opportunities and industries. Drafting, Certified Nursing Assistant, and Intro to Health Careers are just some of the new courses offered by Central High School in the last two years.

Recommendation #3 – A “Fresno County Forum on Technical-Vocational Education” to be called in 2006-2007 to include representatives from secondary and community college levels of education and the business community, to be headed by a business group that has worked closely with schools.

Response – Once a Fresno County Forum is formed, then Central Unified will participate. In the interim, CUSD will continue to participate in existing forums such as the ROP Advisory Board of Management and State Center Consortium sponsored events.

Recommendation #4 – If high school principals or school districts are unable to recruit certificated technical-vocational instructors, they must find experienced and qualified people to teach one or more classes on a Designated Subject Credential.

Response – Central Unified will continue to pursue the recruitment and retention of the highest quality candidates. Modifications from hourly pay to annual contracts for Career Technical instructors whenever possible at the comprehensive high school has ensured a greater pool of interested and qualified candidates.

If you need any additional information, please call me at 559-274-4700 ext. 150 or email me at mryder@centralusd.k12.ca.us.

Sincerely,



Dr. Marilou Ryder
Superintendent

MR/al

cc: Bart Bohn, Administrative Officer, County of Fresno

Enclosures

Meeting of
September 12, 2006
FOR: ACTION

CENTRAL UNIFIED SCHOOL DISTRICT

TO: MEMBERS OF THE BOARD OF TRUSTEES

APPROVE RESPONSE TO THE GRAND JURY'S RECOMMENDATIONS CONCERNING
DRUG ABUSE

Background Information:

The 2005-2006 Fresno County Grand Jury has issued two reports for our review and response. Pursuant to Penal Code 933.05, the Grand Jury requests responses within 60 days of the receipt of these reports from the Board of Trustees. The first report detailed drug abuse within Fresno County. The purpose of the study was to look for resources available to high schools for the prevention of drug use among teens. The recommendation of the Health Committee of the Fresno County Grand Jury recommended that the Voluntary Drug Testing Program be instituted in every Fresno County high school by the 2007-2008 school year.

Current Considerations:

The issue of voluntary drug testing was presented to the Governing Board of Trustees at the August 22, 2006 board meeting for their review. Strengths, weaknesses, opportunities, and threats relative to the program were presented (see exhibit #1). In addition, each board member received a DVD describing the program. The Governing Board directed staff to research the Voluntary Drug Testing Program in detail for possible consideration at a future meeting. Areas directed for future research included:

- Cost of the Voluntary Drug Testing Program to the district
- Available grant funds that may support the program
- Parent interest in the program
- Names of referrals (i.e. counseling programs, interventions) that are given to parents if results are positive
- Implementation plan

The that end, a recommendation to consider implementation of the Voluntary Drug Testing Program at Central High School will be presented to the Governing Board for their review and approval at the September 26, 2006 Board meeting.

SUBMITTED BY: Marilou Ryder
District Superintendent

PREPARED BY: Marilou Ryder
District Superintendent

STUDENT VOLUNTARY DRUG TEST

STRENGTHS

- Saves lives
- Voluntary
- Help students if they have a drug problem
- Reduces drug use
- Avoid peer pressure
- Confidential
- Test results within 24 hours
- Parents given additional tools to help them help their children win the fight against drug use
- No administrator, teacher, or coach will know results of test
- Any problems that may surface will be resolved where it belongs with the parents and children
- Results are categorized (amphetamines, valium, alcohol, PCP, barbiturates, cocaine, opiates, marijuana)
- CDS contacts parents when results are positive for referrals to counseling/intervention

OPPORTUNITIES

- Reduce drug use
- Create parent-student communication
- Good publicity for district
- Improve graduation rate
- Increase GPA
- Improve school and family relationships
- Students have an excuse to say "no" when dared to experiment
- Parents giving their child a reason to just say "no"
- Parents not in dark if child has a drug problem

WEAKNESSES

- Costs approximately \$2,000 per school
- Costs parents approximately \$30 per child
- Parents cannot afford
- Invade student's privacy
- Parents fear school will see results
- A positive result cannot give information on amount, time, frequency

THREATS

- Bad publicity
- Destroy trust between child and parents
- Parents and students argue
- Students ridiculed by peers

CENTRAL UNIFIED SCHOOL DISTRICT

TO: MEMBERS OF THE BOARD OF TRUSTEES

APPROVE RESPONSE TO THE GRAND JURY'S RECOMMENDATIONS CONCERNING
TECHNICAL-VOCATIONAL EDUCATION

Background Information:

The 2005-2006 Fresno County Grand Jury has issued two reports for our review and response. Pursuant to Penal Code 933.05, the Grand Jury requests responses within 60 days of the receipt of these reports from the Board of Trustees. Our responsibility as a Governing Board is to discuss these recommendations and respond by directing staff to follow up with further study or action relative to our district needs if appropriate. One of the recommendations pertained to the status of technical-vocational education in the Fresno County Schools.

Current Considerations:

Four recommendations were made relative to this issue. Our response to each recommendation will be forwarded to the Grand Jury upon approval from the Governing Board (see Exhibit #1).

- **Recommendation #1:** Technical-vocational education must be offered in all high schools in Fresno County.

District Response: Unlike many other schools in the state, Central High School has not had to eliminate CTE offerings to offer math and English support. Our 8 period day offers many students the opportunity to receive academic support while still participating in CTE and ROP electives. We are continuing to support our CTE and ROP programs.

- **Recommendation #2:** Offer a wider variety of classes that teach skills for present and emerging jobs.

District Response: Central USD continues to work with our regional ROP to examine emerging career opportunities and industries. Drafting, Certified Nursing Assistant, and Intro to Health Careers are just some of the new courses offered by CHS in the last two years.

- **Recommendation #3:** Include high school representatives to serve on a Fresno County Forum on Technical-Vocational Education in 2006-2007.

District Response: Once a Fresno County Forum is formed, then Central Unified will participate. In the interim, CUSD will continue to participate in existing forums such as the ROP Advisory Board of Management and State Center Consortium sponsored events.

- **Recommendation #4:** Charge school districts with finding experienced and qualified people to teach these classes.

District Response: Central Unified will continue to pursue the recruitment and retention of the highest quality candidates. Modifications from hourly pay to annual contracts for Career Technical instructors whenever possible at the comprehensive high school has ensured a greater pool of interested and qualified candidates.

SUBMITTED BY: Marilou Ryder
District Superintendent

PREPARED BY: Marilou Ryder
District Superintendent

Exhibit 1

Central Unified School District Response to the 2005-2006 Fresno County Grand Jury Prepared by: Joe Casarez, Director of Secondary Curriculum

Secondary Career & Technical Education Overview

The Central Unified Career & Technical Education (CTE) program is supported by the CUSD general fund and supplemented by funding available through the Carl D. Perkins Vocational and Technical Education Act. In addition to Career Technical courses, Central USD also provides students with training opportunities via the Regional Occupation Program (ROP) hosted by our comprehensive high schools and our Adult Education Center. Throughout Central's history, there has been a strong commitment to Career and Technical education. Overall, Central Unified and Central High School has sought to balance academic excellence and instructional support with hands-on opportunities in vocational and performance-based courses.

Scope, Staffing, and Growth of the Program

The high school CTE program actually begins in middle school. As part of the elective wheel available to students at Rio Vista and El Capitan Middle Schools, students have the opportunity to explore CTE areas such as Consumer Family Services (Home Economics), Business, and Computers.

The high school program includes students enrolled at Pershing Continuation High School and Central High School East & West Campuses. The Career & Technical departments at CHS are: Agriculture, Business, Consumer Family Services, Industrial Technology, and the Graphic Arts pathway of the Visual & Performing Arts Department. Pershing Continuation School offers an articulated Agriculture program with an award winning Future Farmers of America student organization, one of the few based at a continuation school.

Regional Occupation Programs at the comprehensive high schools include new offerings in health careers and automotive repair. Staff for these programs include teachers who possess single subject credentials based on undergraduate majors, such as business and accounting and instructors who have worked in a profession who have completed the requirements for a designated subject credential. Although there is a shortage of qualified career technical instructors, Central Unified has used all possible venues to pursue high quality instructors. One approach used by the high school is to offer CTE instructors annual contracts instead of hourly pay. This provides CTE instructors the same hours and benefits as their peers in academic departments, thus providing a financial incentive as well as recognizing their contribution to the organization.

Central Unified works very closely with the Regional Occupation Program to develop courses and course pathways that support growth occupations in the Central Valley. For example, the development of the Certified Nursing Assistant and Nursing

Foundations/Health Careers courses are the direct result of the collaboration with our ROP and district staff.

Based on the 2004-2005 CDE 101 E-1 report, Central Unified high school CTE programs served 1,580 students (duplicated count) in eight California Department of Education (CDE) identified career cluster areas. Included in that count are students representing CDE special populations, including 787 Economically Disadvantaged students, 303 Limited English Proficient students, and 367 Disabled (Special Education) students.

Supplemental Funding

The Carl D. Perkins Vocational funding provides additional funding for programs identified by CUSD in our annual application. Central’s allocation of Perkin’s funds for the last four years is included below:

2002-2003	2003-2004	2004-2005	2005-2006
\$48,809	\$67,966	\$71,106	\$74,241

Table 1

Once the allocation amount is received, the working balance after indirect costs and mandated activities is distributed, by the number of students served, to the various CTE departments and programs. For example, the 2004-2005 distribution, by department, is included in Table 2.

The allocations are not completely proportional. Although the CHS West Campus Agriculture program is by far the largest department, serving the largest number of students, the CHS West Agriculture department waives a portion of their allocation and those funds are redistributed to the other departments and sites. The West Campus Ag department does this to assist their colleagues, since the Ag department receives additional state funding through an Agricultural Incentive Grant. Other CTE departments do not have additional state funding or incentive grant programs.

	West	East	Pershing
Business	\$ 6,538.42	\$16,618.56	
Home Ec	\$ 5,786.68	\$12,484.00	
Ag	\$11,500.00		\$ 3,599.80
IT		\$ 4,693.24	
Graph Arts		\$ 6,162.54	
	\$23,825.10	\$39,958.34	\$ 3,599.80
		Total	\$67,383.24

Table 2

Table 2 also illustrates the total funding available to each high school campus. The funding by campus is proportional to the total student populations. Departments also have the option of releasing funds to their colleagues if there is an identified need or the need for a “balloon” allocation for a special program. For example, the Industrial Arts

program released their allocation in the past to the Business department so that the Business department would have the necessary funds to update a computer lab. The following year, Business released their funding to Industrial Technology to assist with a large IT project.

Career Pathways

Whenever possible, an articulated series of CTE coursework is designed to allow students the opportunity to refine and expand their skills, so that a culminating or “capstone” course can be taken for industry certification. For example, the Graphic Arts introductory and intermediate course work culminates, for participating students, in the ROP Animation and Graphics course. Students receive information on pathway options through the site Career Centers, teachers, and counselors. A high school pathway document is available to students as a visual aide in planning for future coursework and post secondary opportunities.



FIREBAUGH-LAS DELTAS UNIFIED SCHOOL DISTRICT

1976 MORRIS KYLE DR. • FIREBAUGH, CA 93622 • (559) 659-1476 • FAX (559) 659-2355

WAYNE R. WALTERS, Ed.D.
District Superintendent

WENDY S. TUKLOFF, Ed.D.
Assistant Superintendent

MARIA CALDERON
Business Manager

BOARD OF TRUSTEES

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Sean Howard, Clerk
Gilbert F. Coelho, Member
Maurice L. Ledford, Member
Oscar M. Sablan, Member

January 5, 2007

Fresno County Grand Jury
2281 Tulare Street, Room 304
Fresno, CA 93721

Re: 2005-2006 Grand Jury Report
Peer Pressure and the Teenage Drug Epidemic
Reinstate Technical-Vocational Education

To Whom It May Concern:

In response to the 2005-2006 Grand Jury Report I am providing you with information about the two areas you requested responses from school districts.

Peer Pressure and the Teenage Drug Epidemic

John Cruz, Superintendent of the Fowler Unified School District attended our September 14, 2006 board meeting and made a thorough presentation on the Voluntary Drug Testing Program currently being used in his school district. Dr. Cruz was very enthusiastic about the positive effects the program has had in his district. The school board was very interested in the program; however, they are closely examining all expenditures right now and therefore are not ready to implement the program at this time.

Reinstate Technical-Vocational Education

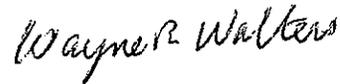
Because the Firebaugh-Las Deltas Unified School District Board of Trustees is committed to meeting the needs of all the districts students, they are adamant that vocational education be an important part of the high school curriculum for those students who are not planning to go on to college. Consequently, the Firebaugh High School curriculum includes courses in auto mechanics, ag mechanics, ornamental horticulture, woodshop, graphic design, certified nurses assistant training, child care, and criminal justice. Some of these programs are affiliated with the Regional Occupational Program (ROP) and some are offered in

"Progress With Pride"

conjunction with West Hills Community College. We will continue to offer these programs and even look for other programs to meet the needs of the students of the Firebaugh community.

On behalf of the Board of Trustees of the Firebaugh-Las Deltas Unified School District, we want to thank you for your concerns for the welfare of the students of Fresno County. If you have any questions, please contact me at (559) 659-1476, ext. 1304.

Sincerely,

A handwritten signature in cursive script that reads "Wayne R. Walters".

Wayne R. Walters, Ed.D.

cc: The Honorable Edward Sarkisian, Jr.
Bart Bohn, Administrative Officer

WRS/spr



RIVERDALE JOINT UNIFIED SCHOOL DISTRICT



P.O. Box 1058 • 3086 West Mt. Whitney Avenue • Riverdale, CA 93656 • (559) 867-8200 • FAX (559) 867-6722

January 29, 2007

The Honorable Edward Sarkisian, Jr.
Presiding Judge, Superior Court
1100 Van Ness Avenue
Fresno, CA 93721

RE: Responses to 2005-2006 Grand Jury Report

Dear Judge Sarkisian, Jr.,

This letter is written to inform you that the Riverdale Unified School District Board of Trustees reviewed the Grand Jury Reports, "Peer Pressure and the Teenage Drug Epidemic" and "Reinstate Technical-Vocational Education" at their meeting on January 10, 2007.

Sincerely,

Elaine C. Cash
Superintendent

ECC:bnm

Elaine C. Cash, Superintendent

Fipps Primary • 21320 S. Feland • Riverdale, CA 93656 • (559) 867-3353 • FAX (559) 867-4949
Riverdale Elementary • 3700 Stathem Street • Riverdale, CA 93656 • (559) 867-3589 • FAX (559) 867-3393
Riverdale High • 3086 West Mt. Whitney Avenue • Riverdale, CA 93656 • (559) 867-3562 • FAX (559) 867-4750
Alternative Education • 3021 West Kruger • Riverdale, CA 93656 • (559) 867-3614 • FAX (559) 867-4575



SELMA UNIFIED SCHOOL DISTRICT
3036 THOMPSON AVE., SELMA, CA 93662
(559) 898-6500 FAX (559) 896-7147

December 12, 2006

The Honorable Edward Sarkisian, Jr.
Presiding Judge of the Fresno County Superior Court
Members of the Fresno County Grand Jury
Fresno County Courthouse
1100 Van Ness Avenue, Room 102
Fresno, CA 93721

Dear Judge Sarkisian and Honorable Members of the Grand Jury:

Selma Unified School District is in receipt of the 2005 – 2006 Grand Jury Report on *Peer Pressure and Teenage Drug Epidemic*, as well as the report entitled, *Reinstate Technical - Vocational Education*.

As a member of the Valley Regional Occupational Program (VROP) JPA, a response was sent regarding the concerns of Technical-Vocational Education on our behalf. This was signed by John Smith, Selma Unified Board Member assigned to represent Selma on the VROP board.

On behalf of the Governing Board of the Selma Unified School District, I thank you for sharing with the district your findings and recommendations.

Sincerely,

Anthony Monreal, Ed.D.
Superintendent

c Bart Bohn, Fresno County Administrator



Sierra Unified School District

29143 Auberry Road

Prather, California 93651

Telephone (559) 855-3662

Fax (559) 855-3585

web site - <http://www.sierra.k12.ca.us>

Board of Trustees

Don Fowler
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Sharon Kientz
Rosemary Lee
Stan Neal
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Jerry Schroer

Superintendent

Dr. Don A. Witzansky

Director of Educational Services and Special Programs

A. J. Rempel

December 12, 2006

The Honorable Edward Sarkisian, Jr.
Pesiding Judge, Superior Court
1100 Van Ness Avenue
Fresno, CA 93721

Attention: Judge Sarkisian

From: Dr. Don A. Witzansky, Superintendent

Re: Fresno County 2005-06 Grand Jury Report – Response to Recommendations

In answer to your request for a response to recommendations submitted by the Grand Jury, I provide the following:

Community Health Committee

Recommendation #R1, The Health Committee recommends that the Voluntary Drug Testing Program be instituted in every Fresno County high school by the 2007-08 school year.

Staff is finalizing a recommendation, for review and consideration of approval by the Board of Trustees, to implement the program in the fall of 2007.

The Education Committee

Recommendation #R1, Technical-vocational education must be offered in all high schools in Fresno County.

Sierra High School has a long history of offering a wide range of technical-vocational education in conjunction with the Fresno Regional Occupation Program (ROP). Some courses are offered yearly, and some are rotated every other year, based on sufficient

Grand Jury Response – Page 2

enrollment for the offering. In addition, the district has an exploratory program in industrial technology for all students in the middle school.

Recommendation #R2, High schools that already offer some technical-vocational classes must offer wider variety of classes, and teachers must teach skills for present jobs and for jobs that are emerging.

A wide range of classes are offered in the district (see enclosed list of courses). The courses are articulated with industry standards, and with the local junior colleges and CSU Fresno. Staff members are constantly modifying the course content to reflect new skill requirements and standards.

Recommendation #R3, Fresno County Forum on Technical-Vocational Education to be called in 2006-07.

Staff would welcome the opportunity to participate in such a forum.

Recommendation #R4, If districts are unable to recruit certificated technical-vocational instructors, they must find experienced and qualified people to teach one or more courses on a Designated Subject Credential.

Sierra USD has not experienced a problem recruiting qualified technical-vocational instructors.

Please contact my office if you need additional information.

Cc: Bart Bohn, Fresno County Administrative Officer
Larry Powell, Superintendent, Fresno COE

Enclosure

Sierra High School

Course Descriptions And Planning Handbook

Course Description: This course is designed for the student interested in learning about and understanding the modern horse industry. Units of instruction include anatomy, breeding, feeding and nutrition, diseases, parasites, health care, training and business practices. This course is centered around an extensive laboratory and hands-on approach.

AGRICULTURE BIOTECHNICIAN

Grade Level: 11, 12

Pre-requisite: AG Science I, AG Science II, AG Biology

This course involves one third classroom, two thirds hands on training. It is 90 minutes everyday. The main function of the class is to explore career opportunities as technicians in the agriculture biological fields. Further study at a trade school or junior college would be beneficial, but not necessary. The class involves instruction in four areas:

Area 1. Embryo Transfer Area 3. Artificial Insemination/Embryo Transfer
Area 2. Tissue Culture Area 4. Hydroponics/Aquaculture

Super ovulating, artificial inseminating, collecting the embryos, freezing them and transferring them will be done using Sierra High School Laboratory at the farm. A tissue culture laboratory has been developed at our farm with three laminar flow hoods. Students will clone African Violets, Boston Ferns and Venus Flytrap plants

A hydroponics facility will be developed by the students using our existing greenhouse. Students will have the option to sell the plants or products they grow in tissue culture and in hydroponics.

Students will hatch and grow 10,000 rainbow trout and grow them to three inch fingerlings and then plant them. Warm water fish such as catfish or bass will also be raised to plant in ponds.

INTRODUCTION TO MECHANICS (Semester Class)

Grade Level: 9, 10, 11, 12

Pre-requisite: None

This course is required before enrollment in other advanced courses in Agriculture Mechanics or Auto Shop I.

Agriculture Mechanics is an introductory course that exposes students to many phases of fundamental mechanical skills. Topics that are used for class activities are safe care and use of hand tools and power equipment, welding, electricity, cold-metal working, concrete and painting. Class time is also used near the end of the school year for

construction of individual student projects. Each student is required to purchase a pair of coveralls and safety glasses for this course.

WELDING

Grade Level: 10, 11, 12

Pre-requisite: None

This is a one-year course devoted to the development of welding skills and techniques used in industry. Topics used for class activities are: All phases of oxygen-acetylene welding and cutting, electric arc welding, introduction to MIG (Metal Inert Gas) welding, and TIG (Tungsten Inert Gas) welding of metal. Construction of metal projects is permissible and encouraged but only after completion of required assignments. Each student is required to purchase a pair of coveralls, safety glasses, and gloves for this course.

WELDING AND CONSTRUCTION - ROP (Advanced Welding)

Grade Level: 11, 12

Pre-requisite: Grade of B or above in Welding or permission of instructor



Agriculture Welding and Construction is a one-year course designed to build, expand, and improve welding skills in the advanced phases of electric arc welding and MIG and TIG welding. The primary emphasis being the use of equipment in out of position welding with the application of equipment fabrication. Each student is required to complete the test welds on each type of welding machine before starting construction of his project. Each student is required to purchase a pair of safety glasses, coveralls, and gloves for this course.

HEAVY EQUIPMENT OPERATOR AND MAINTENANCE-ROP

Grade Level: 11, 12

Pre-requisite: Grade of B or above in Auto Shop or permission of instructor



This course is a two-semester course with one semester being spent in a shop program and one semester spent in a field program. The field program will include operation of wheel and track-type tractors, graders, trucks, and other types of heavy-duty equipment and implements. The shop program will include maintenance and repair of heavy equipment. Each student is required to purchase a pair of coveralls and safety glasses for this course.

MEAT PROCESSING-ROP

Grade Level: 11, 12

Pre-requisite: Completion of AG Science I, AG Science II and AG Science III

This course will consist of both laboratory and classroom instruction. Approximately 80% of the time will be spent in the laboratory and 20% in the classroom. One purpose of the course is to provide an opportunity for the students to develop basic skills and practical working knowledge in slaughtering, cutting, and packaging of beef, lamb, and pork. A second purpose is to acquaint students with the many job opportunities that exist. In addition to the classroom and laboratory work, field trips to packing plants and meat processing facilities will be taken.

FFA ORGANIZATION OF AGRICULTURE

The FFA is a national organization for all students who are enrolled in a planned program of Agriculture Education. The activities of the FFA Chapter are many and varied covering such areas as judging teams, public speaking, parliamentary procedure, leadership development and many others. The many facets of the FFA program are covered in detail during the Introduction to Agriculture course. It should be kept in mind that as a student selects specific FFA activities in which to participate, these activities should be closely related to his occupational objective. Activities include showing livestock at Fresno Fair, State Fair in Sacramento, Chowchilla Fair. Public Speaking - a prepared six to eight minute speech. Impromptu Speaking - a four to five minute speech on a drawn topic; Parliamentary Procedure - six member team leading a meeting and debating issues brought up; Livestock Judging (Judge and give reasons on beef sheep and swine); Ag Mechanics Team (conducting actual projects in wood, metal, welding, electrical, rope, surveying); Rodeos, two per year; banquet; and many more fun activities such as Donkey Basketball, Activity Nights (student go to Black Beards, roller skating or miniature golf) and other fun activities.

REGIONAL OCCUPATIONAL PROGRAM (ROP) (16 years old)

These are two period classes (90 minutes). All courses are articulated with Fresno City College and/or Reedley Community College.

Articulation means that a student will automatically receive college credit upon: Successful completion of the course with a C or better and

successfully complete 12 units of college instruction at Fresno City College or Reedley Community College

CRIMINAL JUSTICE (ROP 90 min.)

Grade Level: 11, 12

Pre-requisite: None

Careers in Criminal Justice - Public Safety



Comprehensive overview of careers related to the criminal justice system and public safety. This course introduces the student to the study of crime and the administration of justice in the United States. It offers physical and tactical training with an emphasis on ethics and leadership. Students successfully completing the course, earning a C or better will receive 3 college credits upon registering in this course at Fresno City College.

CAREERS IN EDUCATION

Grade Level: 11, 12 (16 years old)

Pre-requisite: None

Students interested in entering the teaching profession will gain practical experience and training from this course. Much of the second semester of the course is spent in elementary school classrooms where qualified Careers in Education students assist teachers and students. This course can help waive some college course requirements for teacher prep programs.

EXISTING ROP COURSES

- ** Auto Collision Repair
- ** Advanced Welding and Construction
- ** Livestock/Meat Processing
- ** Careers in Criminal Justice - Public Safety
- ** Heavy Equipment Operation & Maintenance
- ** Construction Technology
- ** Agriculture
- Bio/Technology
- ** Careers in Education

[REDACTED]

[REDACTED]

Grade Level: 9, 10, 11, 12 (Highly recommended for 9th grade students)

Pre-requisite: None

Art I is a first year course designed for beginning students to learn to see aesthetically and to experience and produce art work. The study of art forms and their heritage will be integrated. Each student will be exposed to a variety of basic two dimensional and three dimensional media experiences.

submit a quality portfolio as well as summer assignments will be admitted into the class in the fall.

Advanced placement is a college level course based on the requirements stated by the Advanced Placement College Board. This is a challenging course where students build a portfolio of 40 pieces that will ultimately be graded by professors and teachers that comprise the College Board. A minimum of 2 class periods is recommended.

Grade Level: 10, 11, 12

Pre-requisite: Art I or permission of instructor



This is an introduction to clay through the formation of utilitarian and sculptural forms. The course will be devoted to hand building, wheel throwing, and combinations with other experimental methods and media.

Grade Level: 11, 12

Pre-requisite: Grade of C or above in Ceramics I and permission of the instructor.

Ceramics II is an advanced course in clay where the student will master the formation of utilitarian as well as sculptural forms. Students will explore the ceramic process in more depth to include set and series production. Students will load kilns, make glazes and examine alternative firing processes. Individual exploration of the ceramic process and the clay media is encouraged.

AUTO

SMALL ENGINE REPAIR

This is a one semester class designed especially for freshmen. The class is arranged so class lectures, demonstrations, and classroom assignments take up a small amount of the time with most of the time spent in the lab doing "hands-on" activities. Disassembly, inspection, component measurement, part identification, and reassembly along with basic engine maintenance will be the focus during the lab activities. Students will have a chance to overhaul several engines including; two stroke and overhead valve engines. This class will prepare the student for the next course in the automotive technology sequence. Regardless of whether the student continues in the automotive sequence, this course will give them a solid background of small engine operation and construction.

BEGINNING AUTO- Engine Systems

Grade Level: 10, 11, 12

Pre-requisite: None

This is a two-semester class for sophomores, juniors and seniors. Auto 1A (First semester) is an introduction to the automobile. The student will be given a basic bumper-to-bumper overview of the automobile with an emphasis on *Engine Systems*. Inspection, part identification, and basic maintenance will be the focus during the lab activities. Students should leave with basic background that will make them a better automotive consumer. Second semester the students will have the opportunity to increase their automotive knowledge with Auto 1B. This semester will build on the information gained in Auto 1A. The focus will be on suspension systems, wheels and tires, inspection/correction of wheel alignment, transmissions, transaxles, and drive train components. As in the previous semester, inspection, part identification, and basic maintenance of these systems will be the focus during the lab activities. After this course the students will have the opportunity to continue with Vocational Auto.

VOCATIONAL AUTO (90 minutes daily, Year long)

Grade Level: 11, 12

Pre-requisite: B or above in Auto Shop or by permission of instructor.

Vocational Auto Tech is an in-depth study of the automobile and its systems. In the basic auto courses the students learned how the systems operated, how to identify components, and the inspection and basic maintenance of vehicles. In this course students will learn how to diagnose, troubleshoot and then make the necessary repairs to correct the problems. Students will be instructed on procedures using simple tools available at a home workshop and to more advanced equipment found at an auto repair facility. Course is about 80% lab work.

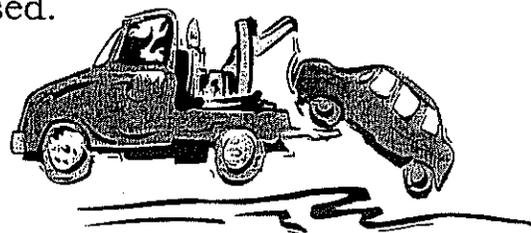
BEGINNING AUTO BODY/COLLISION WORK (Semester)

Grade Level: 9, 10, 11, 12

Pre-requisite: None

This is a one semester class. The student may remain for a second semester with a "B" in the first semester or upon instructor's approval. If the student chooses to stay the second semester, he or she will be applying what they have learned with "hands on" projects in the Auto Body shop. These could be, but are not limited to cars, pick-ups, etc.

The student will learn the safe and correct methods to use hand tools and power tools, the basics of straightening, welding, and spot painting. Safety and environmental concerns are stressed. Upon completion, the student will be able to repair and paint automobiles in a state of the art facility.



The student will need to purchase safety glasses and coveralls. These will need to be worn when any shop work is being done.

ADVANCED AUTO COLLISION REPAIR (ROP)

Grade Level: 11, 12

Pre-requisite: B or above in Beginning Auto Collision or permission of instructor.

This is a one-year course designed to improve the speed and accuracy of the student's auto body skills. The main emphasis is placed on a real life situation that would be found in the Auto Body Shop. Assigned projects will run concurrently with other class activities. Fresno City College credits can be granted through the 2+2+2 program. This class also fills a fine art requirement.

Grade Level: 9, 10 (11 with permission of instructor)

Pre-requisite: 2.0-3.5 GPA, College potential, desire, determination, teacher recommendation, interview.

The AVID curriculum is designed to help students achieve their potential and be successful academically. Students will be involved in note-taking, organizational skills, study techniques, problem solving in groups, participating in discussions, and learning questioning strategies. There are student led tutorial sessions. Students will learn to use collaboration and inquiry to overcome obstacles and learn difficult concepts in their academic classes. The curriculum focuses on motivating students to pursue a college education and broadening their exposure to the challenges and rewards of doing so. To achieve this goal, we will have guest speakers, take field trips, and engage in fun activities designed to encourage one another and build a classroom that celebrates learning.

Grade Level: 10, 11, 12

Pre-requisite: Successful completion of Beginning AVID

This course is a continuation of the Beginning AVID course, but goes into more depth. Note-taking, organizational skills, etc. will be expected at a higher level. Sophomores and Juniors are encouraged to begin their college search, investigate financial aid, and receive S.A.T./A.C.T. prep work. Seniors are given extensive help in filling out college applications and financial aid forms as well as scholarship help.

COMPUTER APPLICATIONS COURSE DESCRIPTIONS

INTRODUCTION TO COMPUTERS (Semester Class)

Grade Level: 9, 10

Pre-requisite: None

Introduce the student to several cross-platform applications including: MicroSoft Word, AppleWorks, PowerPoint, Internet Browsers, and iMovie. Topics covered will include: basic word processing skills, spreadsheet and database creation and manipulation, research skills using the internet (parent permission required), creating multimedia presentations using scanned images, video, clip art and images from the internet and creating digital video projects.

COMPUTER PROGRAMMING (Semester Class)

Grade Level: 10, 11, 12

Pre-requisite: Concurrent enrollment in Algebra II or higher and permission of instructor

An advanced class geared toward Engineering, Computer Science and Science majors to introduce the student to techniques of programming with a heavy emphasis on logic through the use of the language C. Topics will include input/output, loops, functions, logical operators and arrays.

DESKTOP PUBLISHING (Semester Class)

Grade Level: 10, 11, 12

Pre-requisite: Introduction to computers or other Computer Applications course.

An advanced class in page layout and desktop publishing that will include in-depth use of Adobe PageMaker in order to produce documents and projects. Digital imagery will also be covered with the use of Adobe PhotoShop. Scanning images, downloading images from the internet and digital photography skills will be included.

WEB PAGE DESIGN (Semester Class)

Grade Level: 10, 11, 12

Pre-requisite: Introduction to Computers or other Computer Applications course.

This is an advanced course in creating and designing web pages. The course will cover HTML programming as well as the following software applications: Adobe GoLive, Adobe PhotoShop, Adobe ImageReady, Macromedia Dreamweaver, and Macromedia Flash. The students will create various web page projects including pages to be posted on the school's web site as well as pages for other organizations in the community.

DIGITAL VIDEO

Grade Level: 10, 11, 12

Pre-requisite: Desktop Publishing or Web Page Design

This is an advanced course in creating and editing videos using the digital process. This course will include story boarding, filming, editing, producing and presenting several video projects. There will also be discussion of basic lighting and sound editing principles. The following software will be explored: Inspiration, iMovie, VR Worx, and Final Cut Pro. Advanced students will participate in producing video projects for outside companies in terms of commercials and promotional videos.

DRAFTING

DRAFTING I (SEMESTER CLASS)

Grade Level: 9, 10, 11, 12

Pre-requisite: None

Drafting I is a semester course designed for every student interested in agriculture, architecture, art, construction trades, electronics, engineering, home economics, mechanics, welding, and other related fields. The course consists of instruction in several areas including, but not limited to, isometric, orthographic projection, oblique, sectional, sketching, lettering, measuring, and beginning architectural drafting.

DRAFTING 2

Grade Level: 10, 11, 12

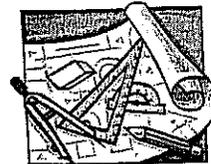
Pre-requisite: Drafting I

This is a one year class that will continue from Drafting 1. The class will further develop drafting skills. The third quarter of the class will consist of designing a house. In this project, the student will develop a floor plan, elevations, roof plan and a foundation plan.

The final quarter will be more of an independent study. The student will be able to design his or her own project. Past projects have included log splitters, trailers, lumber racks, etc.

DRAFTING 3 / ADVANCED DRAFTING

Grade Level: 10, 11, 12
Pre-requisite: Drafting I



This class is designed to further develop drafting skills. Individual problems and special projects will be undertaken by each student based upon the interests, needs and abilities of that student. Speed or problem solving and accuracy will be stressed. This class also fulfills a fine art requirement.

Grade Level: 9, 10, 11, 12
Pre-requisite: None

Students will learn techniques of acting and play production. They will participate in improvisation, pantomime, short memorized scenes, and basic acting. Makeup, lighting, sets, props, theatre business, costume and sound are areas covered in technical theater. History of the theater is also covered. Students are **required** to attend the two major performances put on by Sierra High Drama Department.

In the spring, participation in a play for the public will culminate the year's activities. Some extra time outside of the school day will be required at that time.

DRAMA II

Grade Level: 10, 11, 12
Pre-requisite: Drama I with a B or above or permission of instructor

After-school rehearsals are mandatory before each production. Students must audition for this class.

Students are involved in and responsible for the production of one major play each semester. In late spring, the Children Theater Play is also performed. Students choose to act or do technical work and are cast in a part or made responsible for a certain technical job such as lights. Time outside of the school day must be spent for extra rehearsals, set construction and performance.



WOODWORKING

BEGINNING WOODWORKING (Semester Class)

Grade Level: 9, 10, 11

Pre-requisite: None

Basic woodworking will include an introduction to types of wood, board ft. computation, use and care of hand tools, portable electric hand tools, and wood working machines. Introduction to career paths in Construction Technology and woodworking will be emphasized.



ADVANCED WOOD (Semester Class)

Grade Level: 10, 11, 12

Pre-requisite: Beginning Wood

This course is a semester course for those students who are interested in continuing their interest in Woodworking. In this class we will be focusing on design, planning and layout, construction, and finishing of fine woodworking projects. Mathematics, communications and organizational skills will be emphasized during this course. Careers will be introduced within the woodworking field. Students are required to complete a portfolio.

CONSTRUCTION TECHNOLOGY (Exterior) (ROP) (90 min)

Grade Level: 11, 12

Pre-requisite: Beginning Drafting, Beginning Wood, Intro to Construction

This class is designed to give the student a real work environment experience in the area of construction and requires all students to participate in both classroom assignments as well as work site experience. The integration of Math, Science, Language Arts and Problem Solving Skills are incorporated in each module of instruction in order to apply these concepts in all areas of construction. Values such as showing up to work on time, being productive, quality of work, respect for self and others, and self discipline are all stressed within the course. Students are expected to do their best and standards are set high to reflect the attributes needed by the construction industry. All competencies are set forth by the Sierra High School Construction Advisory Committee made up of individuals in the construction field.

Emphasis will be in the areas of site preparation, concrete, masonry, framing, plumbing and roofing. Students are required to maintain a portfolio.

CONSTRUCTION TECHNOLOGY (Interior) (ROP) (90 min)

Grade Level: 11, 12

Pre-requisite: Beginning Drafting, Beginning Wood, Introduction to Construction

Construction Technology emphasizes various aspects of interior construction. We will be studying areas such as utilities, interior design, electrical, drywall and wall finishing treatments, finish and trim, doors and windows, flooring, cabinetmaking manufacturing and installation, and tool and machine safety. Upon completion of this course, the student will receive a certificate and competency sheet, which can be used as a reference in securing an entry-level job in the construction area. A portfolio is required emphasizing students work and proficiency level and all projects will be documented by both a work sample and a written summary for each module of instruction. Grading of the course is a combination of class participation, work attitude, tests, and level of competency of skills. Also career skills such as attendance, punctuality, and daily preparation will be considered as part of the overall grade and be reflected in job skill competency certificate. Only students who pass the course with a "C" or better will be eligible for a Certificate of Completion.

PLANNING

Grade Level: 10, 11, 12

Pre-requisite: Students must fill out an application and only students selected by the instructor may enroll.

Class provides real experience in: (1) Design; (2) layout; (3) photography; (4) computer skills (5) publicity; (6) scheduling events; (7) paper processing (8) editorial work; (9) advertising; (10) financing, (11) group work, (12) writing text