

CONTRA COSTA COUNTY GRAND JURY REPORT 0801

COMPLIANCE AND REVIEW COMMITTEE REPORT

The Contra Costa County Civil Grand Jury is impaneled annually to investigate city and county governments, special districts and certain non-profit corporations to ensure that their functions are performed in a lawful, economical and efficient manner. Findings and Recommendations developed from these investigations are contained in reports signed by the Grand Jury Foreperson and the Grand Jury Judge. Responses to these reports must be made within certain time constraints and in accordance with specific formats pursuant to 933 and 933.05 of the California Penal Code.

The following Compliance and Review Committee report was prepared by the 2007-2008 Grand Jury. A function of the Compliance and Review Committee is to request additional responses in cases where the original responses were deemed to be inadequate. Any such additional responses have been included in this report.

This year as last year, responses to last year's Grand Jury reports were posted on the Contra Costa County Grand Jury Website shortly after receipt and in their entirety. The entire responses often contain additional background information not required by law and not contained herein.

The Grand Jury believes it is important for future Grand Juries to continue to review these responses and to be vigilant in seeing that recommendations that have been accepted have been carried out. In this manner, the commitment and hard work of past and future Grand Juries will result in positive changes for the citizens of Contra Costa County.

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CONTRA COSTA COUNTY GRAND JURY REPORT 0702

**BOARD OF SUPERVISORS' BUDGET, COMPENSATION
AND STAFFING REPORT**

Response from Contra Costa County Board of Supervisors

FINDINGS

- 1. The five-member elected Board of Supervisors is the governing body of Contra Costa County, responsible for the County budget and the operations of the County government.**

Response: Agree.

- 2. The California Constitution provides that the Board of Supervisors shall prescribe by ordinance the compensation of its members: Article XI, Section I, Subsection (b).**

Response: Agree.

- 3. The California Penal Code, section 927, reads as follows: "A grand jury may, and when requested by the board of supervisors shall, investigate and report upon the needs for increase or decrease in salaries of the county-elected officials. A copy of such a report shall be transmitted to the board of supervisors."**

Response: Agree.

- 4. As elected County officials, Supervisors receive a salary that is paid without regard to hours worked. Given the commitments of the many boards, committees, and authorities, most Supervisors work 50-70 hours per week.**

Response: Agree.

- 5. As of December 2006, Contra Costa County Supervisors received a monthly salary of \$4,993 (\$59,916 annually) and an auto allowance of \$550 per month, plus a mileage reimbursement. The County contributed \$60 per month plus \$6,000 annually, to their deferred compensation account. Supervisors are entitled to the same benefits as all other County employees.**

Response: Partially disagree. The Supervisors are not eligible to earn the paid leave credits earned by other County employees, such as vacation, sick leave, administrative leave, and floating holiday leave.

6. Typically, each supervisor serves on more than 25 County and regional boards, commissions and authorities, most of which do not pay stipends (fixed sum of money paid periodically for services). Estimated total stipends range from approximately \$300 to \$600 monthly per Supervisor. Paying stipends to supervisors is a common practice in California.

Response: Agree, with the clarification that for 2007, each Supervisor serves on between 20 to 25 regional boards, commissions, and authorities.

7. The six other elected County officials' annual current salaries range from \$120,519 to \$183,393. The twenty-one County executives' and department heads' salaries range from \$86,841 to \$271,000.

Response: Agree, with the clarification that the high end of the department head salary range includes special differential pay for on-call duty.

8. Twenty-four percent (24%) of all County employees (union and non-union) have higher salaries than Supervisors.

Response: Agree.

9. The County has a history of maintaining competitive compensation for the workforce. This has been demonstrated in past years by salary increases and cost-of-living adjustments ("COLA") for union and non-union employees. The Supervisors have not followed this practice for their own positions. The Supervisors' last salary adjustments of 2.02 % (\$85 per month) and 3.55% (\$152 per month) occurred in June and October 1998, respectively. Their last COLA adjustment of 4.1% (\$198 per month) occurred in October 2001.

Response: Agree.

10. To evaluate the relative compensation of the BOS, the Grand Jury selected six counties of comparable population and budget sizes as follows:

California County Comparison (based on population and budget sizes)(October 2006)

| County | Monthly Salary* | Monthly Auto Allowance | Deferred Compensation | County Budget (Billions) | Population |
|---------------------|-----------------|------------------------|-----------------------------|--------------------------|------------------|
| Alameda | \$10,046 | \$310.56 biwkly | \$8,000/yr | \$2.19 | 1,500,000 |
| Ventura | \$8,790 | \$375 | Up to \$263/mo | \$1.47 | 742,000 |
| Fresno | \$7,534 | \$250 | \$0 | \$1.28 | 824,000 |
| San Mateo | \$6,981 | \$385 biwkly | \$0 | \$1.48 | 707,000 |
| Kern | \$6,854 | \$584 | \$0 | \$1.30 | 703,000 |
| Sacramento | \$6,593 | \$500 | \$0 | \$2.35 | 1,219,000 |
| Contra Costa | \$4,993 | \$550+mileage | \$60/mo + \$6,000/yr | \$1.45 | 1,000,000 |

Notes: *Salary formula (10/2006): Alameda sets their BOS salaries at 80% of Superior Court Judges. **County/regional committee stipends and county benefit payments were also considered but excluded because it was difficult to obtain accurate and comparable data. The fees and benefit practices were consistent among the counties studied.

Response: Agree that compared to counties of similar population and budget, Contra Costa Board member compensation was the lowest in October 2006 when excluding retirement and health benefits.

11. The County salary comparison used all income items paid to the Supervisors for which comparable and consistent data were available, including salary, auto allowance (excluding mileage) and deferred compensation. The total supervisor compensation for counties included in the survey was then adjusted for cost of living differences, compared to the Contra Costa County base of 100.0%. Following is the summary with the compensation dollars adjusted for cost-of-living differences:

| County | Base Salary Defer Comp, & Car | Cost-of-Living Index by County* | Adjusted Compensation |
|---------------------|----------------------------------|------------------------------------|--------------------------|
| Alameda | \$11,386 | 104.0% | \$10,948 |
| Ventura | \$9,428 | 93.0 | \$10,138 |
| Fresno | \$7,784 | 83.0 | \$9,378 |
| San Mateo | \$7,815 | 114.0 | \$6,855 |
| Kern | \$7,438 | 77.0 | \$9,660 |
| Sacramento | \$7,093 | 84.0 | \$8,440 |
| Contra Costa | \$6,103 | 100.0% | \$6,103 |

Six counties: Average = \$9,237, or 51.4% above Contra Costa County's total compensation (salary, auto allowance and deferred compensation) for Supervisors.

Note: *Cost-of-living differences in the six counties selected for comparisons incorporates consumer purchasing, housing, transportation, taxes, health care, and miscellaneous items (i.e., private schools and recreation). The source of data is from the Economic Research Institute (ERI).

Response: Agree that in October 2006, Contra Costa Board member compensation was the lowest when excluding retirement and health benefits and when adjusted by the cost-of-living index.

12. Based primarily on the geographic size of the districts, Supervisors for Districts I, II and IV are entitled to four and one-half (4 1/2) Full-Time Equivalent (FTE) staff members. The Supervisor for District III is entitled to six (6) FTE staff members. The Supervisor for District V is entitled to five (5) FTE staff members. Supervisors may split FTE positions into several part-time positions in order to extend office coverage.

Following is a list of positions and monthly salaries for the Supervisors' FTE staff members:

| | |
|--------------------------------|----------------------------|
| BOS Chief of Staff | \$5,329.30 |
| BOS Specialist | \$4,602.87-4,833.02 |
| BOS General Secretarial | \$3,507.83-4,385.34 |
| BOS General Office | \$2,440.01-3,433.35 |

Staff members are hired by the elected Supervisors and are employed as “at will” employees as a condition of their employment. These four positions are in unique County classifications not used by other County departments. As such, they are not regularly market-surveyed in regard to compensation. The last salary adjustment, (other than COLA), was given in 1998 when the positions were re-titled and the salaries were increased by 5.02%. All positions are eligible for COLA increases approved by the County for non-union employees. In 2004, all non-union County employees were granted an increase of 3.0%.

Response: Agree.

13. The Supervisors’ staff positions are not comparable to other County job classifications. The salary ranges for the Supervisors’ staff are established relative to the Chief of Staff position. Using the same methodology as for Supervisors, following is a summary of the survey information and adjusted compensation based on the cost-of-living index.

| County | BOS Chief of Staff Monthly Salary | Cost-of-Living Index by County | Adjusted Compensation |
|---------------------|--|---|----------------------------------|
| Alameda | \$8,411 | 104.0% | \$8,088 |
| Ventura | \$6,257 | 93.0 | \$6,728 |
| Fresno | \$4,563 | 83.0 | \$5,498 |
| San Mateo | \$5,751 | 114.0 | \$5,045 |
| Kern | \$4,334 | 77.0 | \$5,629 |
| Sacramento | \$4,892 | 84.0 | \$5,824 |
| Contra Costa | \$5,329 | 100.0% | \$5,329 |

Six counties: Average = \$6,135, or 15.1% above Contra Costa County’s salary for BOS Chief of Staff

Response: Agree that Contra Costa County Supervisors’ staff positions have the lowest salaries among similar counties when excluding retirement, health, and other benefits. Note however that a comparison of Supervisor staff and job classifications among similar counties is not as simple as comparing the Supervisors’ salaries. Although the staff positions are “at will”, they are eligible for the same array of benefits as County management employees. Benefits such as retirement, group health insurance, and retiree health figure significantly in the total compensation package. Consequently, a comparison of staff positions compensation should consider all material compensation factors. Moreover, the job classifications and requirements for the staff positions may

differ significantly from county to county depending on how the Board and County Administrative functions are organized.

- 14. Each County Supervisor's budget is prepared in cooperation with the County Administrator and subsequently adopted by the BOS. While Supervisors may request special consideration for budget adjustments, including staff salary increases, they have not done so.**

Response: Agree. Supervisors staffing and salary levels have been maintained at consistent service levels since 2001. Budget allocations have been increased commensurate with cost-of-living and employee benefits increases.

RECOMMENDATIONS

The 2006-2007 Contra Costa County Grand Jury recommends that:

- 1. Supervisors' compensation (salary, auto allowance and deferred compensation) as of December 2006 should be increased by 51%, to take effect following the next Supervisorial election in November 2008.**

Response: Has been implemented. On January 20, 2007, Ordinance No. 2006-70 was enacted, which increased the County Supervisors' salaries by 60% effective February 17, 2007 and will increase the salaries by an additional 2% effective July 1, 2007.

- 2. Supervisors' salaries should be adjusted consistent with countywide COLA adjustments, effective January 2007.**

Response: Has been implemented. See County's response to Recommendation No. 1.

- 3. Supervisors' staff salary ranges should be increased by 15%, effective January 2007.**

Response: Requires further analysis. The County will undertake a compensation study to determine the appropriate salary level for the Supervisors' staffs. This analysis will be completed within three months.

- 4 Supervisors' staff salary ranges should be adjusted consistent with countywide COLA adjustments for non-union staff.**

Response: Has been implemented. As exempt management employees, Supervisors' staff members receive the same cost-of-living adjustments as non-union and other management employees.

- 5. Supervisors should establish a practice of annually reviewing their staff salaries to ensure they are equitable and commensurate with their responsibilities.**

***Response:** Will not be implemented because it is not warranted. The County's Human Resources Department is charged with monitoring the labor market to establish and maintain job parity for all County job classifications. Absent significant changes in the job duties, pay parity studies are only necessary every three to five years, or as needed to address specific recruitment and retention issues.*

CONTRA COSTA COUNTY GRAND JURY REPORT 0703

**COUNTY HEALTHCARE PLAN ELIGIBILITY
LOOPHOLES**

Are All Reported Dependents Eligible For County Healthcare Plans?

Response from Contra Costa Board of Supervisor, Contra Costa County Administrator

FINDINGS

- 1. The County contracts with, and is billed monthly by, healthcare plan administrators and insurance carriers on either an “individual” (employee or retiree only) or “family” (employee or retiree plus dependents) basis. The County pays one monthly insurance premium amount per plan for employees and retirees with no dependents (“individual”) and another negotiated monthly rate for employees and retirees with dependents (“family”), regardless of the number of dependents reported per family.**

Response: Agree.

- 2. Based on representative monthly data (September 2006), the County pays healthcare insurance premiums averaging \$8.8 million per month—over \$105 million annually. Employee and retiree premiums average \$1.37 million monthly—over \$16.4 million annually.**

Response: Agree.

- 3. Based on representative monthly data (September 2006), the County maintains combined medical and/or dental plan eligibility records for approximately 7,800 employees, 4,200 retirees, 330 surviving spouses, and 16,000 reported dependent spouses, children, and domestic partners.**

Response: Agree.

- 4. The County contracts with its healthcare plan administrators and insurance carriers on a “fully-insured” basis. Under this financial arrangement, healthcare administrators and carriers are responsible for all costs in excess of the premiums collected from the County during a specified contract period. The negotiated premiums include anticipated costs for the benefits, administrative costs, and a profit for the administrators and carriers.**

Response: Partially agree. Kaiser Permanente, Health Net, Contra Costa Health Plan and Delta PMI Dental Plan are fully insured; the County has an Administrative Services Agreement with Delta Dental for the self-insured Dental Plan.

5. Each year, healthcare plan administrators and insurance carriers audit premiums and benefits paid, and increase premiums for subsequent years if benefits paid in the prior year exceeded premiums received.

Response: Partially Agree with clarification. Premium increases are based on projected claim costs for the upcoming period. This calculation involves using current claims data and projecting it forward based on trend and demographics to arrive at an expected claims cost. Then administration and special riders, profit and margin are added to that cost to arrive at the appropriate rate.

6. County healthcare plan participation is available to “eligible dependents.” Eligible dependents are defined as legal spouses, qualified domestic partners, unmarried children under the age of 19 for whom the employee or retiree has legal responsibility, and children under the age of 25 that, according to IRS regulations, are more than 50% dependent on the employee or retiree, and who are anticipated to be claimed as dependent children on the employee’s or retiree’s income tax return. Eligible dependents between the ages of 19-25 need not be full-time students to be eligible to participate in the healthcare plans. Disabled children over the age of 19 are also eligible to participate provided their disability occurred prior to their reaching the age of 19, and that they also are dependents as defined by IRS regulations.

Response: Agree with clarification. The County’s requirement is that the dependent is an IRS Qualifying dependent. IRS regulations (IRS Publication 501) require (with some exceptions) student status for dependents over age 19.

7. The HR department is responsible for the administration of healthcare plan eligibility policies, the maintenance of eligibility records, and the monthly reporting of eligibility information to healthcare plan administrators and insurance carriers.

Response: Agree.

8. The HR department relies on employees and retirees to enroll dependents. This is accomplished through the use of either an “Open Enrollment Change Form” or “Health And Dental Plan Enrollment Form.” The latter specifies that, outside of annual open enrollment periods, employees and retirees are responsible for timely notification regarding the addition of eligible dependents; i.e., within 60 days of a qualifying event such as marriage or childbirth.

Response: Agree.

9. The “Open Enrollment Change Form” and “Health And Dental Plan Enrollment Form” also serve as the method by which employees and retirees are expected to report that dependents are no longer eligible. However, neither form obligates employees and retirees to report dependent deletions within any specified period.

Response: Agree. However, the forms do reference the COBRA requirements including elections within 60 days of the qualifying event (such as losing dependent eligibility).

- 10. Neither the “Open Enrollment Change Form” or the “Health And Dental Plan Enrollment Form” require employees or retirees to attest, by means of a signature, and under penalty of perjury, to the accuracy of the enrollment or deletion information they provide to the HR department.**

Response: Agree.

- 11. The HR department does not verify that dependents reported during the enrollment process meet eligibility requirements for participation in the County’s healthcare plans or that they remain eligible.**

Response: Agree with clarification. On a monthly basis, reports are generated based on dependent child birthdates, with follow up when the dependent is over 25. Staff also processes terminations and COBRA letters for affected dependents. Carriers verify dependent age and will not provide services if the dependent is over age. The carriers also require documentation of dependent status when claims are incurred.

- 12. The County’s “2007 Employee Benefits Information and Open Enrollment Guide” includes the following policy statement: “It is against County Policy for an employee to enroll ineligible persons as dependents; to do so may subject the employee to disciplinary action as well as the obligation to reimburse the plan for all costs associated with the delivery of medical or dental services to an ineligible person.”**

Response: Agree.

- 13. The HR department does not have a procedure to secure reimbursement from employees or retirees of all costs associated with the delivery of medical or dental services to an ineligible healthcare plan enrollee.**

Response: Agree with clarification. For the County’s fully-insured plans, the various insurance carriers are at risk when claims are paid erroneously or for ineligible participants. Additionally, the fully insured plans include ‘Right of Recovery’ and ‘Insurance Fraud’ language.

- 14. The HR department does not require all of its healthcare plan administrators and insurance carriers to verify by means of quality assurance “self-audits” or external audits that all the County’s healthcare plan contract provisions are being met; i.e., eligibility determination, plan coverage limits, customer service expectations, etc.**

Response: Partially agree. The County does have Performance Guarantee Agreements with Kaiser Permanente, Health Net and the Delta Dental insured PMI plan. The performance guarantees measure member services, member satisfaction, account

management, quality of care, accreditation, physician turnover and re-credentialing and reporting. The Contra Costa Health Plan (a County Department) complies with and reports on results for performance standards in accordance with State and Federal requirements; however, this information is not specific to County employees and retirees.

- 15. The healthcare eligibility benefits administration computer system, installed in 1989, does not allow for automated, self-service inquires and information updates by eligible employees, retirees, and dependents. The system's limited flexibility also does not allow the HR department to easily generate the ad hoc reports necessary to help analyze eligibility data.**

Response: Agree.

- 16. The HR department hopes to replace its aging healthcare benefits administration system. Qualified data processing system vendors will be given the opportunity to submit proposals for a new system to meet the County's requirements.**

Response: Agree with clarification. It is our intent to upgrade the current PeopleSoft Human Resources System to include the Benefits Administration module. It would not be a new system, but the inclusion of functions currently available through PeopleSoft/Oracle.

RECOMMENDATIONS

The 2006-2007 Grand Jury recommends the County Board of Supervisors and County Administrator take the following steps to ensure more accurate administration of employee, retiree, and dependent eligibility related to the County's healthcare benefit plans:

- 1. To verify the legal status of all reported dependents at the time of enrollment, require that employees and retirees provide appropriate documentation in the form of original or certified copies of marriage licenses, domestic partner certification, birth certificates, adoption court orders, and court custody orders.**

Response: Will be implemented in 2007 upon promulgation of the County's policy and accompanying procedures that includes acceptable documentation. The policy and procedures are in development.

- 2. At the time of enrollment, require employees and retirees in any of the County's healthcare benefit plans to attest to the accuracy of the information they are providing by means of a signature, under penalty of perjury, on the enrollment form.**

Response: Will be implemented in 2007 upon promulgation of the County's policy and accompanying procedures that includes acceptable documentation. The policy and procedures are in development.

- 3. Require that employees and retirees report dependent deletions in a timely manner, but in no case later than 60 days following a change in their IRS dependent status; i.e., the employee or retiree is no longer responsible for more than 50% of the enrolled dependent's support.**

Response: Has been implemented as this is the County's current policy.

- 4. Within one year of this report, the HR department should verify the eligibility of all dependents currently enrolled in the County's healthcare plans requiring the same documentation as detailed in recommendations 1 through 3, above.**

Response: Requires further analysis. We are in the process of preparing a 'Request for Proposal' for the marketing of this audit project. If approved we are planning to accomplish this audit in 2007. The Board of Supervisors' consideration of this recommendation will take into account audit costs, budgetary constraints, expected savings and other factors.

- 5. Thereafter, the HR department should verify the status of dependents already enrolled, annually, requiring the same documentation as detailed in recommendations 1 through 3, above for whom appropriate documentation was not previously secured and/or copies of which are not on file.**

Response: Requires further analysis. The audit in 2007 (if approved) will verify all current eligibility. New procedures and processes will ensure that required documents are on file for future enrolled dependents. We need to determine and consider the cost benefit of performing this audit annually.

- 6. Consistent with the County's policy, establish and implement a procedure for securing reimbursement from employees and retirees for all costs associated with the delivery of medical or dental services provided to an ineligible enrollee in the County's healthcare plans.**

Response: Will not be implemented for County's self-insured dental plan; others already implemented. For the self-insured Delta Dental Premiere plan, the Board of Supervisors will consider the augmentation of existing policies regarding the recovery of costs paid in error (similar to the current policies on pay warrant errors and workers' compensation) and direct the Office of Revenue Collection to act on such recoveries as deemed appropriate by the Human Resources Department. Health Net, Kaiser Permanente, Contra Costa Health Plan and Delta Dental PMI are on a fully insured basis; the contracts include a "Right of Recovery" provision which allows the carriers to recover costs paid in error. Additionally, carrier contracts include provisions regarding Health Care Plan Fraud in accordance with governing insurance fraud statutes.

7. **Within one year of this report, complete the data processing system vendor screening process in preparation for the purchase and installation of a healthcare eligibility administration system to replace the County's aging, inflexible system.**

Response: Will be implemented. Vendor screening (currently in process) is one step in the process and will be completed in 2007. Installation of a healthcare eligibility administration system is a multi-department process at an estimated implementation cost in excess of \$1,000,000 for licenses, 1st year maintenance and implementation consulting services

8. **Require all health plan administrators and insurance carriers to complete annual administration quality assurance self-audits and/or external audits, at their own expense, with reports to the Human Resources department to ensure that all the County's contractual obligations are being met; e.g., eligibility verification, plan coverage limits, customer service, and performance levels.**

Response: Has been implemented in part; further analysis is also required. Performance guarantee provisions are in place with Kaiser Permanente, Health Net and Delta Dental PMI. The recommendation requires further analysis as it relates to Contra Costa Health Plan (a County Department). Human Resources will work with the Contra Costa Health Plan to develop reporting appropriate to the County's employee and retiree group for inclusion in the 2008 administrative contracts.

CONTRA COSTA COUNTY GRAND JURY REPORT 0704

**COUNTY CRIME LAB—HIGH QUALITY TEST RESULTS,
CHRONICALLY DELAYED**

Severe Understaffing Compromises County Lab’s Criminalistics Section Performance

One or more Grand Jurors recused themselves due to a possible conflict of interest and did not participate in the preparation or approval of this report.

*Response from Contra Costa County Board of Supervisors (BOS)
Response from Office of the Sheriff, Contra Costa County (OS)*

FINDINGS

- 1. The Contra Costa County Forensics and Crime Laboratory is a division of the Office of the Sheriff.**

BOS Response: Agree.

OS Response: Agree.

- 2. The Lab has a total staff of 72, a combination of scientific, technical, support, and administrative personnel. The Lab staff is assigned to four functional areas: Drug, Alcohol & Toxicology Section, Criminalistics Section, Central Identification Services (fingerprinting), and Property & Evidence Services.**

BOS Response: Agree.

OS Response: Agree.

- 3. The Lab maintains accreditation from the American Society of Crime Laboratory Directors, Laboratory Accreditation Board (ASCLD-LAB). The Lab is one of several county crime laboratories in the nation that has earned such recognition. ASCLD-LAB standards do not include a criterion for test turnaround timeliness.**

BOS Response: Agree.

OS Response: Agree.

- 4. The Lab provides forensic testing and consultation services (scientific analysis of crime scene physical evidence) to the Sheriff’s Office, as well as to local police agencies, the Solano County District Attorney, Vallejo, and recently Oakland, on a**

contracted, fee-for-service basis. Oakland’s services are limited to selected fingerprint testing.

BOS Response: Agree.

OS Response: Agree.

5. The Lab is one of only four county crime labs in the state of California that charge contracting agencies fees for their services; Alameda, Santa Clara, and Sacramento are the other three.

BOS Response: Agree.

OS Response: Agree

6. Based on fiscal year 2005-2006 data, forensic testing and consultation fees charged by the Lab to contracting police agencies generated \$1.8 million. That represented approximately 25% of the Lab’s \$7.2 million total cost of providing the services. The percentage of the service cost covered by fees charged to police agencies ranges from a low of 19% for selected Criminalistic Section tests to a high of 76% for selected tests completed by the Drug, Alcohol & Toxicology Section. Following are program cost and client fee recovery percentage details:

Program Cost and Percent of Cost Recovery From Client Fees
Fiscal Year 2005-2006

| <u>Program</u> | <u>Total Cost</u> | <u>Percent of Cost Recovery</u> |
|-----------------------|--------------------------|--|
| Criminalistics | \$2.79 million | 19% |
| Latents | \$320,000* | 37% |
| Livescan | \$120,000* | 47%** |
| Identification | \$533,000* | 15%*** |
| CAL-ID | \$1.45 million | 47% |
| Alcohol | \$607,000 | 76% |
| Drugs | \$900,000 | 67% |
| Toxicology | \$523,000 | 54% |

*Lab estimates

**Non-police clients; e.g., job applicants

***Custody Alternative Program “client” and Martinez Detention Center detainee fingerprint screening

Program Descriptions

Criminalistics--Firearms, DNA, Trace Evidence, Crime Scene Investigation
Latents—Fingerprint evidence from crime scenes

Livescan—Electronic fingerprinting of job, license, and permit applications
Identification—Identification of subjects booked at the Martinez Detention Center by the Office of the Sheriff
CAL-ID—Identification of subjects booked at the Martinez Detention Center by local police departments; Crime scene fingerprint evidence from local police departments
Alcohol—Blood and breath alcohol analysis
Drugs—Solid dosage (sample) drug analysis
Toxicology—Ante mortem (before death) and postmortem (after death) drug and body fluid analysis

NOTE: The Lab generated additional revenue from other sources, such as fines, asset seizures and state-mandated fees. Together, revenues from other sources (\$2.3 million), and fees charged to local police agencies (\$1.8 million), offset approximately 57% (\$4.1 million) of the Lab’s \$7.2 million cost of providing forensic services.

BOS Response: Agree.

OS Response: Agree.

- 7. The Lab’s published mission statement reads: “Provide a high level of *timely* (emphasis added), thorough, accurate, and objective evidence analysis, consultation, and crime scene processing services.”**

BOS Response: Agree.

OS Response: Agree.

- 8. The Lab’s Drug, Alcohol & Toxicology Section, located at Muir Road in Martinez, regularly reports testing turnaround times that do not vary widely from those of other crime labs around the state and across the country. This section’s reported turnaround times are accurate because they do not carry a significant backlog of test requests.**

BOS Response: Agree.

OS Response: Agree.

- 9. The Lab’s Criminalistics Section, located at Escobar Road in Martinez, also reports turnaround times that do not vary widely from those reported by other labs. However, in this case the information is inaccurate and misleading because this section consistently carries a significant backlog of test requests.**

BOS Response: Agree.

OS Response: Agree.

- 10. The Criminalistics Section reports the average length of time between receiving test requests and completion. The turnaround time calculations do not include any “backlogged” or “aging” test requests; i.e., cases where testing is either incomplete or has not yet begun.**

BOS Response: Agree.

OS Response: Agree.

- 11. Contracting police agencies routinely follow a procedure encouraged by the Criminalistics Section management to expedite cases of special interest. They call management directly to request special consideration of selected cases. Management responds as often as it can by directing criminalists to set aside other test requests in the work queue to complete the special requests.**

BOS Response: Agree.

OS Response: Agree.

- 12. Local police agencies report a consistently high level of confidence in the quality of Lab test results. However, they also report long-standing dissatisfaction and frustration with testing turnaround times, especially those involving the Criminalistics Section. Local police agencies report they are using, or are considering using, alternative testing facilities such as the FBI or private labs on a selective basis.**

BOS Response: Agree.

OS Response: Agree.

- 13. The Criminalistic Section’s Biology, Firearms and Trace backlog data reflects test requests dating back more than three years. Further, the Criminalistics Section reports an estimated 2500-3000 firearms that have not even been catalogued, and are yet to be added to the formal backlog count.**

BOS Response: Agree.

OS Response: Agree.

- 14. The Lab’s Criminalistics Section is organized into four functional sub-units based on the types of services each provides; i.e., Biology (DNA, liquid blood, sexual assault, and miscellaneous biology screening), Firearms (identification and testing), Trace & Impressions (fabrics, paint, hair, and arson), and Crime Scene Investigation.**

BOS Response: Agree.

OS Response: Agree.

- 15. The Criminalistics Section staff includes 11 approved criminalist positions for all three sub-units, as well as two crime scene investigators. However, one of the approved criminalist positions currently is unfunded due to budgetary constraints. In 1980, the Lab had the same number of approved criminalists as it does today. At that time, criminalists had a broader range of testing responsibilities, including drug, alcohol and toxicology. In 1980, DNA testing procedures did not exist. Today, four of the 10 budgeted criminalists are assigned to DNA testing.**

BOS Response: Agree with clarification. In addition, the Lab has 10 forensic Toxicologist positions assigned to the Alcohol, Drug, and Toxicology disciplines, resulting in 21 total approved scientist-level positions.

OS Response: Agree. In addition, the Lab has ten Forensic Toxicologist positions assigned to the Alcohol, Drug, and Toxicology disciplines raising the total of approved scientist-level positions to 21.

- 16. By comparison the city of San Diego police department's crime lab has a complement of 26 criminalists, 13 of which are assigned to DNA testing. The city of San Diego's population is similar in size to Contra Costa County.**

BOS Response: Agree.

OS Response: Agree.

- 17. Since 1980, Contra Costa County's population has increased from approximately 656,000 to more than 1.1 million.**

BOS Response: Agree.

OS Response: Agree.

- 18. The Lab makes use of a 40-year old functional model that requires criminalists to divide their time between performing laboratory-based scientific tests and conducting crime scene investigations. Statistics for 2005 show that 36% of total criminalists' work hours were devoted to crime scene investigations.**

BOS Response: Agree.

OS Response: Agree.

- 19. The County requires scientifically trained criminalists to be sworn peace officers; i.e., County Deputy Sheriffs. Contra Costa is the last county in the state with the**

sworn officer requirement. The next to last, San Bernardino County, eliminated the requirement 20 years ago.

BOS Response: Agree.

OS Response: Agree.

20. The County received applications from only two qualified, experienced candidates for the vacant Deputy Sheriff-Criminalists positions during the 2005 recruitment effort, due in part to the sworn officer requirement.

BOS Response: Agree.

OS Response: Agree.

21. Few of the local police agencies the Lab's Criminalistics Section serves have their own dedicated Crime Scene Investigation ("CSI") units. Instead, they rely on the Criminalistics Section to provide such support, reportedly in some cases, coverage for simply unavailable, ill or vacationing investigators in some local police departments.

BOS Response: Agree.

OS Response: Agree.

22. By comparison to the Lab's newer and larger Muir Road facility, the available space for the Criminalistics Section's staff at the Escobar Road location is outdated and inadequate from a square footage standpoint to meet current staff, testing, and storage requirements, let alone future, needs if it were appropriately staffed.

BOS Response: Agree.

OS Response: Agree.

23. The County's Office of the District Attorney ("DA") points to a consistently high level of test quality and Lab staff professionalism. The DA is unaware of any instances when his office was not able to expedite Lab testing if necessary for a felony case that finally went to trial.

BOS Response: Agree, with confirmation from the District Attorney.

OS Response: Agree.

RECOMMENDATIONS

- 1. The Sheriff should seek approval to increase the number of authorized and budgeted criminalists in the Lab from the current 1980 level of 11, to between 20 and 24, to be assigned as required in the Criminalistic Section's Biology, Firearms, and Trace & Impression sub-units.**

***BOS Response:** Has not been implemented, but will be implemented in the future once funding is available. County funding is not available for the expansion of criminalist staffing in the upcoming Fiscal Year 07/08.*

The Sheriff's Office is actively pursuing federal and state grants to augment existing staff pending availability of county funding.

***OS Response:** The recommendation has not been implemented, but will be implemented in the future. The timeframe to implement this recommendation can not be accurately determined given the current budget constraints.*

The Sheriff's Office is supportive of the recommended increase in the number of authorized and budgeted criminalists. However, county funding is required to meet this recommendation. The Sheriff's Office is actively pursuing federal and state grants to augment existing staff until county funding becomes available. County funding is not available for the expansion of criminalist staffing in the upcoming fiscal year 07/08.

- 2. The Sheriff should expedite the anticipated elimination of the requirement that new criminalists must also be sworn peace officers.**

***BOS Response:** Has been implemented. A new civilian criminalist job classification of "Criminalist-Non Sworn" is being processed in the Human Resources Department. It should be brought before the Board of Supervisors for its consideration in July, 2007.*

***OS Response:** The recommendation has been implemented.*

The Sheriff's Office has created a civilian criminalist job classification that is pending Human Resources approval.

- 3. The Sheriff should eliminate the requirement that staff criminalists divide their time between scientific, laboratory-based testing and crime scene investigation.**

***BOS Response:** Has not been implemented, but will be implemented in the future. The timeframe to implement this recommendation cannot be accurately determined given the current budget constraints.*

The new civilian job classification of Crime Scene Investigator was created to relieve Deputy Sheriff-Criminalists from the majority of routine crime scene response and processing. There are currently two authorized Crime Scene Investigator positions, one

of which must be held vacant due to Fiscal Year 07/08 budget constraints. There are no County funds available to increase Crime Scene Investigator staffing in Fiscal Year 07/08.

The Sheriff's Office is also moving forward to train individuals in the Fingerprint Technician job classification to assist at crime scenes, thus reducing the number of Deputy Sheriff-Criminalists needed for call out responses.

OS Response: *The recommendation has not been implemented, but will be implemented in the future. The timeframe to implement this recommendation can not be accurately determined given the current budget constraints.*

The Sheriff's Office has created a Crime Scene Investigator job classification with the intent of transferring the majority of the routine crime scene response and processing burden from the criminalists. County funding needs to be available to expand the number of budgeted Crime Scene Investigator positions. The current authorized number of Crime Scene Investigators is two, with one of the positions possibly being held vacant to meet the proposed budget for fiscal year 07/08. County funding is not available for the expansion of Crime Scene Investigator staffing in the upcoming fiscal year 07/08.

The Sheriff's Office is also moving forward with training individuals in the Fingerprint Technician job classification to assist at crime scenes thus reducing the number of criminalists that need to respond to a call out.

- 4. The Sheriff should work with those contracting police agencies without their own CSI units to help them transition to their own units to support local investigators.**

BOS Response: *Has not been implemented but should be completed within the next four months.*

During the past two years, the Sheriff's Office has provided training for Evidence Technicians in selected local law enforcement agencies. Plans are underway to expand training for Evidence Technicians to assist local law enforcement agencies in developing or enhancing their own CSI capabilities.

OS Response: *This recommendation has not been implemented but will be implemented in the future. The implementation of the recommendation should be completed within the next four months.*

Within the past two years, the Sheriff's Office has provided training to some of the local law enforcement agencies to increase the abilities of their evidence technicians. The Sheriff's Office is developing plans to provide future training to evidence technicians from law enforcement agencies across the county in an effort to assist local agencies with the development or enhancement of their own CSI capabilities.

- 5. The Sheriff should secure adequate and up-to-date workspace to accommodate not only the Lab's existing Criminalistics Section staff but also the recommended increase in staff members.**

***BOS Response:** Has not been implemented but will be implemented in the future, once a funding source is secured. The timeframe to implement this recommendation cannot be accurately determined given the current budget constraints.*

The Sheriff's Office is actively looking for a larger facility to house the Criminalistics Section and, if space permits, to possibly consolidate Criminalistics and Central Identification Services in the same location. This planning effort will expedite the process of acquiring appropriate work space, once funding is available.

***OS Response:** This recommendation has not been implemented but will be implemented in the future. The timeframe to implement this recommendation can not be accurately determined given the current budget constraints.*

The Sheriff's Office is actively looking for a larger facility to house the Criminalistics Section and, if space permits, to possibly consolidate Criminalistics and Central Identification Services in the same location. However, a funding source to secure a larger facility has not been identified.

- 6. The Lab should expand its turnaround time reports to include all backlog data to more accurately and completely report "aging" test requests.**

***BOS Response:** Has been implemented. A report is now available that lists backlogged cases and their corresponding dates of request.*

***OS Response:** This recommendation has been implemented.*

A report is available that can list the cases that are in the backlog and their corresponding date of request.

- 7. Once the Lab improves its overall test turnaround time performance levels, it should take the opportunity to increase its fees so that local police agency contract income, when combined with other sources of revenue, more closely approximates the cost of providing all forensic services.**

***BOS Response:** Has not been implemented but will be implemented in the future. A time frame for the implementation cannot be accurately determined, as the recommendation is predicated on staff increases for which funding has not yet been identified.*

Nonetheless, a financial analysis is underway in the Forensic Services Division to determine the appropriate level of fees to local police agencies. New fee revenue will be used to increase the timeliness of forensic services in all disciplines.

OS Response: *This recommendation has not been implemented but will be implemented in the future. A time frame for the implementation can not be accurately determined.*

The improvement in overall test turnaround times requires the increased level in staffing that can not be done without county funding. The current budget constraints prevent the hiring of additional staff and that prevents the Lab's ability to significantly improve its turnaround times to acceptable levels in the Biology Unit.

A financial analysis of the Forensic Services Division is underway to assist in determining the appropriate level of fees to local police agencies to provide timely forensic services in all disciplines.

CONTRA COSTA COUNTY GRAND JURY REPORT 0705

**THE COUNTY SHOULD DOUSE FIREFIGHTER
OVERTIME PAY**

*Response from Contra Costa County Board of Supervisors,
Contra Costa County Fire Protection District*

FINDINGS

1. **A crew of three – a captain, an engineer, and a firefighter – staff each of the District’s fire engines. Twenty-eight of the 30 crews for the District have at least one member who is a trained paramedic. There are three shifts, each made up of a complement of 93 fire fighting personnel (90 firefighters and 3 battalion chiefs) and five dispatchers. This staffing level is defined in the Memorandum of Understanding between the County and United Professional Firefighters of Contra Costa County, Local 1230.**

Response: Agree.

2. **A firefighter’s regular workweek averages 56 hours. The work schedule is made up of approximately ten 24-hour work shifts per month. Compensation includes base pay, overtime pay, vacation and holiday pay, uniform allowances, fire recall/standby incentives, and educational/training/ longevity incentives.**

Response: Agree.

3. **The District pays three of the 56 work hours as “scheduled” overtime at the rate of time-and-a-half, citing the Federal Fair Labor Standards Act as its authority for this practice. All non-management shift workers are also paid 12 hours of overtime for each of 13 holidays, whether they are working or not. All other overtime is classified as "unscheduled" overtime.**

Response: Agree.

4. **An average of 15% of each shift’s personnel are routinely absent due to vacations, sick leave, personal leave, training, or work-related injuries.**

Response: Agree.

5. **Relief staff (when available), or recalled staff, cover vacant positions and absences on an unscheduled overtime basis, at time-and-a-half. Relief staff members are permanent employees who are not assigned to a fire station. The Board of Supervisors, in negotiating with the union, has agreed to limit the number of relief staff members to 12 per shift, or a total of 36 firefighter positions. Currently, there**

are no relief staff members. As a result, overtime is used to cover both vacant positions and daily absences.

Response: Agree.

6. Approximately eighty-five percent of the District's General Fund Budget is dedicated to salaries and benefits. In 2006, unscheduled overtime pay totaled approximately \$9 million, which represented 34% of total regular base pay.

Response: Agree.

7. Unscheduled overtime costs of \$9 million in 2006 have increased by more than 70% since 1999. In 2006, more than 98% of firefighter personnel were paid for unscheduled overtime:

- 128 fire personnel received more than \$30,000 in unscheduled overtime
- 32 of the 128 fire personnel received more than \$50,000 in unscheduled overtime
- 11 of the 32 fire personnel received more than \$70,000 in unscheduled overtime
- 3 of the 11 fire personnel received more than \$100,000 in unscheduled overtime

One firefighter received over \$138,000 in unscheduled overtime pay, which resulted in total one-year compensation of over \$232,000.

Response: Agree.

8. Improvements to retirement benefits negotiated in 2002 led to a spike in the number of retirements in 2005 and 2006. The change in service credits from 2% to 3% per year at age 50 has increased the need for overtime because of the high number of vacancies created by retirements. This problem is made worse by the lack of adequate notice of impending retirements, typically less than 30 days. The District has no policy to encourage early notification of firefighters' intended retirements. As of February 2007, the District had 50 unfilled firefighter positions, of which 49 were attributed to retirements.

Response: Agree.

9. The District's policy is to manage overtime costs through the effective use of relief staff rather than overtime personnel. The cost savings resulting from this practice vary, depending on the positions to be filled, the number of vacancies, and the number of relief staff members. Annual savings range from \$13,000 to \$40,000 per year per position, depending upon the job classification (e.g., captain, engineer, and firefighter).

Response: Partially Agree. The District's policy is to manage operating costs through the most efficient combination of relief staffing and overtime. This is achieved through careful analysis of the District's absentee rate to determine the best operational and fiscal balance between overtime and additional staffing.

- 10. Unlike some other safety agencies, for example, the Los Angeles County Fire District and the California Highway Patrol, the District currently has no limit on the number of continuous hours a firefighter may work.**

Response: Agree.

- 11. Section 23 of the labor contract between the District and the International Association of Fire Fighters Local 1230 reads, "The District shall expend every effort to see to it that the work performed under the terms and conditions of this Memorandum of Understanding is performed with maximum degree of safety consistent with the requirement to conduct efficient operations."**

Response: Agree.

- 12. The Centers for Disease Control and Prevention and the Institute for Occupational Safety and Health have identified problems with shift work and excessive hours. Their studies have shown that fatigue is associated with decreased alertness, lowered cognitive functions, declining vigilance in physical task performance and increased injuries, and illness. Sleep loss can affect job performance. It can also make it easier to fall asleep at inappropriate times, endangering safety workers and those they serve.**

Response: Agree.

- 13. A District firefighter's normal shift is 24 continuous hours (8am to 8am). They work three 24-hour shifts within a nine-day work cycle. Many firefighters routinely work for 72 consecutive hours or more. In the past, the District has proposed a limit on continuous work hours but failed to successfully negotiate this with the union.**

Response: Agree.

- 14. A key element in the need for overtime is the large number of vacant firefighter positions. The latest hiring list of firefighter candidates was exhausted in 2005. Inadequate planning for staffing needs by the District, coupled with the requirements administered by the County's Human Resources department (e.g., a consent decree resulting from a past lawsuit against the County), have created long delays in establishing a new list of qualified candidates.**

Response: Partially Agree. Both an unanticipated high number of retirements as well as a lengthy time period to complete the process of establishing a firefighter hiring list contributed to delays in hiring new firefighters.

15. Hiring procedures have added to the vacancy crisis that results in the increased use of overtime. Past hiring cycles have taken up to a year-and-a-half before a single firefighter was hired. In the most recent cycle, the District did not ask the Human Resources department to begin the hiring process for new candidates until the current list no longer included any acceptable candidates. The District delayed its request despite the knowledge that the previous list had taken over a year to develop.

The current cycle began November 1, 2005, and proceeded as follows:

| | |
|-----------------|---|
| 11/05/05 | District asks Human Resources to begin process |
| 3/20/06 | Human Resources announces exam |
| 4/3/06 - 4/7/06 | Applications accepted by Human Resources |
| 5/6/06 | Written test administered |
| 7/06 | List of eligible candidates published |
| 7/9/06 | District requests certification of eligible candidates |
| 7/17/06 | District receives a list of 395 candidates from Human Resources |
| 8/11/06 | District mails candidate interview notices (Round 1) |
| 8/15/06 | Human Resources provides applications to the District |
| 8/28/06-9/12/06 | District conducts Round 1 interviews |

From September to November, an internal Merit Board complaint investigation concerning alleged bias in candidate screening filed by two candidates resulted in an additional delay. The allegations were later determined to have been unfounded.

| | |
|-----------------|--|
| 11/13/06 | District mails candidates interview notices (Round 2) |
| 11/13/06 | District mails regret notices to unsuccessful candidates |
| 12/4/06-12/8/06 | District conducts Round 2 interviews with 78 candidates |
| Jan / Feb 2007 | Background investigations conducted |

Response: Agree.

16. As of March 2007, 16 months following the November 2005 request to begin the hiring process, no new firefighters had been hired. Because of the length of the current hiring cycle, the District is incurring over \$60,000 per month in additional overtime costs, based on the number and mix of vacant openings.

Response: Partially Agree. Although the current hiring cycle has been longer than anticipated, the amount of money being spent on overtime is not an additional cost. Rather, funding budgeted for positions that are currently vacant is being used to cover the overtime in the short term. The total amount being spent for overtime will be reduced as new firefighters are added to the work force. The District has already hired a portion of the firefighters needed and anticipates filling all needed positions by the summer of 2008.

17. After completing the hiring process, candidates must pass psychological evaluations and physical examinations. Recruits must complete a 16-week District training program prior to assignment. Therefore, the current hiring cycle results in a minimum of 20 months before the first new firefighter reports to work.

Response: Agree.

18. The District trains all new hires at its academy. Classes do not begin until there is a minimum of 10 recruits with a maximum of 25. These limitations have caused training delays. Generally, the academy is limited to the District's recruits.

Response: Agree.

19. There are private companies with extensive experience in screening fire service candidates. Use of such a service could reduce staff time required by the in-house hiring process and provide the District with a list of qualified candidates. The San Ramon Valley Fire Protection District makes use of one such private company to pre-screen its firefighter candidates.

Response: Agree.

20. Of the more than 2000 firefighter applicants, over 1,400 candidates took the District's examination given on May 6, 2006.

Response: Agree.

RECOMMENDATIONS

1. Continue to use relief crews in covering for absent firefighters. Negotiate the removal of the 12 per shift limitation that applies to firefighter relief staffing, and leave the relief staffing level to the discretion of the District.

Response: Requires further analysis. The District believes that the authorized relief pool of 12 firefighters per shift meets the current staffing needs. An ongoing analysis of the absentee rate will continue in order to assess the need for adjustment in the relief staffing pool. This analysis will be completed by October 19, 2007. Ideally, staffing levels should be left to the discretion of management and not controlled by labor contract restrictions.

2. Negotiate a change to the Memorandum of Understanding that would limit continuous work to 72 hours and require that an employee must have at least 24 hours off after a 72-hour continuous segment. Exceptions may be made if emergency activities require extended duty.

Response: Requires further analysis. While the District has an interest in establishing a policy to limit continuous hours worked, there is insufficient data establishing a safe maximum threshold for hours worked. The District will continue to monitor available research in the area of worker fatigue. Meet and confer on this issue with labor groups will commence by October 19, 2007.

3. **Propose that personnel give 90 days notice prior to retirement. Develop a monetary incentive program to encourage early retirement notification.**

Response: Requires further analysis. This recommendation has merit if the intended outcome is simply to reduce overtime expenditures since the District would have more lead time to initiate hiring replacements. Whether or not a monetary incentive program would be worth the cost for a 90 day advance notice will require additional analysis. This analysis will be completed by October 19, 2007. Additionally, current contract restrictions capping the relief pool have an impact on the value of this recommendation.

4. **Whenever possible, require that training for current firefighters be conducted without incurring overtime.**

Response: Has been implemented. The District currently makes its best effort to conduct training without incurring overtime. Due to thinly stretched resources needed for emergency response throughout the District, the use of overtime to accomplish training needs is very often the most affordable method while still maintaining adequate emergency response capabilities.

5. **Institute a structured, periodic staffing plan to better anticipate the on-going staffing needs of the District.**

Response: Has been implemented. The District has established a two year hiring plan that will address current vacancies as well as anticipated attrition.

6. **Develop and maintain an active candidates list based on a plan which can be accomplished by one or more of the following options:**

- **The District, in conjunction with Human Resources, streamlines the hiring cycle to reduce its length.**
- **The District investigates alternatives, such as the District assuming responsibility for the entire hiring process.**
- **The District researches the possibility of outsourcing all or part of the hiring process to a private company.**

Response: Requires further analysis. The District agrees that an active candidate list is required in order to streamline the hiring process. The District, in conjunction with the

Human Resources Department, will be working to determine the best way to achieve this goal. This analysis will be completed by October 19, 2007.

7. Pursue the possibility of establishing an on-going, regional fire academy to accelerate basic training of candidates.

Response: *Requires further analysis. Recent vacancy rates exceed the number of recruits that can be trained at the District facility. However, once the District's own training needs are met, there will be an opportunity to combine recruits from other fire agencies to consolidate training needs. Issues such as differing standard operating procedures would need to be resolved in order to implement consolidated training. This analysis will be completed by October 19, 2007. Additionally, the Fire District and the Contra Costa Sheriff's Office are currently developing a proposal for the construction of a Regional Public Safety Training Campus that would facilitate consolidation of fire service training within the county.*

CONTRA COSTA COUNTY GRAND JURY REPORT 0706

**REPORT ON THE INSPECTION OF DETENTION FACILITIES IN
CONTRA COSTA COUNTY**

One or more Grand Jurors recused themselves due to a possible conflict of interest and did not participate in the preparation or approval of this report.

*Response from Contra Costa County Board of Supervisors, (BOS)
Office of the Sheriff, Contra Costa County (OS)*

FINDINGS

1. Facilities inspected by the Grand Jury included:

- a. **County Detention Facilities – Martinez, West County (Richmond), and Marsh Creek (Clayton).**
- b. **Superior Court Temporary Holding Facilities – Martinez, Pittsburg, Richmond, and Walnut Creek.**
- c. **Probation Department – Juvenile Hall (Martinez), Chris Adams Center (Martinez), and the Orin Allen Youth Rehabilitation Facility (The Byron Boy’s Ranch).**
- d. **City Jails – Antioch, El Cerrito, Hercules, Kensington, Lafayette, Martinez, Pinole, Pittsburg, Pleasant Hill, San Ramon, and Walnut Creek.**

BOS Response: Agree.

OS Response: Agree.

2. Grand Jury inspections of the above-mentioned facilities were conducted in accordance with California Corrections Standards Authority guidelines. California Corrections Standards Authority regulations are contained in Title 15 and Title 24, California Code of Regulations.

BOS Response: Agree.

OS Response: Agree.

3. County detention facility inspections (Martinez, West County, and Marsh Creek) included a review of common incident reports, grievance procedures, inmate requests for information, medical care practices, telephone and visiting procedures, and adherence to “72-hour requirement” for court hearings.

Performance in all areas was found to be satisfactory. Site visits also included selected interviews with detainees to identify any areas of concern. None were identified.

BOS Response: Agree.

OS Response: Agree.

4. A review was made of the Inmate Welfare Fund-Canteen Program for the County Detention Facilities. The administration of the fund and program are consistent with the goals and objectives set forth by the oversight board. The operation of the fund includes appropriate and effective management controls and practices.

BOS Response: Agree.

OS Response: Agree.

5. A review of the circumstances surrounding, and subsequent internal investigation of, two “Deaths in Custody” at the Martinez Detention Facility in 2006 led to the conclusion that procedures followed by the detention staff were consistent with CSA standards.

BOS Response: Agree.

OS Response: Agree.

6. The Office of the Sheriff (“Sheriff”) plans to remodel the women’s holding area within the intake section in the Martinez Detention Facility to improve security.

BOS Response: Agree.

OS Response: Agree.

7. Modifications are underway in the Martinez Detention Facility to secure all movable housing unit furniture to the floor or to adjacent stationary objects to reduce vandalism and to discourage its use as weapons. To date, four of six housing modules have been so modified.

BOS Response: Agree.

OS Response: Agree.

8. The West County Detention Facility has experienced plumbing problems in several detainee housing unit showers. These problems were reported to the County General Services Department more than six months ago and corrections have not been made.

BOS Response: Agree.

OS Response: Agree.

- 9. The West County Detention Facility's security cameras offer only fixed views. Staff members are unable to modify their fields of view to focus on selected areas or individuals of interest outside of the cameras' current fixed views.**

BOS Response: Agree.

OS Response: Agree.

- 10. The floor covering immediately adjacent to the jail cell area in the Richmond Superior Court Holding facility was found to be in need of replacement. Repair or refinishing does not appear to be a viable option.**

BOS Response: Agree.

OS Response: Agree

RECOMMENDATIONS

- 1. The Sheriff should implement the plan to remodel the women's holding area within the intake section of the Martinez Detention Facility.**

BOS Response: Has not yet been implemented, but will be implemented in the future. The Sheriff's Office has obtained preliminary drawings, with cost estimate of \$15,229. They anticipate moving forward on the project in August 2007, subject to funding availability.

OS Response: The recommendation has not yet been implemented, but will be implemented in the future. We have obtained preliminary drawings and a cost estimate of \$15,229.00. We anticipate moving forward in August 2007, provided funding is available within the budget as required.

- 2. The Sheriff should complete the project to secure all movable furniture to the floor or to adjacent stationary objects in the Martinez Detention Facility housing units to avoid vandalism and to discourage its use as weapons.**

BOS Response: Has been implemented.

OS Response: This Recommendation has been implemented. The project is funded. Furniture will be purchased in July and installed upon arrival.

- 3. The Sheriff should insist that the General Services Department promptly repair the shower plumbing problems in the affected West County Detention Facility housing units.**

***BOS Response:** Has been partially implemented; remainder will be implemented.. All showers are now currently operational. The Sheriff's Office and General Services Department have agreed to permanently station a plumber, electrician and carpenter at the West County Detention facility, effective August 1, 2007. The new crew will address the remaining cosmetic plumbing issues in the showers.*

***OS Response:** The Recommendation will be implemented. The Sheriff's Office and General Services Department personnel are working together to resolve this matter. All showers are currently operational.*

- 4. The Sheriff should replace the West County Detention Facility's current fixed-view security cameras with new units that will allow staff members to modify their fields of view as required.**

***BOS Response:** Requires further analysis. Camera replacement must include the addition of monitoring stations. The initial estimate for the monitoring system upgrade was \$50,000. The Sheriff's Office is in the process of requesting additional estimates. Following receipt of all cost estimates, a cost-benefit analysis will be considered, as well as the availability of funding.*

***OS Response:** The Recommendation requires further analysis. Camera replacement must include the addition of monitoring stations. The initial estimate for the monitoring system upgrade is \$50,000, and we are in the process of requesting additional estimates. Following receipt of all cost estimates, a cost versus benefit analysis will be considered, and a recommendation to proceed will be contingent on available funding.*

- 5. The Sheriff should follow-up with the General Services Department to accomplish the replacement of the floor covering immediately adjacent to the jail cells in the Richmond Superior Court Holding Facility.**

***BOS Response:** Has been implemented.*

***OS Response:** This has been implemented. The flooring was professionally cleaned and refinished and is scheduled to be replaced by General Services Department in July 2007.*

CONTRA COSTA COUNTY GRAND JURY REPORT 0707

THE WEST COUNTY FIRE PROTECTION MONTAGE

Is the Inter-Agency Emergency Response Model Meeting Expectations?

*Response from Contra Costa County Board of Supervisors (BOS),
Richmond City Council (RCC) and San Pablo City Council (SPCC)*

FINDINGS

Governance

1. **The five-member elected County Board of Supervisors is the governing body of the Contra Costa County Fire Protection District. San Pablo and nearby unincorporated areas, including much of El Sobrante, are within the jurisdiction of CCCFPD.**

BOS Response: Agree.

2. **The nine-member elected Richmond City Council is the governing body of the Richmond Fire Department.**

BOS Response: Required from the Richmond City Council.

RCC Response: Respondent agrees with the finding.

3. **The Kensington Fire Protection District is governed by a five-member elected board. By contract, the El Cerrito Fire Department provides emergency services to the Kensington district as well as to the City of El Cerrito; El Cerrito is governed by a five-member City Council. The five-member elected Pinole City Council is the governing body of the Pinole Fire Department. The five-member elected board of the Rodeo-Hercules Fire Protection District is the governing body of the Rodeo-Hercules Fire Department. The Crockett-Carquinez Fire District has a volunteer fire department.**

BOS Response: Required from the Kensington Fire Protection District Board of Directors, El Cerrito City Council, Pinole City Council, Rodeo-Hercules Fire Protection District Board of Directors and Crockett-Carquinez Fire District Board of Directors.

SPCC Response: The City of San Pablo agrees with the finding.

4. **By agreement with CCCFPD, the Pinole and El Cerrito Fire Departments provide fire protection and emergency medical response to their respective cities and to adjacent unincorporated areas.**

BOS Response: Agree.

Automatic Aid

- 5. All West County fire protection agencies, with the exception of Richmond from 2002 to 2006, automatically respond to fire or medical emergency calls without regard for geographic or jurisdictional boundaries. By long-standing agreement among these agencies, the closest engines respond to calls. This system is referred to as “automatic aid.” Automatic aid is distinguished from “mutual aid,” which requires the agency where the call originated to evaluate the situation, and then call for help from adjoining departments, a process that takes additional time. Some of the West County automatic aid agreements are not in writing.**

BOS Response: Agree.

RCC Response: Respondent agrees with the finding.

- 6. In all West County departments, an engine company is made up of a captain, an engineer, and a firefighter.**

BOS Response: Agree.

RCC Response: Respondent agrees with the finding.

Medical

- 7. Excluding non-emergency calls, approximately 90% of calls to West County departments are for medical emergencies rather than fires.**

BOS Response: Agree.

RCC Response: Respondent agrees with the finding.

- 8. One member of each Richmond fire engine company is also an emergency medical technician (“EMT”). EMTs have completed a minimum of 120 hours of classroom and clinical training, and hold an EMT license. The County’s ambulance franchisee, American Medical Response, responds to Richmond calls with its paramedics, but fire engines usually arrive first.**

BOS Response: Agree with regard to American Medical Response responding to Richmond calls. Response for the remainder of the finding required from the Richmond City Council.

RCC Response: Respondent partially disagrees with the finding. Members of the Richmond Fire Department are Emergency Medical Technicians (EMT’s). As certified EMT’s, Richmond Fire personnel complete a minimum of 120 hours of classroom and

clinical training. The County's ambulance franchisee, American Medical Response, sends a paramedic unit to each medical call in Richmond; however, our fire companies usually arrive first.

- 9. Other than Richmond, all other West County engine companies include a paramedic. Unlike EMTs, paramedics have completed a minimum of 1,100 hours of classroom and clinical training, involving supervised experience in an ambulance, and are trained in advanced life support protocols, including cardiac, and drug administration.**

BOS Response: Agree.

RCC Response: Respondent partially disagrees with the finding. Richmond Fire and Crockett Fire provide BLS. All other West County fire departments provide ALS.

- 10. The County Emergency Medical Services agency ("EMS") provides a \$30,000 annual subsidy for each engine company with a paramedic. For the past two years, the EMS has been holding Richmond's subsidy. These funds, which now total approximately \$360,000, could be used by Richmond to help with the start-up costs for providing paramedic services.**

BOS Response: Agree.

RCC Response: Respondent agrees with the finding.

- 11. When other departments respond to calls in Richmond, they arrive with paramedics, but when Richmond responds to calls in neighboring areas, they do so without paramedics.**

BOS Response: Agree.

RCC Response: Respondent agrees with the finding.

First Response

- 12. Typically, the first response to a structure fire call includes three engines—two pumpers with hand tools and medical supplies, a truck with ladder and heavy tools, and a battalion chief. Because of their modest size, all West County fire departments are dependent on each other for assistance with structure fires and other large blazes.**

BOS Response: Agree.

RCC Response: Respondent agrees with the finding.

- 13. Richmond personnel and equipment respond to fire and emergency calls in CCCFPD's jurisdiction twice as often as CCCFPD responds into Richmond.**

BOS Response: Agree.

RCC Response: Respondent disagrees with the finding. For the last year, July 11, 2006-July 11, 2007, when comparing auto aid responses – Richmond Fire into County jurisdiction and CCCFPD into Richmond – Richmond Fire responds into Contra Costa County areas at a ratio of 1.73 to 1.

- 14. Richmond and CCCFPD respond to alarms differently. If the request for aid comes from a fire alarm instead of from an individual's call, CCCFPD sends only one engine company. This policy results from the number of false alarms. All other West County departments, including Richmond, send three engines and a truck to all structural fire calls or alarms.**

BOS Response: Partially agree. Richmond and El Cerrito Fire dispatches three engines and a truck to fire alarms. The other agencies dispatch a single engine to a residential fire alarm sounding and two engines to a commercial structure fire alarm.

RCC Response: Respondent disagrees with the finding. Richmond Fire and El Cerrito Fire respond to electronic fire alarms using 3 engines, 1 truck and 1 Battalion Chief. The CCCFPD responds to these alarms with two engines.

Communications

- 15. The CCCFPD, Pinole, and Rodeo-Hercules fire departments use a very high frequency ("VHF") radio communications system. Richmond, El Cerrito, and Kensington use an 800-megahertz system ("800 MHz"). All West County engines can communicate on either system; firefighters use the system on which the call originated.**

BOS Response: Agree.

RCC Response: Respondent agrees with the finding.

- 16. Each communication system, VHF and 800 MHz, has its respective technical advantages and disadvantages, with neither being markedly superior to the other. Having more than one system is not necessarily a shortcoming since redundancy could be vital if one system suffers an outage.**

BOS Response: Agree.

RCC Response: Respondent agrees with the finding.

17. All engine companies in the County, and most throughout the state, can communicate with each other using the VHF system. Most mutual aid situations are handled using VHF.

BOS Response: Agree.

RCC Response: Respondent agrees with the finding.

18. An East Bay taskforce has been studying “inter-operability;” i.e., police and fire communications in Contra Costa and Alameda counties. Resulting recommendations and associated equipment upgrades will be partially funded using federal Homeland Security funds. A draft Joint Powers Agreement should be ready to distribute to all agencies as early as April 2007. Full inter-operability is expected within five years should be ready to distribute.

BOS Response: Agree.

RCC Response: Respondent partially disagrees with the finding. If all goes according to plan and the various jurisdictions continue to pursue an interoperable communication system, it may be completed within 3-5 years.

Dispatching

19. The Richmond police and fire communications staff dispatches Richmond, El Cerrito and Kensington fire personnel. Richmond also dispatches many law enforcement agencies operating in West County. CCCFPD dispatches fire companies only, including Pinole, Rodeo-Hercules, and Crockett.

BOS Response: Agree.

RCC Response: Respondent agrees with the finding.

20. When Richmond dispatchers are busy with police calls, there can be a delay in dispatching fire engines. A delay of even a few minutes can lead to the loss of life and/or property, since within six or seven minutes, the interior temperature can rise until the entire space is engulfed in flames.

BOS Response: Required from the Richmond City Council.

RCC Response: Respondent agrees with the finding.

Automatic Vehicle Locator

21. The location of each West County fire engine is tracked by satellite using a system called Automatic Vehicle Locator (“AVL”). The AVL system is subsidized by voter-approved Measure H funds (a \$10 per parcel property tax). Funds are administered

by the County Emergency Medical Services agency. When a call for aid is received by CCCFPD, the engines expected to arrive in the shortest time based on their AVL location are dispatched. However, since Richmond dispatchers do not use AVL, firefighters assigned to the nearest station are dispatched, regardless of engine location. This has occasionally resulted in some delays.

BOS Response: Agree.

RCC Response: Respondent agrees with the finding.

Financial Support

- 22. Each West County fire department is dependent on its governing body for funding, and therefore funding varies among the agencies.**

BOS Response: Agree.

RCC Response: Respondent agrees with the finding.

SPCC Response: The City of San Pablo agrees with the finding.

- 23. Historically, the San Pablo Fire District included the incorporated city of San Pablo and some adjoining unincorporated areas. In 1975, the San Pablo Fire District was annexed with the El Sobrante Fire District into the West County Fire District. This consolidated district was dissolved in 1994 and became part of the CCCFPD. As a result of the post-Proposition 13 tax allocations, the area formerly covered by the San Pablo District contributes only about one-third of its costs of operation, equipment, and capital needs.**

BOS Response: Agree.

SPCC Response: San Pablo agrees with the history but has no information as to operational expenses or revenues sources.

- 24. San Pablo's Redevelopment Agency encourages real estate development. Yet, while fire agencies are charged with protecting new developments, the tax increases generated by the developments go to the Redevelopment Agency. Some of the new tax increases are passed through to CCCFPD by negotiation or by statute, but they are insufficient to support the city's needs related to fire and medical emergency protection.**

BOS Response: Agree.

SPCC Response dated August 23, 2007: The Agency has an agreement with the County that recognizes the needs of San Pablo for new, safe development to offset the current blighted state of the community. This is standard practice throughout the State of

California, and these revenues are being used wisely to assist the community with the lowest per capita income in the Bay Area.

SPCC Response dated October 1, 2007: *The City of San Pablo agrees with the finding, but wishes to clarify that there have been no “tax increases” in the normal sense of the word; rather, redevelopment activities within the City result in increased property tax revenue based on higher assessed valuations by the County Assessor’s office. Further, the City agreed to supplement the redevelopment monies provided to CCCFPD by “negotiation or statute” by an additional \$180,000 for fiscal year 2006-2007.*

- 25. The CCCFPD’s single engine company located in San Pablo is the busiest in the County, and one of the busiest in California. It has three firefighters on duty at any given time, who respond to a population in excess of 35,000 people. Three firefighters are not sufficient to fight a structure fire, so in every case, the occupants, contents, and structure are at risk until firefighting crews and equipment arrive from other departments in West County.**

BOS Response: *Agree.*

SPCC Response dated August 23, 2007: *The County Board of Supervisors sets the budget that delivers the service level for fire protection throughout all of the CCCFPD. Only the Board can address this question.*

SPCC Response dated October 1, 2007: *The City of San Pablo partially disagrees. The portion of the finding disagreed with concludes that three firefighters are not sufficient to fight a structure fire, placing occupants, contents and structure at risk “in every case.” Structure fires presumably vary by size, type of construction materials, contents of the building, and whether they contain fire sprinkler systems. The City disagrees that the San Pablo engine company as presently constituted is insufficient in every case to fight a structure fire.*

- 26. In West County, El Cerrito and Kensington maintain a ratio of one firefighter for every 3,400 in population. Richmond’s ratio is about one for 5,300. Pinole and Rodeo-Hercules maintain one for every 6,000 people. The San Pablo station would require two more engine companies to match Richmond’s ratio. Meanwhile, it falls to the agencies adjoining the San Pablo area to answer calls on a regular basis in San Pablo and environs.**

BOS Response: *Agree. In addition, the presence of Casino San Pablo has increased the number of calls. In 2004, CCCFPD responded to 28 emergency calls at the Casino. As the Casino expanded, the number of required responses increased, with 101 responses in 2006.*

RCC Response: *Respondent partially disagrees with the finding. Richmond’s ratio is about one for 3875*

SPCC Response dated August 23, 2007: San Pablo is part of the CCCFPD which is governed by the County Board of Supervisors who establishes funding and service levels. San Pablo is paying up to \$180,000 per year to the CCCFPD to cover expenses owed to Richmond for out-of-area service calls. Additionally, perhaps the composition of the area to be protected dictates the number of firefighters. As an example, Richmond and Rodeo must be prepared to respond to refinery fires..

SPCC Response dated October 1, 2007: The City of San Pablo agrees with the finding.

- 27. The CCCFPD engine company in San Pablo is housed in temporary structures. It is inadequate to house an additional truck or engine, and another engine company.**

BOS Response: Agree.

SPCC Response: We accept the Grand Jury's finding.

- 28. Richmond terminated its automatic aid agreement with CCCFPD, effective August 1, 2002. The initial reasons given by Richmond were that the assumption of control of two El Sobrante stations by CCCFPD, and CCCFPD's refusal to utilize Richmond's 800 MHz radio, were somehow "unsafe." Later, Richmond claimed it was financially subsidizing CCCFPD, by virtue of its need to respond to an excess number of calls in and around San Pablo, along with dispatching greater numbers of personnel and equipment to the emergency scene. Automatic aid was resumed in July 2006 based upon a written one-year agreement. The agreement requires the agency responding more often to the other agency's calls to reimburse that agency based on an hourly formula that includes the number of firefighters dispatched.**

BOS Response: Agree.

RCC Response: Respondent disagrees with the finding. Richmond Fire discontinued automatic aid with the county for a number of reasons. The biggest challenge was that the Contra Costa County Fire Protection District was not interested in working collaboratively with us to resolve response issues. There was also no interest in training, common dispatching, working the same shift schedule, or compensation to the city of Richmond for services provided. The Richmond Fire Department was expected to provide fire service into North Richmond, San Pablo, East Richmond Heights and El Sobrante at no cost to the County (See #26).

- 29. In 2007, San Pablo agreed to reimburse CCCFPD up to \$180,000 annually for fire and medical emergency service costs incurred within the city, because of the formula in CCCFPD's written agreement with Richmond. CCCFPD has agreed to augment this sum with up to \$70,000 annually, such funds available for reimbursement to Richmond.**

BOS Response: Agree.

RCC Response: Respondent agrees with the finding.

SPCC Response dated August 23, 2007: San Pablo assumes that the CCCFPD amount to reimburse Richmond for calls into the unincorporated areas to which Richmond responds.

SPCC Response dated October 1, 2007: The City of San Pablo agrees with the finding.

- 30. Consolidation of all West County fire departments has been studied a number of times, but never adopted. Currently there is not sufficient political support for a total consolidation. Most of the perceived benefits of consolidation can be accomplished by agreements among the West County departments, as has been done so successfully for the coverage of geographic areas.**

BOS Response: Agree.

RCC Response: Respondent agrees with the finding.

SPCC Response dated August 23, 2007: San Pablo has no jurisdiction in this area.

SPCC Response dated October 1, 2007: The City of San Pablo agrees with the finding. The City has not studied fire consolidation and has no information regarding this subject.

RECOMMENDATIONS

The 2006-2007 Contra Costa County Grand Jury recommends:

- 1. That agreements to respond across agency boundaries be put into writing.**

BOS Response: Has not yet been implemented, but will be implemented by November 22, 2007.

RCC Response: The recommendation has been implemented.

A draft of the automatic aid agreement between the City of Richmond and the Contra Costa County Fire Protection District was presented to the Richmond City Council at the July 17, 2007 meeting. There are still some changes that must occur in this agreement before it is brought back to the City Council in its final form.

- 2. That Richmond implement a plan within six months of this report to hire paramedic firefighters, and/or provide paramedic training for some of its firefighters, with the goal of staffing each of its engine companies with a paramedic.**

BOS Response: Required from the Richmond City Council.

RCC Response: *The recommendation has not yet been implemented.*

The Richmond Fire Department has been working with Pam Dodson from the Contra Costa Emergency Medical Services office to determine the appropriate course of action for implementation of a paramedic program. The first step is to upgrade our current E.M.T. program to enhanced E.M.T. status. This will take approximately three months to accomplish. In approximately six months a paramedic pilot program involving one engine company can be implemented. The goal is to gradually have at least one licensed paramedic on all engine companies. Other considerations are negotiations with the Firefighters bargaining unit over a change in working conditions and to greatly improve diversity within the paramedic applicant pool so that more African-Americans, Latinos, Asians and Women are included.

- 3. That Richmond and CCCFPD participate in the inter-operability studies currently under way, or any that may be undertaken, with the goal of improving inter-agency communications for use in the event of a large-scale public emergency.**

BOS Response: *Has been implemented. Contra Costa County Fire District is an original member of the task force working to develop a regional communications system and the County Board of Supervisors has already signed a letter of intent to participate in the project.*

RCC Response: *The recommendation has been implemented.*

The Richmond Fire Department, Police Department and Public Works Department with approval from the City Manager and the City Council have become members of the East Bay Regional Communications System (EBRCS) Joint Powers Authority (JPA). This J. P.A. was formed in order to create an 800MHz radio system that will dispatch and link Fire, Police and Public Works entities throughout Contra Costa and Alameda Counties. Anticipated completion date of the system is approximately 2 years.

- 4. That Richmond and Contra Costa County budget the funds necessary to implement the recommendations resulting from the inter-operability studies done pursuant to Recommendation #3 or otherwise.**

BOS Response: *Has not yet been implemented, but will be implemented at the appropriate time when the system costs are identified for each agency.*

RCC Response: *The recommendation has been implemented.*

The City of Richmond has signed a letter of intent and a joint powers agreement to become a member of the East Bay Regional Communicators System. Funds for this purpose are in the current budget.

- 5. That Richmond complete its study of the AVL system, and join the AVL system within six months of this report.**

BOS Response: Required from the Richmond City Council.

RCC Response: The recommendation has not yet been implemented.

The Automatic Vehicle Locator (AVL) system would have to be an added component to the New World Computer Aided Dispatch System utilized in the Richmond Police/Fire Dispatch Center. The estimated cost of this system is \$45,000. Additional funding would be required before acquisition and implementation occurred. The Richmond Fire Department has already been programmed into Contra Costa County Fire's AVL system and has been an active user for over a year.

- 6. That Contra Costa County and Richmond, within six months of this report, enter into a long-term agreement that will fairly compensate for the net difference in cost of emergency responses across Richmond's city limit lines.**

BOS Response: Has not yet been implemented, but will be implemented as soon as possible. A temporary agreement is currently in effect between Contra Costa County Fire District and Richmond Fire.

RCC Response: The recommendation has not yet been implemented.

The Richmond Fire Department on behalf of the City of Richmond is working with the Contra Costa County Fire Protection District to finalize a permanent automatic aid agreement in the next six months. The current preliminary automatic aid agreement has a formula for payment that will reimburse the appropriate fire agency for the net difference in calls.

- 7. That Contra Costa County and San Pablo, within six months of this report, enter into an agreement that will provide that San Pablo pay the approximate net difference in costs of automatic aid responses into the city by other agencies.**

BOS Response: Requires further analysis. The mutual/automatic aid system is designed to provide assistance to other agencies without compensation. The system has worked successfully for decades, and has leveraged the resources of fire districts to the benefit of all. The current one year agreement with the City of Richmond is an anomaly. If a contractual relationship is necessary to assure automatic aid response upon expiration of the contract with the City of Richmond, then the Fire District will conduct an analysis to identify available options

SPCC Response dated August 23, 2007: That Contra Costa County and San Pablo, within six months of this report, enter into an agreement that will provide that San Pablo pay the approximate net difference in costs of automatic aid responses into the city by other Agencies.

SPCC Response dated October 1, 2007: The recommendation will not be implemented as far as a formal written agreement within such time period. The City did not enter into

a written agreement earlier this year based on the lack of contractually definite terms and provisions specifying the exact obligations of each party; and further out of a fiscally responsible desire to review services provided under the automatic aid relationship. Due to the uncertainties and lack of specific information involved, and the lack of time before the deadline expressed in the Grand Jury's recommendation, the City believes that a written agreement cannot be finalized in such a short period. The City Council has, however, demonstrated its commitment to ensure that San Pablo pays its fair share of fire protection costs. It adopted Resolution 2007-21, which provides that San Pablo will pay its pro-rata share of automatic aid responses from the City of Richmond Fire Department into the City of San Pablo for fiscal year 2006-2007. Again, the San Pablo City Council has publicly expressed its willingness, and demonstrated its commitment to support the CCFPD to the extent fair and necessary, as witnessed by Resolution 2007-21. The City unilaterally continued this obligation by appropriating \$180,000 in its budget for fiscal year 2007-2008. As further information becomes available, the city is not adverse to memorializing this commitment into a fair written agreement.

- 8. That Contra Costa County, within six months of this report, publish, and within one year adopt, a plan to increase from one to two engine companies within the city or environs of San Pablo.**

***BOS Response:** Requires further analysis. The Fire District will invite the City of San Pablo to join with them in assessing the fire protection and medical emergency response needs of the city of San Pablo, including Casino San Pablo. Within six months, the Fire District will produce a plan on how to meet those needs, including capital improvement, staffing and financing options.*

***SPCC Response:** Only the Board of Supervisors can respond to this recommendation.*

- 9. That Contra Costa County, within six months of this report, publish, and within one year adopt, a plan for fire station construction in San Pablo which will provide adequate housing for at least two engines and crews.**

***BOS Response:** Has not yet been implemented, but will be implemented in accordance to the Grand Jury recommended time frame. The Fire District will invite the City of San Pablo to join with them in assessing options for constructing and financing a new fire station in San Pablo. The District will formulate its recommended plan within six months.*

***SPCC Response:** Only the Board of Supervisors can respond to this recommendation.*

CONTRA COSTA COUNTY GRAND JURY REPORT 0708

MAYDAY, MAYDAY, MAYDAY! THE COUNTY DRIFTS EVER CLOSER TO THE “OPEB” ROCKS

Growing Retiree Health Care Costs Demand Board of Supervisors Action

Response from Contra Costa County Board of Supervisors

FINDINGS

- 1. The Contra Costa County Board of Supervisors has the responsibility to resolve the County’s unfunded OPEB liability issues.**

Response: Partially disagree. Per Government Accounting Standards Board (GASB) Statement 45, the County has the responsibility to report the County’s unfunded OPEB liability. However, the County agrees that it is the Board of Supervisors responsibility to address the County’s OPEB liability.

- 2. In April 2001, an independent actuarial firm report to the County identified the unfunded OPEB liability for County retirees.**

Response: Agree, with the clarification that the report was ordered to determine the cost of offering to extend health insurance coverage for those retirees who were not covered by a County health plan.

- 3. The subject of the unfunded OPEB liability has been the topic of three previous Contra Costa County Grand Jury reports:**

- **Report No. 0404, “Take Action Now to Reduce Costs of Retiree Health Insurance” issued in 2004.**
- **Report No. 0508, “Code Blue: County Health Care Costs” issued in 2005.**
- **Report No. 0606, “County Ignores Retiree Health Costs: The Financial Tidal Wave” issued in 2006.**

Response: Agree.

- 4. In 2006, an outside consultant hired by the County issued a report that suggested the County set aside \$216 million annually for the next 30 years to close the unfunded health care obligation gap.**

Response: Disagree. In 2006, an outside consultant hired by the County issued a report that specifically states “There is no requirement for CCC to actually fund the ARC. The UAAL is the Accumulated Postretirement Benefit Obligation (APBO) less any assets held

for the plan. Most government postretirement medical plans are currently funded on a pay-as-you-go basis with no dedicated assets or funding scheme.” The actuarial report presented to the County did not and was not intended to provide recommendations on funding levels.

- 5. In April 2007, the Board of Supervisors gave preliminary approval to a fiscal year 2007-08 budget that provides only \$33 million (vs. \$216 million) to cover the cost of health care benefits for the County’s retirees and their eligible dependents.**

Response: Agree, with clarification that the Board of Supervisors gave preliminary approval to a fiscal year 2007-08 budget that provides \$36 million (vs. \$216 million) to cover the cost of health care benefits for the County’s retirees and their eligible dependents. The \$36 million includes \$32.3 million for County and \$3.6 million for Special Districts.

- 6. The County provides combined medical and dental plan benefits to active employees, qualified retirees, and dependents of both groups. The County subsidizes most of the health care insurance premiums at rates varying from 80% to 98% for the medical plans and from 78% to 98% for the dental plans.**

Response: Agree, with clarification that the County subsidizes most of the health care insurance premiums at rates varying from 59% to 100% for the medical plans (dependent upon plan selected and choice on whether or not to take Medicare) and from 78% to 100% for the dental plans.

- 7. The County provides combined medical and dental plan benefits to approximately 7,800 active employees, 4,200 retirees, 330 surviving spouses of retirees and 16,000 reported dependent spouses, children and domestic partners for active and retired employees. Approximately 28,000 individuals currently rely on the County for employment related health care benefits.**

Response: Agree.

- 8. Health care coverage for County retirees is a benefit of employment earned during employment and largely paid for by the County after retirement.**

Response: Partially disagree. The County presently gives retirees the benefits of access to County group health plans and subsidy of insurance premiums as described in Response No. 6. On an annual basis, the County presently pays the cost of subsidizing insurance premiums for retirees as described in Response No. 6.

- 9. The County does not currently require retirees to secure Medicare Part B medical coverage once they reach Medicare-eligible age, but allows them to continue to rely on the County’s medical and dental health benefit plans available to active employees as their primary coverage.**

Response: Agree.

10. County deputy sheriffs, firefighters, and their dependents are not covered by the County's medical and dental plans. These "safety" employees participate in the California Public Employees Retirement System ("CalPERS") medical and dental plans under the terms of their labor contracts with enrollment conditions set by CalPERS. The County subsidizes the CalPERS insurance premiums at a rate comparable to that paid on behalf of other County employees.

Response: Agree.

11. Like many other public employers, the County reports the cost of retiree health benefits in their "Comprehensive Annual Financial Reports" during the employee's retirement years when the health insurance benefits are received by the retiree (cash basis, also known as "pay-as-you-go" or "PAYGO"), rather than during the employee's active service when the benefits are earned (accrual basis).

Response: Agree, with the clarification that the County presently gives retirees the benefits of access to County group health plans and subsidy of insurance premiums as described in Response No. 6.

12. Retiree medical benefit costs, using the PAYGO basis of accounting, have been growing at approximately 15%, compounded annually, for the last five years - growing from \$15.9 million in fiscal year 2001-02 to \$32.4 million for the current fiscal year 2006-07. This growth is more than double the rate of overall County expenditures and two-and-a-half times faster than revenue growth over the same period.

Response: Agree, with clarification that using un-audited figures for fiscal year 2006-07, retiree medical benefit costs, using the PAYGO basis of accounting, have been growing at approximately 16.1%, compounded annually, for the last five years - growing from \$15.9 million in fiscal year 2001-02 to \$33.2 million for fiscal year 2006-07. This growth is more than two-and-a-half times the rate of overall County expenditures and three-and-a-half times faster than revenue growth over the same period.

13. Governmental Accounting Standards Board Statement Number 45 ("GASB 45"), "Accounting and Financial Reporting by Employers for Post-Employment Benefits Other Than Pensions," sets an accounting standard analogous to the governmental pension accounting standard. This standard requires the calculation and disclosure of an unfunded liability for government employee retiree health care benefits similar to the method already in place for recognizing the cost of government employee pensions.

Response: Agree.

14. GASB 45 accounting standards become effective with the County's fiscal year 2007-08, which begins July 1, 2007. Under these standards, the County must:

- Disclose the unfunded liability for health benefits (and other post-employment benefits other than pensions, that continue to be disclosed separately) that have been earned by all active and retired employees.
- To the extent they remain unfunded, increase its annual health care benefit cost to include the normal cost of benefits as they are earned, plus an amount that amortizes (funds over time on a systematic basis) the unfunded liability over a period not to exceed 30 years.
- Disclose the County funding policy for medical and dental benefits earned by active and retired employees to date and report this resulting liability.

Response: Agree, with the clarification that the County must disclose the unfunded liability for OPEB provided to retirees and active employees.

15. An independent actuarial firm hired by the County analyzed the County’s OPEB unfunded liability as of January 1, 2006 using two discount rate assumptions: (1) 4.5%, which relates to the current PAYGO method and (2) 7.9% which reflects the economics of a funded trust plan based on GASB 45. The results follow:

**Contra Costa County Retiree Health Care Costs
(Dollars in Millions)**

| <u>Discount Rate</u> ¹ | <u>Unfunded Liability</u> ² | <u>Annual Required Contribution</u> ³ | | |
|-----------------------------------|--|--|---------------------------------|--|
| | | <u>Liability Amortization</u> ⁴ | <u>Normal Cost</u> ⁵ | <u>Total Contribution</u> ⁶ |
| 4.5 % | \$2,571 | \$86 | \$130 | \$216 |
| 7.9 % | 1,425 | 48 | 55 | 103 |

Notes: 1) Discount rate is the annual rate by which future payments are adjusted to reflect the current value of the obligation; 2) Unfunded liability refers to the total current value of a stream of future payments for which money has not been set aside; 3) Annual Required Contribution consists of the Normal Cost plus a portion of the total unfunded accrued actuarial liability amortization for the year; 4) Liability Amortization is the annual payment necessary to pay off a specific liability over a fixed period of time, in this case 30 years; 5) Normal cost is amount necessary to meet the current expense of the benefit earned during the period regardless of when the amount will be paid; and 6) Total Contribution consists of the Liability Amortization and Normal Costs.

Response: Agree.

16. Options to address the OPEB liability discussed to date by the County’s consultant and County staff in public meetings include:

- Continue the current PAYGO funding method that will minimize the short-term budget impact but will have long-term budget implications as deferred health care benefit costs continue to accelerate and current costs, earned by active employees, are added to the liability.

- **Modify the existing medical and dental benefit plans by changing eligibility requirements, coverage amounts, deductibles, co-pays, co-insurance, changing the amount the County contributes towards coverage and the separation of the health care costs incurred by the active employees and retired participants.**
- **Establish and partially pre-fund an irrevocable trust that will enable the County to reduce reported liability and Annual Required Contribution by allowing the County to use a higher discount rate. (An irrevocable trust is a separate legal entity created to hold assets dedicated to meeting the obligations to the entitled beneficiaries of the trust.)**
- **Combining options by modifying the current health care plans and conditions of retirement coverage plus partially pre-funding the existing liability using an irrevocable trust.**

Response: Agree.

- 17. Creating an irrevocable trust to secure the pre-funded assets against other uses, and funding it annually, would minimize the reported liability and reduce the required minimum annual amortization amount.**

Response: Agree.

- 18. The County does not currently have a separate irrevocable trust for paying retiree health benefits.**

Response: Agree.

- 19. According to the “Comprehensive Annual Financial Report” as of June 30, 2006, the County’s debt limit (five percent of valuations subject to taxation) was \$6.6 billion. The total amount of debt applicable to the debt limit was \$0.7 billion, net of assets in the debt service funds and other deductions allowed by law. This would enable the County to issue an additional \$5.9 billion of debt.**

Response: Agree.

- 20. The County has issued pension obligation bonds to lock in interest rates significantly below the discount rate used by the Contra Costa County Employees Retirement Association Trust, thereby reducing the annual payment due from the County. As of June 30, 2006, \$667 million of pension obligation bonds were still outstanding. The history of previous successful pension obligation bond issues follows:**

- **In 1994, the County issued \$337 million in taxable pension obligation bonds.**
- **In 2001, the County restructured these bonds with a new issue in the amount of \$107 million.**

- In April 2003, the County issued \$323 million in taxable pension obligation bonds.
- In July 2005, the Contra Costa County Fire Protection District issued \$130 million in taxable pension obligation bonds.

Response: Agree, with the clarification that the ultimate success of a POB issue cannot be determined until it reaches maturity.

21. Federal and state reimbursements for mandated services (e.g., health and social) provided by the County account for approximately 55% of the County's total operating budget. Federal and state guidelines that establish the principles and standards for allowable reimbursements include some pre-funding costs. However, the extent to which pre-funded health benefit costs are reimbursable by the federal and state governments has not yet been formalized.

Response: Agree.

22. Credit rating agencies have indicated that management of the retiree health care liability will influence credit ratings for public agencies. Contra Costa County, like other counties, cities and special districts, and even states, are likewise required to report unfunded OPEB liability, if they follow GASB 45.

Response: Agree.

23. An outside consultant hired by the County has advised that the credit rating agencies will look favorably on public agencies that develop mitigation plans and demonstrate progress in implementing those plans to address the OPEB liability.

Response: Agree.

24. County employees, other than safety employees (deputy sheriffs and firefighters), employed on or after January 1, 2007, must have worked for the County for 15 years, and have retired directly from the County, to receive retiree health care benefits.

Response: Agree, with clarification that employees who file for deferred retirement may elect not to maintain participation in their County health and/or dental plan during their deferred retirement period, in which case they and their eligible family members will receive the same coverage and County subvention in any County health and/or dental plan when they begin to receive retirement benefits as retirees who did not defer retirement, provided 1) the deferred retiree draws a monthly retirement allowance within 24 months after separation from County service; and 2) reinstatement to a County group health and/or dental plan will only occur following a three (3) full calendar month waiting period after the month in which the deferred retiree's retirement allowance commences.

25. The County does not segregate the costs of medical and dental plan coverage for active employees and retirees. Instead, it combines or “pools” the costs for both groups and calculates a common or “blended” premium rate that is applied to all eligible parties. This has the effect of masking the higher health care costs for retirees and means the active employees, with their relatively lower health care requirements, subsidize a portion of the higher cost of providing benefits to retirees.

Response: Agree, with the clarification that this “pooled” group includes only the retirees under age 65 and those retirees over age 65 without Medicare Parts A and B assigned.

26. When Medicare Part B medical benefits are assigned to the County’s insurance carriers, Medicare becomes the primary provider, leaving the County responsible only as a secondary provider. Retirees covered by Medicare are given credit for Medicare Part B premiums they pay directly to Social Security. Medicare health benefits are not uniformly assigned to the County’s health plan carriers to help pay for the participants’ medical care. The current coverage rules result in higher costs being absorbed by the County.

Response: Agree, with the clarification that any time a retiree has Medicare Parts A and B, Medicare is primary to the County’s insurance whether or not it is assigned to the carrier.

RECOMMENDATIONS

The Grand Jury has made many recommendations worthy of further consideration by the County. The Board of Supervisors notes, however, that some of the Grand Jury’s recommendations pertain to issues which are the subject of the County’s negotiations with employee organizations. While the Board makes every effort to provide direct and complete responses to the Grand Jury’s recommendations, it is limited in its ability to respond to those recommendations before concluding its obligations under the Meyers-Milias-Brown Act (“MMBA”). In order to bargain in good faith under the MMBA, the County may not take a specific position on matters that are or may be the subject of labor negotiations before concluding its bargaining obligations. In those instances, the County has indicated in its responses that it may not directly respond to the Grand Jury recommendation.

The 2006-07 Contra Costa County Grand Jury recommends that the County Board of Supervisors:

1. Identify the County’s legal obligation to provide medical and dental care to retired employees and to what extent the obligation can be modified for active employees and retirees.

Response: Will not be implemented because it is not reasonable. The choice to seek legal advice on a specific topic, and the advice received, is a matter subject to the attorney client privilege (Evid. Code, § 952.).

- 2. Negotiate with collective bargaining units, and implement for non-represented County employees, stricter health care benefit plan options to help stabilize current costs and limit future open ended obligations. Plan changes should consider more limited coverage, increased premium sharing by retired employees, a cap on the County's premium contributions, increased patient deductibles and co-payments and reduced annual and/or lifetime maximums.**

Response: Will not be implemented because it is not reasonable, since it would prevent the Board of Supervisors from engaging in the "good faith negotiations" with employee representatives as required by State law. However, the County is seriously considering all options for reducing its OPEB liability.

- 3. Segregate active and retiree health insurance pools to allow more accurate recognition of actual costs attributed to the respective participant groups to better manage future medical and dental plan costs.**

Response: Will not be implemented because it is not reasonable, since it would prevent the Board of Supervisors from engaging in the "good faith negotiations" with employee representatives as required by State law. However, the County is seriously considering all options for reducing its OPEB liability.

- 4. Require all Medicare eligible retirees to secure Medicare Part B medical coverage and assign their Medicare benefits to the County's health plan carriers.**

Response: Will not be implemented because it is not reasonable, since it would prevent the Board of Supervisors from engaging in the "good faith negotiations" with employee representatives as required by State law. However, the County is seriously considering all options for reducing its OPEB liability.

- 5. Establish an irrevocable trust for OPEB benefits and mandate a policy that requires the current normal cost and an amount to amortize the unfunded liability annually, over a period not to exceed 30 years. Select a realistic discount rate reflecting the earning capability of the investment pool (discount rate) that will be met or exceeded 50 percent of the time.**

Response: Requires further analysis. The County Administrator will return to the Board of Supervisors within the next six months with a recommendation regarding establishing an irrevocable trust for OPEB benefits.

- 6. Consider pre-funding a portion of the irrevocable trust with proceeds from OPEB obligation bonds.**

Response: Will be implemented. The Board of Supervisors will consider pre-funding a portion of the irrevocable trust with proceeds from OPEB obligation bonds following the next round of labor negotiations in 2008. The County is not agreeing to issue OPEB obligation bonds, the County is agreeing to consider doing so.

7. **Adopt a comprehensive OPEB management plan. The plan should be a formal, multi-year plan that would provide a guide and communication vehicle for the Board of Supervisors, County employees and County residents over the next 30 years of the initiative. This plan should include, but not be limited to the following:**

- **Specific goals and objectives.**
- **Due diligence on the issues, options and implications.**
- **Selected economic and census assumptions and rationales that are both realistic and fair.**
- **Selected benefit redesigns, reductions and cost containments, and respective phase-in periods.**
- **Selected funding levels for Annual Required Contribution to systematically fund the liability.**
- **Description and conditions of an irrevocable trust that funds the OPEB liability.**
- **Actions and conditions that pre-fund a portion of the liability with OPEB bonds, if appropriate.**
- **General schedule of employee and resident communication forums and information sessions.**

***Response:** Has been partially implemented. The June 26, 2007 report to the Board of Supervisors acknowledged that significant progress had been made on developing a strategic plan to address the County's OPEB liability.*

SHORING UP COUNTY MANAGEMENT WITH BEST PRACTICES

*Response from Contra Costa County Board of Supervisors
and Contra Costa County Administrator*

FINDINGS

A. Strategic Planning

1. **The Board of Supervisors (“Board”) and County Administrator have identified four key County goals. The goals are far-reaching and challenging and are summarized under the following four groupings:**

- **Improved fiscal health**
- **Improved service delivery**
- **Build the organization and team**
- **Foster credibility and public education**

Response: Agree.

2. **Contra Costa County does not have a formal, multi-year strategic plan to guide the County in a coordinated direction, to measure progress towards goals and objectives, and to take corrective actions when necessary.**

Response: Agree.

3. **The County does not have a mechanism or process to solicit, change, or prioritize countywide goals and initiatives relative to its changing environment and needs. Input from department heads and employees are not documented. Further, there is no systematic mechanism to capture suggestions from community leaders, residents, and principle users of County services.**

Response: Partially disagree. The County primarily uses its annual budget process as the mechanism to annually review and establish priorities. That process recognizes and responds to the external forces that largely determine the Board’s ability to respond to the changing needs.

The County operates in an environment that is structured by state and federal law, and intergovernmental and local revenues. The size of the County budget might imply that the Board of Supervisors has significant discretion over its program and service priorities. In reality, the Board has very limited discretion over most of the services provided by the County. Most are statutorily mandated or required by funding obligations. Similarly, state or federal program funding drive allocation of resources.

Feedback occurs in several ways. The County Administrator regularly meets with department heads individually and as a group to discuss department operations, county-wide and multi-departmental issues and Board concerns. Individual departments have also adopted feedback mechanisms for clients input. For example, General Services, Employment and Human Services and Department of Information Technology use customer satisfaction surveys. Public Works and Community Development use staff assigned to a particular community. Health Services employs a variety of mechanisms and recently convened a Committee to examine their efficacy.

- 4. The Board and County Administrator do not have a formal mechanism for communicating a County plan and vision to all stakeholders. The County has more than 28 diverse departments in its organizational structure, many with their own mission, vision, and sets of priorities. There is no formal medium to periodically update the direction of the County as a whole. Instead, the County relies on informal updates through periodic bulletins, newspaper editorials and articles, and public access television.**

Response: Disagree. Departments are reporting annually on their activities and accomplishments under each of the County's goals (identified in Finding #1 above). The current formal mechanism for doing so is the County's Annual Budget process and hearings. The formal medium to periodically update diverse departments on the County mission, vision, and values is the bimonthly department head meeting with the County Administrator. The Board of Supervisors communicates direction to County departments through the County Administrator.

On financial matters, the County annually publishes the "Comprehensive Annual Financial Report" (CAFR), which details the County's financial status, including financial trends and revenue and debt capacity. The CAFR also overviews the County's long-term financial planning efforts and financial policies. Strategic actions to increase operational efficiency and leverage County resources are also identified in the CAFR.

The County Administrator also publishes a quarterly "all County" newsletter to all County employees, advising them of significant changes and accomplishments and their relevance to the County's goals.

- 5. The County's Internet website is a key method of communicating to Contra Costa stakeholders. It supplements newspaper editorials, articles, bulletins, and public access television. The County's website does not include an overall plan or vision, or set of priorities. The website's "County Performance Reports" section provides some insights into departmental responsibilities, accomplishments, and challenges. However, the descriptions are lengthy, and "text heavy". The "Government Performance Report" section is out-of-date and does not reflect the County's financial experience over the past four years. The "County Budget Processes" section is also out-of-date relative to current financial information.**

Response: Agree with clarification. The "County Budget Processes" section was out-of-date as of the issuance of this report. The County Budget Documents, Comprehensive Annual Financial Reports, and Lease Revenue Bond sections are current. Additionally, the latest Official Statement in the Lease Revenue Bond section contains a current "County Budget Processes" section, which has now been copied to the Financial Information section of the web-page. In addition, the new County Performance Reports reflecting FY 2006-07 year end material will be posted in the near future. It should also be noted that a complete revamping of the County's website is currently underway.

RECOMMENDATIONS

A. Strategic Planning

1. The County should develop a multi-year strategic plan for:

- **Setting County direction**
- **Establishing priorities**
- **Communicating to stakeholders**

This plan should be updated at least annually so all stakeholders are informed about the County's goals and objectives, progress towards both, and changes in priorities.

Response: Will not be implemented. The County currently adopts an annual strategic plan that sets County directions and establishes priorities. This is the Recommended Budget. The Recommended Budget encapsulates the administration's recommendations to the Board and identifies key issues and priorities for each department. With its allocation of resources, the County Board of Supervisors establishes priorities within the limits of its discretion. It should be noted that state and federal law and regulations often constrain the Board's ability to set or change directions. Conversely, action at a state or federal level can trigger unanticipated, rapid changes over which the Board of Supervisors has no control. For example, a federal lawsuit on prison overcrowding in the State of California resulted in a major "prison reform" initiative which will transfer responsibility for both adult and juvenile prisoners to counties, absent adequate compensation. This could not have been anticipated in a multiyear strategic plan but can be addressed through the annual budget process.

In addition, the annual budget process is communicated to the public and other stakeholders. Hearings are televised live and after-the-fact, on CCTV. The County also generates news releases on the budget, which usually result in newspaper articles. In addition, most department newsletters, as well as the "all county" newsletter, include discussion of the budget.

2. Within two years of this report, the County should develop a strategic plan that incorporates the following key elements:

- **Setting the direction: vision, mission and guiding principles**
 - organizational (e.g., personnel, financial performance, operating departments)
 - programmatic (e.g., public safety, health / welfare, economic development, transportation)
- **Assessing the environment and changes in the County**
 - County participants (e.g., Board of Supervisors, County Administrator, department heads, employees, and unions)
 - Constituent participants (e.g., community leaders, residents and principle users of County services)
- **Identifying issues, strategic initiatives, and priorities**
 - County management (e.g., Board of Supervisors, County Administrator, and department heads)
- **Developing and implementing the plan**
 - Special planning group from County management team
- **Monitoring and evaluating the performance goals, objectives and actions**
 - Special planning group from County management team

Response: Will not be implemented. While a “strategic plan” as envisioned by the Grand Jury will not be implemented because existing County processes address our priority and allocation setting requirements, the County could develop better methods to present information on the “key elements” identified by the Grand Jury. Those methods will be identified and put into place by the County Administrator within six months.

FINDINGS

B. Personnel Performance Evaluations

1. Previous Grand Jury reports, No. 9406 and No. 0206, published in 1994 and 2002 respectively, addressed County personnel performance evaluations.

Response: Agree.

2. As a result of the 1994 Grand Jury report, the Board directed the County Administrator to have each department develop a program of annual performance reviews of all their employees. Following is a summary of the directive:

- **Department Head Performance Evaluations:** Each year, department heads are to submit a performance report on themselves to be evaluated by the County Administrator and/or Board through the County Administrator. The performance report requires, among other things, an appraisal of the degree to

which employee evaluations are conducted in their departments, and the quality and content of the evaluations.

- **Employee Performance Evaluations:** Departments are required to conduct annual performance reviews on all their employees.

Response: Agree.

3. **The County's organizational structure includes six elected and 22 appointed officials that act as department heads, as reported in the County's "2006 Comprehensive Annual Financial Report."**

Response: Agree.

4. **The County has approximately 7,800 full-time employees.**

Response: Disagree. The 2006 Comprehensive Annual Financial Report lists 8,423 full time equivalent employees as of June 30, 2006.

5. **The County does not have a centralized performance evaluation program, or a countywide system to monitor the status of employee performance reviews. Each department maintains its own personnel files.**

Response: Agree. The County utilizes a decentralized system.

6. **In April 2007, the County's Human Resources Department surveyed most of the department heads to determine the dates of their last formal performance evaluations. Fifteen of the 20 department heads that responded had not had a performance evaluation within the past 12 months. One of the 15 had not been reviewed in six years, and six had not received a formal review since they assumed their duties.**

Response: Agree. Note that the current County Administrator assumed office on March 3, 2006, and has developed a department head evaluation process and timetable that is resulting in annual performance evaluations.

7. **The County Administrator is responsible for facilitating department head performance evaluations directly, or in conjunction with the Board of Supervisors. The County Administrator also is responsible for ensuring that all County employees receive departmental performance evaluations on an annual basis. The County Administrator is responsible for conducting performance evaluations for the seven staff members who report directly to him, and for reviewing evaluations for the rest of his department.**

Response: Partially agree. The County Administrator is responsible for performing evaluations of non-elected department heads and his direct reports. Department heads are responsible for performance evaluations within their departments.

8. **During the County’s annual budget review process, the Board and the County Administrator meet with most department heads. This budget review time is also used to discuss performance expectations and progress toward achieving their respective goals and objectives.**

Response: Partially disagree. Since 2006, the County Administrator and staff have met with department heads in preparation of the County budget and development of performance goals. The Board of Supervisors has overseen this process via review and approval of the Recommended Budget.

9. **Each department defines and manages their respective employee performance evaluation programs with only limited guidance from the County’s Human Resources Department.**

Response: Agree with clarification. Human Resources provides guidance and support as requested and consistently administers the Salary Review form and associated process.

10. **Performance evaluations are not consistently administered across all departments.**

Response: Partially disagree. Performance evaluations are required in all departments. Salary Reviews of employees who have not reached the top of their salary range are consistently implemented in all departments and supported by the Human Resources Department. The Salary Review form includes a section that allows for comments on performance. Various Departments also utilize performance evaluation forms consistent with their specific job classifications.

11. **The County does not have a mechanism to track the timeliness, completeness, and effectiveness of employee performance reviews.**

Response: Partially disagree. Through the Salary Review, the County has a centralized system for tracking the timeliness and completeness of performance reviews for employees who have not reached the top of their salary range. Individual departments also have tracking systems to monitor completion of performance reviews.

RECOMMENDATIONS

B. Personnel Performance Evaluations

1. **The Board should direct the County Administrator to fulfill his responsibilities with respect to conducting annual department head performance evaluations, and ensure that all County employees receive annual performance appraisals. Further, the Board should be more actively engaged in supporting and participating with the County Administrator in conducting department head performance evaluations, especially for Board-appointed officials.**

Response: *Has been implemented in part. The County Administrator conducts annual performance evaluations for non-elected department heads and requires department heads to have performance appraisal practices within their organizations.*

Requires further analysis in part. Involvement of the Board would require consideration of such issues as the County Administrator versus Board of Supervisors responsibilities, the Board involvement with the department head, appointing authority for the department head position (or elected), level of review and time requirements.

- 2. The County Administrator should develop a standardized department head self-evaluation form and process to facilitate more timely performance reviews. Each department head should complete and forward the form to the County Administrator for review and commentary. Upon completion, the County Administrator, and/or a Board member (for Board-appointed officials), should schedule a meeting to discuss the evaluation report with the department head.**

Response: *Has been implemented. A standardized departmental evaluation form and process is currently in place. The County Administrator requires appointed department heads to submit a self-evaluation outlining past year's accomplishments and future year's goals. The County Administrator utilizes this information in completing performance evaluations with department heads.*

- 3. The County Administrator also should develop a standardized performance appraisal form, including consistent elements to the greatest extent possible, with supportive processes for all remaining County employees.**

Response: *Will be implemented as modified. The County Administrator will direct the Human Resources Department to develop county-wide core performance elements in a standardized format. Departments can then add these core elements to performance expectations relevant to the specific job classes.*

- 4. The County Administrator should develop a mechanism for reporting by department on the timeliness and completeness of County performance evaluations.**

Response: *Will be implemented. The mechanism will be the annual department head performance review. This will include notation of the department head's effectiveness in managing performance appraisal processes within his/her department.*

- 5. The County Administrator should direct the Human Resources Department to monitor and evaluate the administration of the employee performance evaluation program and recommend corrective actions where appropriate.**

Response: *Will not be implemented. Department heads are responsible for employee evaluations within their departments. The Human Resources Department is available to provide support to departments through training, consultation and information on best practices.*

FINDINGS

C. Professional Services Contract Renewals

1. **The County does not have a formal, documented countywide process or set of procedures for awarding most professional services contracts, with the exception of the guides for legal contracts and outreach programs.**

Response: Partially disagree. The County has formal documented countywide policies and procedures for preparing and processing contracts and performing outreach to potential service providers. The County's Outreach Program requires that outreach be conducted for all contracts exceeding \$2,500 with the exception of contracts with nonprofit service providers. The County has a separate outreach and competitive recruitment policy that applies to nonprofit service providers. Outreach efforts can be either formal (e.g., bid specifications, bidders' conference, evaluation committee, evaluation form) or informal (phone calls, emails), at a department's discretion depending on the contract cost and availability of service. Several County departments have written department policies governing competitive bidding for contracted services.

2. **Individual departments are allowed to define their respective procedures and processes for contracting for services within the scope of the general County's guidelines. The guidelines include type of contracted service, applicable federal, state, and local laws, and County "Administrative Bulletins."**

Response: Agree.

3. **Purchasing and procurement services for the County include:**

- **Construction activities**
- **Material or commodity acquisitions**
- **Community-based organization services**
- **Public works**
- **Architectural / engineering services**
- **Professional service organizations, agencies and individuals**

Response: Agree with clarification. The County generally uses the following categories: construction services; professional, consulting, technical, and personal services; community-based services; and commodities. These services and commodities can be provided by various types of vendors including individuals, groups, agencies, partnerships and corporations.

4. **Professional services include, but are not limited to:**

- **Specialists in a particular discipline**
- **Consultants**
- **Skilled positions**

- General service individuals / organizations
- Personal services

Response: Agree.

- 5. Unlike construction and material acquisition contracts, there is no legal requirement to secure competitive bids for professional services.**

Response: Agree. Although not legally required, some departments have begun to use the new on-line RFP Depot system for outreach. Expanded outreach typically results in more competitive bids.

- 6. The County does not have a procedure or set of standards for evaluating the quality of contracted professional services. Individual departments are permitted to make their own determinations.**

Response: Agree. Due to the variation of the services, service plans, and deliverables, it would be impractical to apply a universal set of standards to all contracts. Contractor performance is generally evaluated based on the specific performance requirements in the contract itself and not to a general standard outside of the contract.

- 7. Periodic internal audits are not routinely performed on professional services contracts, although the County Administrator may request an audit if questions arise.**

Response: Partially disagree. The Internal Audit Division of the Office of the Auditor-Controller performs a risk assessment as part of the procedures for department audits. The process is used to schedule the audits and the areas to be audited. Professional service contracts are included in the analysis.

- 8. The County does not have a compliance officer to monitor contract processes.**

Response: Agree with clarification. While no one individual is responsible for monitoring all aspects of every contract, all contracts are reviewed by the County Administrator's Office. Contracts in excess of \$25,000 are also reviewed by the County Counsel's Office. Contracts equal to or less than \$25,000 are also reviewed by the General Services Department – Purchasing Division. These monitoring activities relate to the development of a contract document, the legal form, contract financing, and the justification/need for contracted services.

The County Administrator's Office also monitors outreach efforts on an ad hoc basis, with semiannual reports on program compliance to the Internal Operations Committee of the Board of Supervisors.

- 9. Following is the general workflow for individual professional services contracts with annual expenditures exceeding \$25,000:**

New Contracts:

- Department determines need; drafts specifications; identifies vendors; requests proposals, bids and/or negotiates price; selects vendor; and, prepares contract.
- County Counsel reviews contract and supporting materials.
- County Administrator's unit coordinator reviews proposal for consistency with the department's contract practices and budget. Proposed contracts are placed on the Board consent calendar for approval.
- County Administrator's unit coordinator refers approved contracts back to the departments for processing.

Contract Renewals

- Department determines if the vendor met service levels; re-negotiates price; determines need for competitive bid and/or alternative vendor; and, if only minor revisions are required, adds an addendum to the current contract.
- Department, County Counsel and County Administrator process the proposed contract renewals.

Response: Agree.

- 10. The County does not have a requirement that contracts scheduled for renewal must go through a formal request for proposal ("RFP") or bid process.**

Response: Partially disagree. County policy requires that annual contracts with nonprofit community-based organizations may be renewed for only two additional one-year periods and then must be rebid. This policy does not apply to professional services contracts.

- 11. Over 250 professional service vendors received payments exceeding \$25,000 each in at least five of the last six years. The total dollar amount paid to these vendors in 2006 exceeded \$75 million.**

Response: Agree with clarification. The statistics in this finding are from a report produced by the Office of the Auditor-Controller for the Grand Jury on 2310 account expenditures in 2006. Expenditures total \$72,952,549 including approximately \$5 million of payments to other governments, title companies, hospitals and districts. This list does not include vendor payments on behalf of the Hospital or Contra Costa Health Plan (CCHP). If payments to other governments were deleted and Hospital/CCHP payments were added, the finding may be reasonable, if not understated.

- 12. Over the past five years, the number of professional services contracts has increased by approximately one-third.**

Response: *Disagree. Comparing the report produced by the Office of the Auditor-Controller for the Grand Jury on 2310 expenditures in 2006 to the same report for 2001 (neither of which include the Hospital or CCHP) it cannot be substantiated that over the past five years, the number of professional service contracts has increased by approximately one-third. The number of vendors paid and charged to 2310 is approximately the same, with a slight increase.*

13. One professional services contract has been renewed consecutively over 34 years.

Response: *Agree.*

RECOMMENDATIONS

C. Professional Services Contract Renewals

1. The Board of Supervisors and County Administrator should require that all professional services contracts that are scheduled for renewal go through a formal RFP process if they meet the following criteria:

- **Vendors under contract for five straight years, or five of the last seven years.**
- **Vendor payments exceeding \$25,000 in each of the five years (consideration could be given to a dollar-triggered phase-in period).**

Note: 1) Exceptions to the rule might include vendors that provide utility services; educational services (from non-profits); computer software, license, and/or operating system maintenance services; goods and services acquired from other government agencies; equipment maintenance services; and architectural, engineering and related professional services. Other exclusions might include intra- and inter-government support services; 2) The renewal policy would cycle every five years.

Response: *Will be implemented as modified. Guidelines for renewal of professional service contracts will be issued which address the threshold contract amount and time frames that trigger a formal RFP process. Further analysis is required to determine the time frame for implementation.*

2. The RFP process for renewal or extended contracts should include:

- **Developing a comprehensive service description**
- **Identifying qualified vendors**
- **Preparing a RFP with the level of detail needed depending on the service requirements**
- **Ensuring compliance with outreach requirements**
- **Issuing a RFP (with the objective of receiving competitive proposals or bids from at least three qualified vendors when possible)**
- **Conducting bidder conferences / meetings**
- **Evaluating proposals**
- **Conducting reference checks**
- **Selecting and meeting with the preferred vendors to discuss their proposals**
- **Finalizing selection**

Response: Has been implemented as guidelines under the County's policy governing contracting with nonprofits. Will also be implemented as guidelines for bidding for professional services.

- 3. RFP exemptions should only apply for emergency situations; e.g., when the health and safety of the public or person in custody or in the care of the County are at risk.**

Response: Will not be implemented. The number of exceptions already identified by the Grand Jury in its Recommendation No. 1 is an indicator of the difficulty with trying to apply broad and sweeping policies across a large and complex organization. The County already has a policy which charges the County Administrator with evaluating and granting requests for exemptions under the outreach policy. This review process has worked well for many years and allows for consideration of unique circumstances.

- 4. Establish a policy requiring that all professional services vendors seeking contract renewals be evaluated in writing, based on standardized criteria, to ensure that they have consistently met performance expectations. The evaluation should be included as part of any proposed contract renewal package submitted by department heads.**

Response: Will not be implemented. There is no significant benefit to creating and maintaining this kind of record. Contract managers currently review and evaluate the adequacy of services based on expectations contained in the "Scope of Work." Also, contractors are not employees: termination without cause with 30 days notice is part of every contract.

- 5. The County Administrator should request the Auditor to develop and manage a program to select a random sample of qualified contracts to review every two years. Representatives from the County Administrator's Office, County Counsel's Office, and General Services should meet with the Auditor to evaluate the scope, dollar levels, and RFP procedures, to verify compliance with contracting procedures and to recommend any appropriate changes to improve controls.**

Response: Will not be implemented. The Internal Audit Division of the Office of the Auditor-Controller currently reviews contracts as part of the annual scheduled financial audits of departments.