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New York City Transit PM Filter Test

The New York City Transit Authority equipped selected buses with PM filters made by Johnson Matthey model CRT. Tests were performed involving buses not equipped with filters using regular diesel fuel and ultra low sulfur diesel (ULSD), and buses equipped with CRT filters fueled by ULSD. NO_x increased by approximately 3% which can be reduced by incorporating NO_x catalyts. The results in table 4 indicate significant reduction of diesel emissions. *Emission Results from Clean Diesel Demonstration Program with CRT Particulate Filter at New York City Transit.*

Table 4

Fuel Type	Percentage reduction from regular diesel fuel				
	CO	PM	HC	CO ₂	NO _x
ULSD	29%	29%	76%	0.15%	-3%
DPM filter + ULSD	94%	88%	92%	-4.4%	-2.5%

Fleet replacement

NIOSH tests indicate that firehouses that replaced trucks had significantly lower concentration of diesel exhaust in buildings. *A Summary of Health Hazard Evaluations: Issues Related to Occupational Exposure to Fire Fighters, 1990 to 2001. p. 9.* Although truck replacement will reduce emissions, it is very expensive and similar results can be achieved by filter installation.

OTHER TECHNOLOGY FOR EXPOSURE REDUCTION

BIODIESEL

Biodiesel may temporary but solvable maintenance issues when used in trucks previously fueled by regular diesel, due to biodiesel's solvent-like properties. Biodiesel will provide significant emission reductions for some pollutants and slight increases in others. It can be used and will provide emissions reductions in new trucks. Table 5 provides a general emissions reduction comparison of biodiesel and ultra low sulfur diesel (ULSD) (15ppm sulfur content).

Table 5

	Reduction Compared to #2 Petroleum Diesel					
	CO ₂	HC	CO	PM	NO _x	Toxics*
Biodiesel - B100	78%	70 to 93%	50%	30 to 50%	-13%	80 to 90%
Biodiesel - B20	16%	21 to 30%	11 to 20%	10 to 22%	-2%	13 to 50%
ULSD (15ppm sulfur content)	1%	13%	6%	13%	3%	N/A

ULSD w/particulate filter	N/A	up to 90%	up to 90%	80%-90%	15 to 20%	70%
ULSD w/oxidation catalyst	N/A	up to 90%	up to 90%	20 to 50%	N/A	90%

* Toxics: Reports vary in their description of toxics tested. Some refer to Toxic HCs, while others refer to polycyclic aromatic hydrocarbons (PAH) and nitrated polycyclic aromatic hydrocarbons (NPAH).

Biodiesel fuel is made from new and used vegetable oils and animal fats. It is made from domestic renewable sources and is biodegradable. It can be used as 100% biodiesel (B100) or as diesel blend. A blend of 20% biodiesel and 80% petroleum (B20) is used the most. B20 and lower blends are acceptable with the hoses and gaskets of all existing engines. B20 provides similar horsepower and torque to regular diesel, but the consumption increases by 1 to 2%. Pure biodiesel (B100) increases fuel consumption by 4.6 to 10% and can soften and degrade certain types of gasket, hose and seal compounds like natural rubber, Buna-N, and nitrile, which can create fuel system leaks. This effect has not been observed with blends of B20 and lower over the last 10 years of B20 experience, so B20 or lower blends can be used without changes.

For higher blends than B20, hoses and gaskets in some trucks can deteriorate. While natural rubber elastomers are affected, synthetic materials such as Viton compounds tend to be compatible with biodiesel. If vehicle's fueling system contains hoses, seals and gaskets made from synthetic materials it should be fine at higher blends. Most vehicles made after 1993 use synthetic materials. It is always recommended to check with the vehicle manufacturer to determine the types of hoses, gaskets and seals used on particular vehicle.

Biodiesel has a solvent effect that may release deposits accumulated on tank walls and pipes from previous diesel fuel storage. This effect is much more significant with B100 than with B20. The release of deposits may clog filters upon the initial use of B20 and should be closely monitored when switching to B20. Always ensure that only fuel meeting the biodiesel specification (D6751) is used.

Biodiesel may degrade and create sediments if in prolonged contact with brass, bronze, copper, lead, tin, and zinc. Lead solders and zinc linings should be avoided, as should copper pipes, brass regulators, and copper fittings. Affected equipment should be replaced with steel or aluminum. The effect of B20 on vulnerable materials is significantly reduced compared to higher blends.

Due to its chemical characteristics, biodiesel does freeze faster than diesel. B100 is worse in cold flow than the popular blend B20. B20 has been used in a variety of climates including winter usage in Northern Minnesota and Montana without cold flow problems. The cold flow properties of the B20 blend are mostly determined by the petroleum fraction of the blend. Most of the testing data shows a 3 to 5 degree F increase in cold flow properties of a 20% blend of biodiesel and Number 2 diesel fuel and for many users this small increase has not resulted in cold filter plugging. The cold flow properties of B20 can be enhanced by implementing the same solutions used with Number 2 diesel

fuel: blend the fuel with kerosene, use cold flow enhancing additives, turn on fuel filter or fuel line heaters, or store vehicles in a building. Neat biodiesel and biodiesel blends should not be stored for longer than 6 months. <http://www.biodiesel.org>, <http://www.epa.gov/otaq/models/analysis/biodsl/p02001.pdf>

Exhaust Removal System (No Smoke)

An exhaust removal system is installed into the exhaust pipe. It can trap the exhaust for up to 100 seconds providing enough time to enter or exit the building. The device activates when the truck is started and when it is in reverse gear. "The ceramic filters have been lasting approximately 11 months before needing to be cleaned." *Indianapolis Fire Department* This device does not reduce emissions and is not suitable for reduction of emissions from idling trucks. 800-845-4665 <http://warddiesel.com/>

Hydrogen Cell

EPA, Daimler Chrysler and UPS are testing hydrogen fueled delivery trucks in Michigan. Hydrogen fuel generates electricity that powers electric motors. It releases energy through an electro-chemical process and does not release any pollution. The vehicles powered by hydrogen cell are in testing stage. Some problems to solve include delivery of hydrogen to fueling stations and safety. Detroit Diesel, truck manufacturer, is a subsidiary of Daimler Chrysler. <http://epa.gov/otaq/fuelcell/deliveryvans.htm>

FUNDING

EPA

EPA offers funding to retrofit trucks, specific information is available at Grants Administration Division at (202) 564-5305. Grant application package can be requested at http://www.epa.gov/ogd/grants/how_to_apply.htm Grant and retrofit related questions can be addressed to Steve Albrink (202) 343-9671 albrink.steve@epa.gov and Jim Blubaugh (202) 343-9244 blubaugh.jim@epa.gov. The awarded grants are usually in exchange for testing of new products or for commitment to use environment friendly products such as ultra low sulfur diesel or biodiesel. For faster response do not use first class mail because security screening increases delivery time. Latest EPA projects are available at <http://www.epa.gov/otaq/retrofit/latestnews.htm> Current funding information is available at <http://www.epa.gov/otaq/retrofit/retrofunding.htm>

Sample of EPA Grants Awarded

Chattanooga-Hamilton County, Tennessee - \$100,000

- Grant is awarded to the Chattanooga-Hamilton County Air Pollution Control Bureau to fund a public/private partnership retrofit project involving school buses.

Chattanooga-Hamilton County and First Student, Inc., a local private school bus contractor, will equip 83 buses with diesel oxidation catalysts.

Lane Regional Air Pollution Authority, Oregon - \$100,000

- Grant is awarded to demonstrate the use of ultra low sulfur diesel (ULSD) fuel with a wide variety of nonroad equipment and heavy duty highway vehicles in the state of Oregon. The funds will help the local agencies and fleets pay for the difference in cost between regular highway fuel and cleaner ULSD.

City of Boston, Environment Department, MA – \$64,000

- Grant funds the demonstration of oxidation catalysts on up to 32 diesel touring trolleys in the City of Boston. A partnership match, in the form of a commitment to use ULSD, will be required of participating touring companies.

Hamilton County, Department of Environmental Services, OH – \$95,500

- Grant funds the demonstration of oxidation catalysts on 20 school buses in the Cincinnati Area, including low-income areas that are disproportionately effected by pollution, and a 10 month supply of biodiesel (B-20) to fuel 74 school buses.

Maryland Department of the Environment, MD – \$100,000

- Grant funds the demonstration of ULSD at the Maryland Mass Transit Administration's Eastern Maintenance Facility which services 165 diesel transit buses in the Baltimore Metropolitan region.

Mount Rainier National Park, WA – \$100,000

- Interagency agreement funds the demonstration of ULSD with the National Park's 37 diesel vehicle fleet and oxidation catalysts and/or diesel particulate filters for up to 18 of the highest use vehicles (construction equipment, plow trucks, snow blowers, snow groomer, tractor, dump trucks, refuse truck). The project will also use a 50% biodiesel/50% ULSD blend for 2 generators.

New York State, Department of Transportation, NY – \$98,600

- Grant funds the demonstration of ULSD and oxidation catalysts on 20 highway maintenance vehicles in Rockland, Westchester and Bronx counties.

Sacramento Metropolitan Air Quality Management District, CA – \$100,000

- Grant funds the demonstration of oxidation catalysts on privately-owned heavy-duty diesel trucks participating in the region's Fleet Modernization program. The

oxidation catalyst retrofits will augment the program's emission reductions from engine upgrades.

Applications for funding if not indicated otherwise should be mailed to:

U.S. ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF GRANTS AND DEBARMENT
1200 PENNSYLVANIA AVENUE, NW (3903R)
ROOM 51288
WASHINGTON, D.C. 20460

COURIER HAND DELIVERY ADDRESS:

U.S. ENVIRONMENTAL PROTECTION AGENCY
1300 PENNSYLVANIA AVENUE, NW (3903R)
FIFTH FLOOR, ROOM 51288
WASHINGTON, D.C. 20004

US Department Of Homeland Security

The U.S. Fire Administration (USFA) under the patronage of U.S. Department of Homeland Security (DHS) offers Assistance to Firefighters Grant (AFG) for equipment and building modifications. Grants are available for purchase of new firefighting vehicles, used fire apparatus, or refurbished apparatus. The funds may also be used to refurbish a vehicle the department currently owns. *2004 Program Guidance for the Assistance to Firefighters Grant Program p. 19.* USFA provides additional grants for the purchase and installation of a vehicle-mounted exhaust filtration system for any vehicle purchased with grant funds. *p.21* Applicants may apply for only one vehicle per year under this program. Applicants that have been awarded vehicle grants from the AFG program in previous years are not eligible for a vehicle award in this program year. *p.18* USFA offers grants to modify fire stations, fire training facilities, and other facilities to protect the health and safety of firefighting personnel. *P. 17 (e)* USFA will not fund any other requests for modifications of fire stations than vehicle exhaust extraction systems, smoke/fire alarm systems, sprinkler systems, or emergency generators. *P. 18* The grant is limited to one per year, \$100,000 per fire station. *P.18*

The program is offered every year but the deadline passed for year 2004. There is no information about program for 2005. USFA can be contacted at 866-274-0960
<http://www.firegrantsupport.com> *2004 Program Guidance for the Assistance to Firefighters Grant Program* available at
<http://www.firegrantsupport.com/docs/2004AFGguidance.pdf>

RECOMMENDED STRATEGIES FOR REDUCTION OF EXPOSURE TO DIESEL EXHAUST

NIOSH recommendations

- Open garage doors before starting the trucks
- Minimize vehicle operation inside the station
- Keep doors to other areas closed and sealed.
- Maintain living and office areas at positive pressure with respect to the garage
- Keep a record of health symptoms and nuisance complaints
- Perform regular maintenance on furnace and air handling system and install humidifiers *A Summary of Health Hazard Evaluations: Issues Related to Occupational Exposure to Fire Fighters, 1990 to 2001. p. 7-8*

Strategy

Improvement of Indoor air and reductions of emissions

- Perform regular maintenance of trucks and diesel equipment.
- The most efficient and cost effective way to reduce emissions is to install active diesel particulate filters with oxidation catalyst in all diesel trucks and equipment used in fire station. Other filters can be installed providing they will not interfere with PM filter and oxidation catalyst. Contact NIOSH at 800-356-4674 to perform indoor air quality test before and after modifications. Manufacturers list is available at <http://www.epa.gov/otaq/retrofit/retroverifiedlist.htm>.
- The exhaust should be extracted from building by tailpipe exhaust extraction system.
- Install in-duct Electronic or Nano filters to remove particulate matter entering building.
- Keeping doors to living areas closed and sealed. Maintain living and office areas at positive pressure with respect to the garage and keeping a record of health symptoms and nuisance complaints.

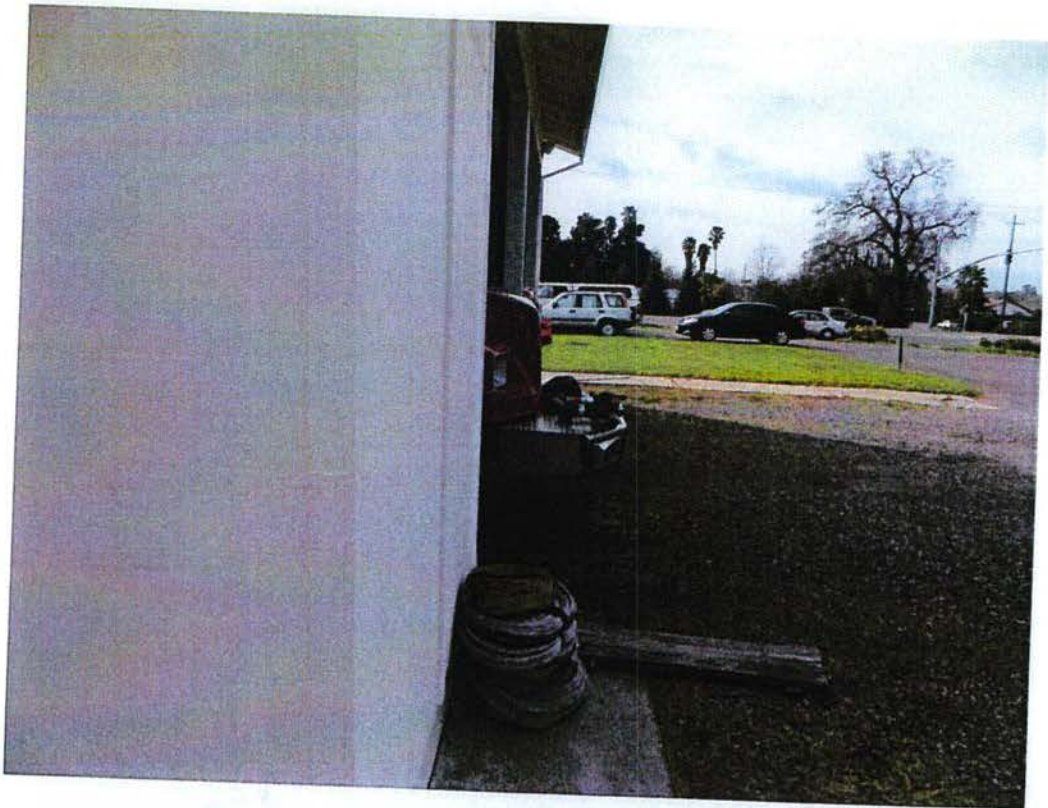
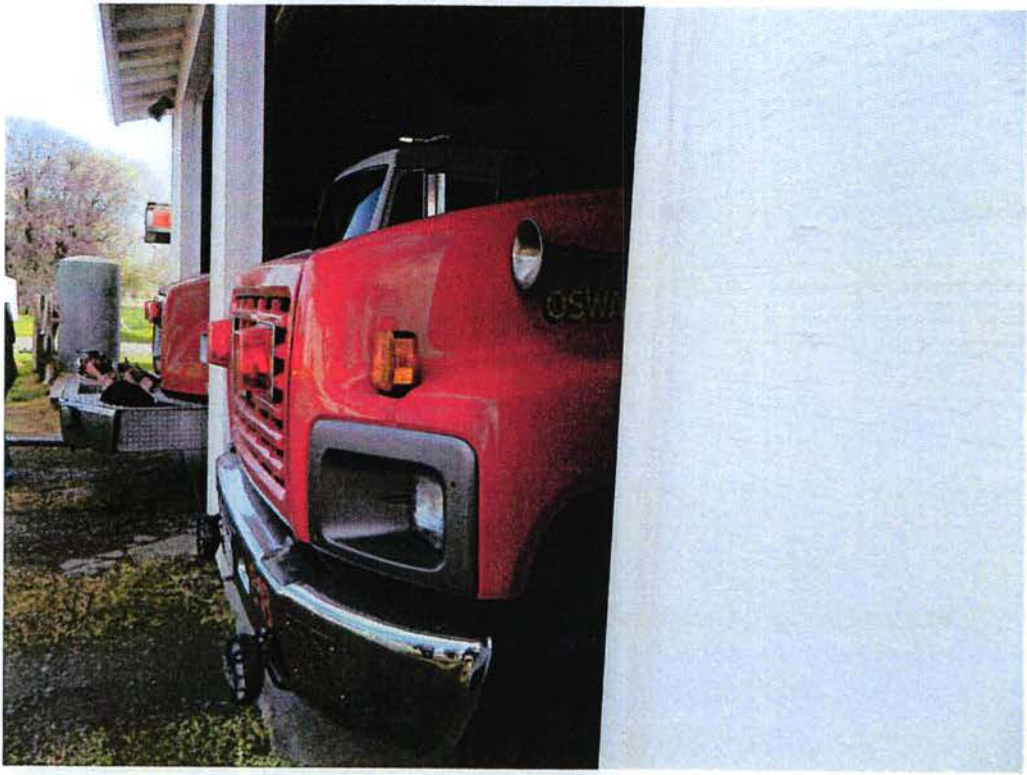
Funding

- Contact EPA at (202) 564-5305, US Fire Administration at 866-274-0960 and inquire for funding for truck exhaust retrofitting.
- Ask union officials, local business and organizations for funding.
- Distribute brochure regarding diesel effects on children in the neighborhood, and ask residents to contact alderman or local officials to provide funding.
- Contact union officials, OSHA, US Fire Administration and ask to place diesel particulate matter on OSHA's "Toxic and Hazardous Substances" list.

TABLE OF AUTHORITIES

Culbert v. City of Jersey City, 175 N.J. 286, 291, (2003)
29 CFR § 1910.1000, *Toxic and Hazardous Substances*
59 FR 15968-001, *OSHA's proposed Indoor Air Quality regulation*
66 FR 5706-01, *Exposure limits to DPM in mines (MSHA)*
ANSI/ASHRAE 62-2001 addendum 62aa
Childhood Asthma Hospitalization and Residential Exposure to State Route Traffic, Lin,
full text available at <http://www.sciencedirect.com/>
*Demonstration of Advanced Emission Control Technologies Enabling Diesel-Powered
Heavy-Duty Engines to Achieve Low Emission Levels (MECA)*, June 1999
FACT SHEET: Release of the Health Assessment Document for Diesel Engine Exhaust,
September 2002
*Emission Results from Clean Diesel Demonstration Program with CRT Particulate Filter
at New York City Transit*
NIOSH, *Review of Technology Available to the Underground Mining Industry for
Control of Diesel Emissions* <http://www.cdc.gov/niosh/mining/pubs/pdfs/ic9462.pdf>
NIOSH, *A Summary of Health Hazard Evaluations: Issues Related to Occupational
Exposure to Fire Fighters, 1990 to 2001*
2004 Program Guidance for the Assistance to Firefighters Grant Program

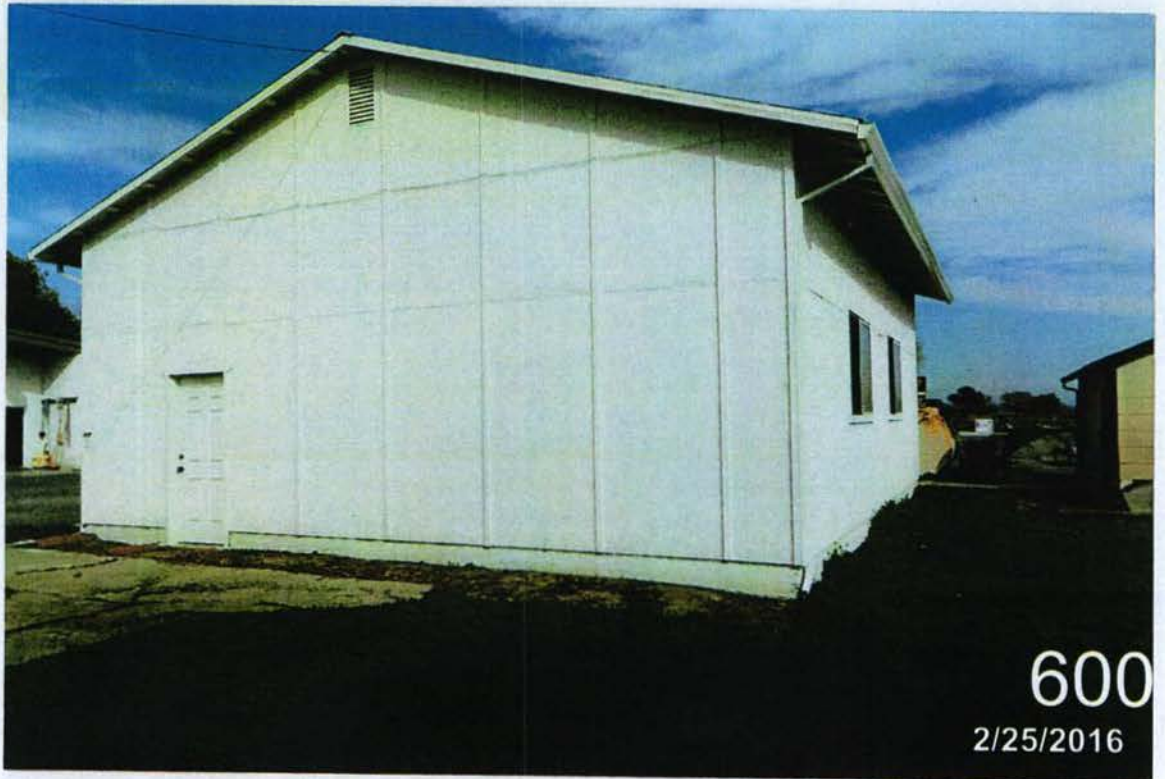
<http://www.ashrae.org>
<http://www.carrier.com/rcd/products/Literature/pdf/570-563.pdf>
<http://usgn.com/products.htm>
<http://www.epa.gov/otaq/retrofit/overdieseltimeline.htm>
<http://www.hse.gov.uk/pubns/indg286.htm>
<http://www.epa.gov/otaq/retrofit/sitemap.htm>
<http://www.arvinmeritor.com/home/default.asp>
<http://www.biodiesel.org>
<http://www.epa.gov/otaq/models/analysis/biodsl/p02001.pdf>
<http://warddiesel.com/>
<http://epa.gov/otaq/fuelcell/deliveryvans.htm>
<http://www.epa.gov/otaq/retrofit/latestnews.htm>
<http://www.epa.gov/otaq/retrofit/retrofitfunding.htm>





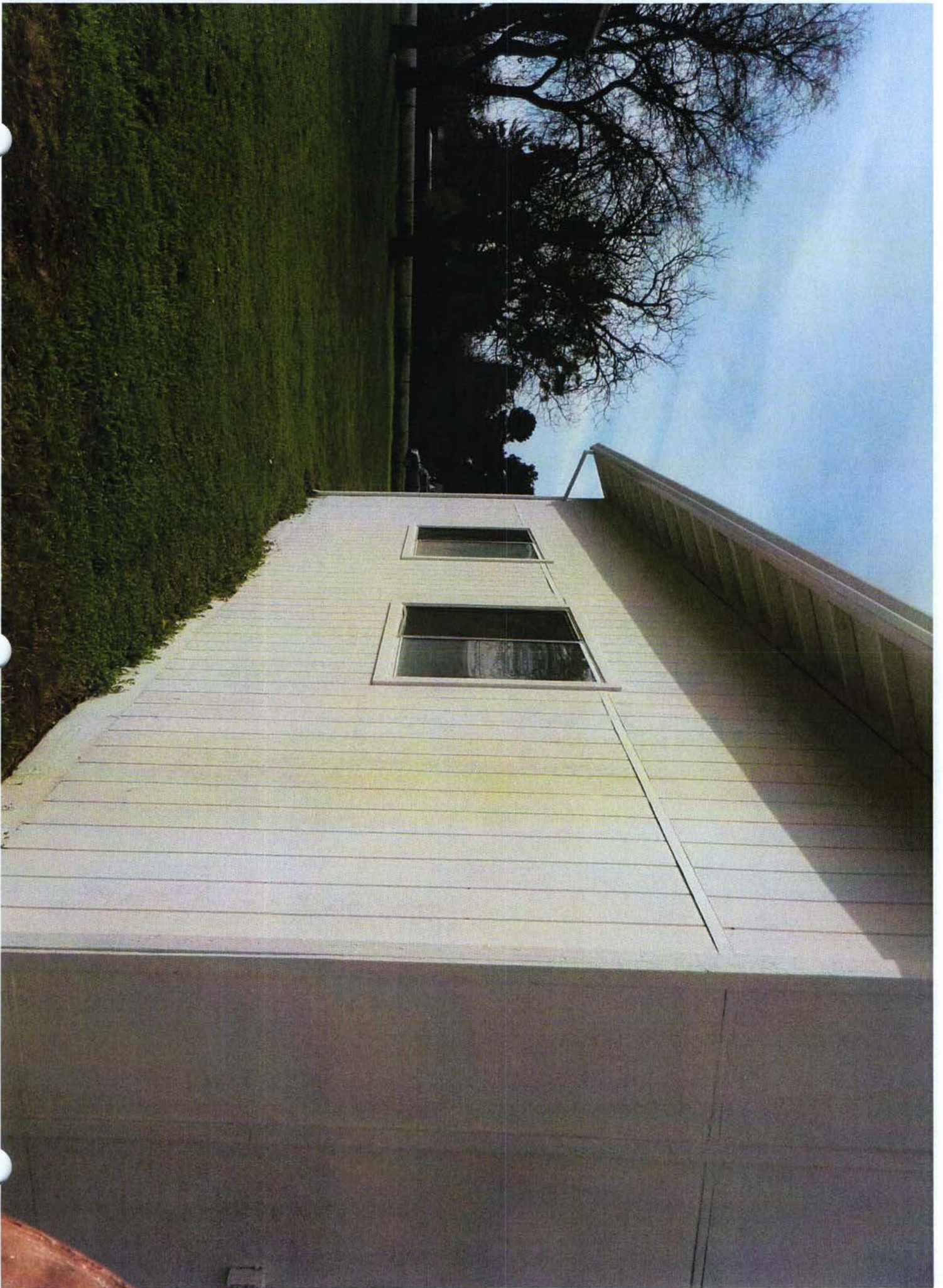
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WHO'S PROTECTING OUR CHILDREN? AN IN DEPTH LOOK INTO CHILD PROTECTIVE SERVICES

SUMMARY

The Sutter County Grand Jury (SCGJ) received numerous complaints from multiple current and previous employees as well as a foster parent of Sutter County. The complaints alleged a wide range of problems within Child Protective Services department (CPS). The SCGJ conducted a nine month investigation into CPS, which sought to determine their role within the county, including employment standards, management practices, training, building conditions, and operational standards.

GLOSSARY

Modus Operandi - A particular way or method of doing something, especially one that is characteristic or well-established.

BACKGROUND

At the beginning of the 2015-2016 grand jury term, the SCGJ received complaints from sixteen current employees and was furthermore contacted by previous employees regarding: the office being understaffed, high turnover rate; unfair workload assignments, poor management practices, lack of employee trust, communication, and support from management, unsafe and unprofessional drug testing procedures, poor building conditions and air quality, an inadequate visitation room, and no safety measures in place for employees; for instance: secure parking, security, or video surveillance. The meetings with clients are held in a meeting room adjoined to the reception area where confidential conversations can easily be overheard.

The SCGJ learned of Social Worker recommendations, which were allegedly being changed by supervisors, then sent to the court as the Social Worker's recommendation. Likewise, multiple employees notified the SCGJ that they had witnessed an incident where the Management of CPS had written a report for a Social Worker then asked the Social Worker to sign the report as if it had been written by his/herself.

Along with the employee complaints the SCGJ received a complaint from a private citizen in September of 2015. The complaint accused CPS of: blacklisting foster homes without merit, failing to follow judiciary recommendations, placing children in "at risk" situations, not following what is in the best interest of the children, and unprofessional work ethic.

While the SCGJ was investigating the CPS complaints there had been multiple news reports regarding other California CPS agencies that had failed to follow procedures, or placed children in at risk situations. One particular article by the Appeal-Democrat titled "*4 Social Workers charged after boy's beating death*" in this case two social workers and two supervisors were charged with child abuse, the supervisors were also charged with falsifying documents. This case brought light on CPS agencies and the mistakes that can be made. By the time the mistake is discovered, it is often too late and the damage has been done.

The SCGJ initiated a preliminary investigation into the allegations starting in August of 2015, after interviewing 3 CPS workers, and reviewing case information, the SCGJ found enough merit in their complaints to initiate a full investigation into the CPS Department.

RESOURCES

The SCGJ:

- Interviewed:
 - Over 90% of the current social workers from the Social Services Department - Child Protective Services Division
 - All current CPS Social Worker Supervisors
 - 4 Prior Employees
 - Program Manager of Social Services
 - Assistant Director of Human Services
 - Director of Human Services
 - (2015) County Administrative Officer
 - Assistant County Administrative Officer
 - Union Representative
 - Sheriff's Deputy

DISCUSSION

The SCGJ sought to conduct a full investigation into the allegations made about CPS by the various parties. All interviewees questioned by the SCGJ were asked the same general questions. The Social Workers provided the questioning body with multiple areas of concern. After the SCGJ gathered as much information as possible about those areas, Management was then asked for their input on those subjects.

Since 2011, the turnover rate for CPS has increased 50% and has continued to climb yearly. During interviews with employees it was found that this is also in correlation with the time that new management was hired and placed in charge of the CPS department. The SCGJ also interviewed employees who had either retired or left CPS. The SCGJ determined that the consensus of employees left because of significantly deteriorated working conditions. Many workers obtained employment in surrounding counties for lower pay and a longer commute due to the work environment being unbearable.

The SCGJ was able to narrow the complaints into the following main subjects: The Citizen Complaint, Micromanagement, Drug Testing Policy, Report Coercion, Building Conditions, and Building Security.

Due to the complexity of the complaints, as well as the agency involved, it took the SCGJ nine months to complete the investigation.

Citizen Complaint

The SCGJ was informed that there had been an active foster parent (Foster Parent) living in Sutter County who provided Foster Family Services, for both Sutter and Yuba County CPS.

The case brought to our attention involved an older child as well as his/her 3 younger siblings ranging from one to eight years old. They had been removed from their biological family because of abuse and as unsafe living conditions. The eldest child maintained that the majority of the abuse had been caused by his/her father, who according to a Sutter County Sheriff's Department (SCSD) Deputy was a verified gang member. The child recalled an instance where he was stabbed, other instances in which he was repeatedly punched in the chest, as well as numerous other abuse allegations. The abuse had started from a very young age and continued until the SCSD and CPS intervened. The child was extremely fearful and due to trust issues, it took the Social Worker several months to gain the eldest child's trust. Throughout the next two years the child, Foster Parent and Social Worker worked well together.

According to CPS management, their goal is: to not separate families, ensure the safety of children using all means available, and reunite families whenever possible. If parents comply with the orders set by the judge, there is usually a point in time in which the parents will regain custody of their children. If the parents continue making the correct choices in regards to their children's well being, CPS will terminate oversight of the family.

Ultimately, the three younger siblings were returned to the biological parents while the eldest remained in foster care. The eldest child felt that his/her siblings were still in danger, and voiced this many different times to multiple people including the Foster Family Agency and CPS. However the younger children did not complain of any abuse, which the eldest child felt they were made to say by their biological parents. The eldest child maintained that he/she did not ever want to be returned home, and eventually the Foster Parent started the adoption process.

Two years into the case, CPS management made the decision to transfer the Social Worker (Social Worker 1) off the case and Social Worker 1 was furthermore instructed not to have contact with the family. The new Social Worker (Social Worker 2) who was assigned the case had no relationship with the child or the foster family.

The Foster Parent had an "open-line" of communication with Social Worker 1 who was assigned to the case, and used email for a majority of the contact between CPS and the foster family agency. Email was the most efficient means of communication for the Foster Parent due to the fact that he/she had 5 children with busy extra curricular activities. After Social Worker 1 was replaced, the foster parent was informed by the Social Worker 2 they could no longer email CPS because it was against CPS policy to send emails to non county email addresses. Communication between the Foster Parent and the Social Worker 2 became almost nonexistent. Due to the child's trust issues, the child would refuse meetings and asked repeatedly for Social Worker 1 to be placed back on the case.

The child, foster parent, and the child's attorney were adamant about reassigning the case to Social Worker 1. The judge was also made aware of the change in social workers and requested that Social Worker 1 be placed back on the case, in the best interest of the child. The judge's

request was made on three separate occasions to the management of CPS, all of the requests were ignored.

After the problems with CPS, the Foster Parent was no longer offered any type of foster placements from Sutter County. However he/she were still receiving calls for foster children from Yuba County.

The SCGJ inquired into the process of foster placement in Sutter County and found the following. When a child is in need of foster placement, the responsible Social Worker will contact a Foster Family Agency (FFA) informing them of the child of children's demographics. The FFA provides the CPS representative with a list of viable, licensed foster homes which meet the needs of the child. Often times Social Worker will take the list to other workers or supervisors and ask if they have worked with or know anything about the proposed foster families. Workers questioned stated that there is not a "blacklist" of foster families. However, at times they will be told by supervisors not to use a specific foster home sometimes without explanation. If pressured for an answer as to why not use a particular foster home, the Social Workers received a "because I said so" response from upper management.

Citizen Complaint Conclusion

Blacklisting:

The SCGJ is unable to substantiate the existence of an official "Blacklist" or its usage. There may be some foster families that are not used due to the family not getting along with a Social Worker or CPS as an entity. However this is not against any CPS policies and ultimately it is the Social Worker or their supervisors' choice in where to place the child.

However, this modus operandi can cause a strain on an already stressed system. Children who cannot be placed in a local foster home are often sent to surrounding counties and even out of state. Causing stress on the Social Worker in added driving and travel time, and on the child who now must endure longer transportation times in order to have visitation with their family members.

If foster homes are no longer to be used, CPS should take the proper steps to de-credential the homes if they believe that children will not be taken care of in that environment.

Email Policy:

SCGJ inquired about CPS's email policy and found that according to management and Social Worker staff there is not a policy concerning sending emails outside of CPS. Social Worker's questioned stated that it is a valuable tool in communicating with Foster Parents, Foster Family agencies and other entities. As such the Social Worker or CPS should NOT have instructed the Foster Parent to stop all emails, and furthermore should have continued to respond to emails from the foster parent. Written correspondences of all types can be extremely important for communication between interested parties.

Likewise it is useful in tracking down facts, and aids in investigations in which agencies or individuals are wrongfully or rightfully accused of wrongdoing.

Best interest of the child:

With this case in particular, there were many questionable times in which it would seem that the “best interests of the children” were not the first priority for CPS. One example is the Social Worker being replaced without notice and all contact was forbidden between the parties. Placing the three youngest children back with the biological parents while the oldest remained in Foster care is another example.

The SCGJ finds that the replacement of the Social Worker further exacerbated the trust issues and caused undue anxiety upon the child. Although the Judge requested the original Social Worker be placed back on the case, it was only a recommendation and not a court order. Therefore, the cases this social worker was responsible for were ultimately the choice of CPS management.

However, the SCGJ finds that the requests of the Judge, foster parent, attorney and other entities should have been heeded in this case. When managers were questioned about why the Social Worker was replaced, inconsistent reasons were given, and none of the answers given were adequate enough to warrant the replacement of the Social Worker at the possible detriment of the child.

The other three children had been returned but one child was placed for adoption. Many CPS workers and CPS management stated it is rare and almost unheard of where CPS will retain one child in foster care and return others. Usually, if it is safe enough for one child to return to their parents, it is safe enough for all of them.

The biological parent completed their court requirements in order to have their children returned and rightfully requested for them all to be returned. CPS management believed it was doing in what was in the best interests of all parties, as well as following policy. However, the only thing that kept this child from being returned were the few advocates he had and the child's persistence in not wanting to return home and the brave ability to have their voice heard by the judge.

Overall CPS Investigation

Micromanagement

A major complaint of past and present workers of CPS has been low morale and micromanagement in the department. It has been attributed to a lack of trust in the employees from upper management. For example:

- Employees have been prohibited from working after hours in the building without some type of supervision. Whereas, previously, workers could come in and work on case reports after hours and on weekends.

- Office Assistants have had their Passpoint badges restricted. They no longer have access to areas of the building that are needed to be able to do their job efficiently. This requires a manager or Social Worker to use their Passpoint to get them through the interoffice door to complete routine tasks.
- Most long term (10+ yrs) employees reported that, under the new management, their opinions and judgement based on experience was devalued or ignored. For instance, Social Workers are no longer allowed to speak with County Counsel without first asking a supervisor for permission. However, Social Workers are the active caseworkers who write the court reports and need to be able to have an “open-line” of communication with County Counsel.

Throughout the SCGJ’s investigation and interviews, many of the employees gave the same example of micromanagement, which was the CPS “letterhead”, and how it is handled in the office. In order to write a letter on CPS letterhead, CPS Employees are required to submit a copy of the letter for vetting or approval by the Program Manager in order to be issued a blank letterhead. According to the Department Manager who established this policy, it was a response to one instance in which an employee misused the letterhead. Out of all the County Departments visited by the 2015-2016 SCGJ, CPS was the only instance in which management approval was required for employees to utilize department letterhead.

The current letterhead in use within the CPS Division contains the names and positions of the upper management staff as part of the letterhead. Use of this letterhead implies tacit approval of the contents of the letter.

Drug Testing Policy

Some CPS clients are required to be drug tested by court order, in order to have scheduled visits with their children. Employees reported to the SCGJ that the drug testing procedures may be: violating OSHA regulations, putting the employee at risk for communicable diseases, and possibly violating Health Insurance Portability and Accountability Act (HIPAA).

The lobby bathroom has no privacy and sits in front of the waiting area. Clients are taken into the bathroom with the social worker conducting the test. The urine is collected by the client in a cup, then handed to the Social Worker who in turn pours it into an “Integrated Multi Drug Urine Drug Test Kit”. This test is able to instantly tell the Social Worker conducting the test what drugs the client has used recently. Based on the results of the instant drug test, parents are then informed whether they will or will not be visiting their child that day. The social worker then walks out of the restroom with the urine sample in hand and places it in their collection area to be further tested by a lab to verify if found positive. Some parents get extremely upset if they are told that they failed the drug test, and will at times come out of the restroom crying. Anyone who may be seated in the lobby, other CPS clients or Mental Health clients are able to observe the whole process and can easily hear anything said in the restroom eliminating any privacy that the client has.

The SCGJ cannot find this as a violation to HIPAA as their regulations do not apply to CPS for the purpose of urine collection. However the SCGJ does recognize that the current drug testing policies do not allow for the process to be confidential as it should be.

The SCGJ was informed by Human Services Management that the CPS department is in full compliance of OSHA's guidelines for bio-hazard urine collection for the purpose of drug testing.

However during the investigation multiple CPS employees who conducted the urine tests had stated that they are given the minimum in protective equipment and have been instructed to empty urine containers in the drain of the janitors closet, as well as many other questionable practices. Likewise many of the employees including ones who had been there for 10+ years complained that they had never received any training in urine collection, protection, disposal, or any other type of training on bloodborne pathogens during their time at Sutter County CPS.

The SCGJ found that CPS may be in violation of Cal Osha Rule 29 CFR 1910.1030, although it is not blood, OSHA ruled that it is considered "Other Potentially Infectious Materials" or OPIM (Attachment A). In that ruling the director of compliance stated "You correctly note that although urine is not generally considered an infectious material, any body fluid that is visibly contaminated with blood, including urine, is included within the definition of OPIM. Therefore, the reasonable anticipation of worker exposure to urine contaminated with blood would require full compliance with the standard's requirements as would any other "occupational exposure", if the center employees are required to perform the tests and/or dispose of the urine."

Although most urine likely does not contain blood there are instances where it does, and according to CPS workers they have witnessed cases where it does contain blood, such as when women are menstruating. In one specific instance a worker was exposed to blood while conducting a urine test placing them at risk for communicable diseases. Therefore, CPS should be in full compliance with Cal Osha Rule 29 CFR 1910.1030, however there are sections in which CPS is not in compliance, such as "Providing protective equipment such as, but not limited to, gloves, gowns, laboratory coats, face shields or masks and eye protection, and mouthpieces, resuscitation bags, pocket masks, or other ventilation devices" (Cal/Osha 29 CFR 1910.30).

Report Coercion

During the investigation into CPS the SCGJ was made aware of an instance where a Social Worker was given a report, which was headed to the court, and asked to sign it. This Social Worker had no part in the writing of the report and did not agree with the content of the report, as such the Social Worker refused to sign it. This situation alarmed the SCGJ, and as such the matter was investigated as well as the process that CPS normally uses to issue court reports. Social Workers were questioned about their reports and how they are normally handled by CPS.

The SCGJ found that reports are normally read over by supervisors as well as gone over as a group. Social Workers will write reports based off of the knowledge that the Social Worker has with the CPS client.

According to multiple Social Workers there are times that they will write a recommendation and upper management will return it to the worker telling them to change their recommendation.

For example, a Social Worker requested that the children in one particular case should not be returned home due to the danger the children may face if returned. Then, management forced them to change the report suggesting the children need to be returned to their guardians. This was without management meeting the clients in question and knowing only what they had read from other CPS documentation. Therefore, the presiding judge did not know anything about the original recommendation and that the Social Worker feared that the children may be in danger.

Building Conditions and Security

As reported in the 2014-2015 SCGJ report the conditions of the modulars were found to be beyond normal wear and tear. CPS employees reported that when it rained it would leak in the building to the point where desks, computers and other workstations had to be covered in plastic to keep them from becoming damaged by water. The ceiling tiles were worn and water stained and according to statements the leaseholder had come in and spray painted the ceiling tiles white in order to get rid of the staining color. Workers also complained of musty air in the workstation area, which was apparently giving some workers chest colds and in one case possibly pneumonia. At the time the SCGJ toured the facility the SCGJ was unable to substantiate the air quality claims, however the fact that a high rate of employees are getting upper respiratory infections warrants some type of air quality check. The parking lot has inadequate drainage, and puddles when it rains, the whole parking lot turns into a "lake" (Attachment C) making it almost impossible to park in the lot.

The visitation area is also an area of concern. When parents have visitation with their children the visitation room is shared with 3-4 additional families. Parents and workers complain that children are easily distracted and will go and play with other children, taking away from the bonding time, which should be spent with their parents/grandparents/etc. Social Workers stated that the toys are "disgusting" and at times a hotbed for illnesses that get passed around between the children because the toys are not cleaned after usage.

It is important to note that while the SCGJ was investigating CPS, upper management did authorize and complete a remodel of the playroom with new toys and other furniture. However there is still only one visitation room, and CPS employees stated that the toys are still not cleaned regularly.

Security

This building is also seriously lacking security. The building is lacking a security guard. There are no working security cameras on any part of the building. Additionally employees and clients park in the same parking lot, leaving no separation between clients and employees. This can place the employees at risk.

This lack in security has resulted in:

- Clients waiting until the social workers are off duty and then approaching them to talk about their case in the parking lot.
- Employees having their personal vehicles vandalized.
- The modular building was hit with a “molotov cocktail” in an attempt to light the building on fire.

Conclusion

Management also reported the appearance of low morale and lack of trust. However, management believes that it stems from a small group of four to five employees who are disgruntled. After interviewing previous employees and over 90% of current CPS social workers, management's beliefs that there are four or five disgruntled employees is far short of accurate.

Although CPS management may have valid reasons for its actions, it appears that there is an overall breakdown of communication from the Director of Human Services down through social workers.

CPS workers have a very difficult job that requires expertise, experience, and a high level of education. The workers are involved in stressful situations and receive little recognition from the public and management.

It should be noted that given the conditions of the report above, the social workers of CPS have a dedication and work ethic that displays a highest priority and concern for the children and families they come in contact with. All representatives of CPS contacted were extremely courteous and helpful. Their knowledge and cooperation were instrumental in completing a thorough investigation.

FINDINGS

- F1. There have been multiple employees who have quit or retired due to low morale and grievances that were not addressed by the CPS management.
- F2. Decision making capabilities and authority of Social Workers are limited by management.
- F3. Current drug testing procedures put employees at risk of communicable diseases, violates personal privacy rights, and displays a lack of training regarding urine collection.
- F4. The current CPS facility is lacking appropriate security measures to protect the clients, representatives of the County, and County property.
- F5. The modular units which currently house CPS have exceeded the normal life-expectancy and are badly degraded.

- F6. CPS visitation room was recently remodeled and includes new carpeting, furnishing, paint, toys and a computer for social workers use while supervising visitations.

RECOMMENDATIONS

- R1. CPS needs to encourage open communication, HR evaluation, survey of employees regarding upper management style and supervision. Should have employees rate their supervisors yearly.
- R2. Caseworkers need to have the ability to make their own recommendations. If upper management has a concern with the recommendation, then the management can write their own addendum.
- R3. CPS follow all current OSHA guidelines regarding urine collection and disposal, and policies need to be reviewed annually or consider "outsourcing" this process.
- R4. Hire a security guard and installation of video surveillance for main lobby and parking.
- R5. Relocation of the CPS department to a suitable facility.
- R6. Upgrades are recognized, however deficiencies still exist. Needs to be moved away from mental health, bathrooms and adequate space is needed for a proper visit.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the grand jury requests responses as follows:

- Sutter County Board of Supervisors

INVITED RESPONSES

- Sutter County Child Protective Services Management
- Sutter County Human Services Director

BIBLIOGRAPHY

- Clark, Roger A. "Standard Interpretations 1910.1030." OSHA. UNITED STATES DEPARTMENT OF LABOR, n.d. Web. 8 Jan. 2016.
<https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=INTERPRETATIONS&p_id=21284>.
- Melley, Brian. "4 Social Workers Charged after Boy's Beating Death." Appeal Democrat. Associated Press, 7 Apr. 2016. Web. 9 Apr. 2016.
<http://www.appeal-democrat.com/news/national/social-workers-charged-after-boy-s-beating-death/article_5f4206d5-8ddc-5350-85ae-313735c9a2b5.html>.

"Regulations (Standards - 29 CFR) - Table of Contents." Bloodborne Pathogens. UNITED STATES DEPARTMENT OF LABOR, n.d. Web. 18 Apr. 2016.
<https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=10051>.

APPENDIX

Cal/Osha ruling on urine collection

Cal/Osha Regulations regarding bloodborne pathogens

Picture of Flooded Parking Lot

DISCLAIMER

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person who provides information to the Grand Jury.

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Standard Interpretations - Table of Contents

Standard Number: 1910.1030

September 24, 1993

Ms. Judith A. Brown
Legal Counsel
Care Net
311 West Broad Street
Suite 500
Hills Church, Virginia 22046

Dear Ms. Brown:

Thank you for your letter of August 19 concerning the application of the Occupational Safety and Health Administration's (OSHA) final rule for Occupational Exposure to Bloodborne Pathogens (29 CFR 1910.1030) to pregnancy care centers administering urine pregnancy tests.

Your letter indicates that the pregnancy testing centers affiliated with Care Net provide on-site urine pregnancy tests. You also indicate that the procedures vary from one facility to another and may involve employees, volunteers, and clients performing various tasks associated with the urine test. As you know, OSHA's jurisdiction extends only to the safety and health of employees in the workplace and does not extend to volunteers or to the general public.

It is important to note that the bloodborne pathogens standard applies to all employees who have occupational exposure to blood or other potentially infectious materials (OPIM). The term "occupational exposure" means all **reasonably anticipated** contact with blood or other potentially infectious materials that may result from the performance of an employee's duties. Therefore, coverage under the standard is not based on the type of industry or workplace, but rather on the reasonable anticipation of worker exposure to blood or OPIM.

Under the standard, it is the employer's responsibility to evaluate each job classification for occupational exposure, taking into account all circumstances of potential exposure to determine which, if any, employees may come into contact with blood or OPIM as part of their job duties.

Your letter indicates that you anticipate that in a certain percentage of cases employees will be exposed to urine that is contaminated with blood. You correctly state that although urine is not generally considered an infectious material, any body fluid that is visibly contaminated with blood, including urine, is included within the definition of OPIM. Therefore, the reasonable anticipation of worker exposure to urine contaminated with blood would require full compliance with the standard's requirements as would any other "occupational exposure", if the center employees are required to perform the tests and/or dispose of the urine.

We hope this information is useful to you. Thank you for your interest in occupational safety and health.

Sincerely,

Roger A. Clark
Director of Compliance Programs

August 19, 1993

OSHA/DCP/OHCA
Roger Clark
10 Constitution Avenue, N.W.
Washington, D.C. 20210

Dear Mr. Clark:

am writing on behalf of the 450 pregnancy care centers affiliated with Care Net. We would like you to clarify, in writing, the application of the OSHA regulations on bloodborne pathogens, 29 C.F.R. Part 1910.1030 (1991).

Most of our centers provide free urine pregnancy tests, which clients perform on-site. In these centers, generally the procedure is as follows: the client catches her urine in a small container then closes the lid. The client places the closed container on a tray. Usually, a volunteer, but sometimes an employee, carries the tray into a room where the client performs the test and closes the container. After the client leaves the center, the volunteer, wearing gloves, disposes of the urine in a toilet and disposes of the container and the pregnancy test in a plastic-lined trash can. The trash bag is left at the curb for regular trash pick-up. The volunteer then washes the tray, any surface where the tray was, and the bathroom with a bleach solution.

Some of our centers follow essentially the same procedure but only the client handles the urine. At other centers, volunteers perform the pregnancy test and dispose of the urine. Finally, some of our centers are medical clinics. At these clinics, staff perform the tests in a laboratory-like area of the center.

It is my understanding that although urine is not a regulated waste, any body fluid that is visibly contaminated with blood is a regulated waste. OSHA regulations do not apply to volunteers, but our centers do require some employees to perform the above-mentioned tasks. Our centers see over 200,000 clients per year. It is our best estimate that only about one in every 3000 clients catches urine that is visibly contaminated with blood. Furthermore, we have instructed our centers to ask clients to remove contaminated urine from our centers. Therefore, no contaminated urine will be disposed in our centers.

I do not believe that our employees or volunteers are at risk of exposure to bloodborne pathogens. Additionally, as I interpret the regulations, they do not apply to our centers. However, I would like you to officially confirm my interpretation.

We desire to comply with the law and, more importantly, we desire that the employees and volunteers in our centers be protected from unnecessary exposure to bloodborne pathogens. Please advise us of our status according to the regulations. If you conclude that the law requires compliance, please also advise how we can change our procedures if possible in order to change our status.

Thank you for your prompt attention to this matter. I look forward to hearing from you.

Sincerely,

Dorothy A. Brown
Legal Counsel

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Part Number: 1910
Part Title: Occupational Safety and Health Standards
Subpart: Z
Subpart Title: Toxic and Hazardous Substances
Standard Number: 1910.1030
Title: Bloodborne pathogens.
Appendix: A
GPO Source: e-CFR

10.1030(a)

Scope and Application. This section applies to all occupational exposure to blood or other potentially infectious materials as defined by paragraph (b) of this section.

10.1030(b)

Definitions. For purposes of this section, the following shall apply:

Assistant Secretary means the Assistant Secretary of Labor for Occupational Safety and Health, or designated representative.

Blood means human blood, human blood components, and products made from human blood.

Bloodborne Pathogens means pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, hepatitis B virus (HBV) and human immunodeficiency virus (HIV).

Clinical Laboratory means a workplace where diagnostic or other screening procedures are performed on blood or other potentially infectious materials.

Contaminated means the presence or the reasonably anticipated presence of blood or other potentially infectious materials on an item or surface.

Contaminated Laundry means laundry which has been soiled with blood or other potentially infectious materials or may contain sharps.

Contaminated Sharps means any contaminated object that can penetrate the skin including, but not limited to, needles, scalpels, broken glass, broken capillary tubes, and exposed ends of dental wires.

Decontamination means the use of physical or chemical means to remove, inactivate, or destroy bloodborne pathogens on a surface or item to the point where they are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal.

Director means the Director of the National Institute for Occupational Safety and Health, U.S. Department of Health and Human Services, or designated representative.

Engineering Controls means controls (e.g., sharps disposal containers, self-sheathing needles, safer medical devices, such as sharps with engineered sharps injury protections and needleless systems) that isolate or remove the bloodborne pathogens hazard from the workplace.

Exposure Incident means a specific eye, mouth, other mucous membrane, non-intact skin, or parenteral contact with blood or other potentially infectious materials that results from the performance of an employee's duties.

Handwashing Facilities means a facility providing an adequate supply of running potable water, soap, and single-use towels or air-drying machines.

Licensed Healthcare Professional is a person whose legally permitted scope of practice allows him or her to independently perform the activities required by paragraph (f) Hepatitis B Vaccination and Post-exposure Evaluation and Follow-up.

HBV means hepatitis B virus.

HIV means human immunodeficiency virus.

Needleless systems means a device that does not use needles for:

(1) The collection of bodily fluids or withdrawal of body fluids after initial venous or arterial access is established; (2) The administration of medication or fluids; or (3) Any other procedure involving the potential for occupational exposure to bloodborne pathogens due to percutaneous injuries from contaminated sharps.

Occupational Exposure means reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or other potentially infectious materials that may result from the performance of an employee's duties.

Other Potentially Infectious Materials means (1) The following human body fluids: semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, any body fluid that is visibly contaminated with blood, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids; (2) Any unfixed tissue or organ (other than intact skin) from a human (living or dead); and (3) HIV-containing cell or tissue cultures, organ cultures, and HIV- or HBV-containing culture medium or other solutions; and blood, organs, or other tissues from experimental animals infected with HIV or HBV.

Parenteral means piercing mucous membranes or the skin barrier through such events as needlesticks, human bites, cuts, and abrasions.

Personal Protective Equipment is specialized clothing or equipment worn by an employee for protection against a hazard. General work clothes (e.g., uniforms, pants, shirts or blouses) not intended to function as protection against a hazard are not considered to be personal protective equipment.

Production Facility means a facility engaged in industrial-scale, large-volume or high concentration production of HIV or HBV.

Regulated Waste means liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling; contaminated sharps; and pathological and microbiological wastes containing blood or other potentially infectious materials.

Research Laboratory means a laboratory producing or using research-laboratory-scale amounts of HIV or HBV. Research laboratories may produce high concentrations of HIV or HBV but not in the volume found in production facilities.

Sharps with engineered sharps injury protections means a nonneedle sharp or a needle device used for withdrawing body fluids, accessing a vein or artery, or administering medications or other fluids, with a built-in safety feature or mechanism that effectively reduces the risk of an exposure incident.

Source Individual means any individual, living or dead, whose blood or other potentially infectious materials may be a source of occupational exposure to the employee. Examples include, but are not limited to, hospital and clinic patients; clients in institutions for the developmentally disabled; trauma victims; clients of drug and alcohol treatment facilities; residents of hospices and nursing homes; human remains; and individuals who donate or sell blood or blood components.

Sterilize means the use of a physical or chemical procedure to destroy all microbial life including highly resistant bacterial endospores.

Universal Precautions is an approach to infection control. According to the concept of Universal Precautions, all human blood and certain human body fluids are treated as if known to be infectious for HIV, HBV, and other bloodborne pathogens.

Work Practice Controls means controls that reduce the likelihood of exposure by altering the manner in which a task is performed (e.g., prohibiting recapping of needles by a two-handed technique).

10.1030(c)

Exposure Control --

10.1030(c)(1)

Exposure Control Plan.

10.1030(c)(1)(i)

Each employer having an employee(s) with occupational exposure as defined by paragraph (b) of this section shall establish a written Exposure Control Plan designed to eliminate or minimize employee exposure.

10.1030(c)(1)(ii)

The Exposure Control Plan shall contain at least the following elements:

10.1030(c)(1)(ii)(A)

The exposure determination required by paragraph (c)(2),

10.1030(c)(1)(ii)(B)

The schedule and method of implementation for paragraphs (d) Methods of Compliance, (e) HIV and HBV Research Laboratories and Production Facilities, (f) Hepatitis B Vaccination and Post-Exposure Evaluation and Follow-up, (g) Communication of Hazards to Employees, and (h) Recordkeeping, of this standard, and

10.1030(c)(1)(ii)(C)

The procedure for the evaluation of circumstances surrounding exposure incidents as required by paragraph (f)(3)(i) of this standard.

10.1030(c)(1)(iii)

Each employer shall ensure that a copy of the Exposure Control Plan is accessible to employees in accordance with 29 CFR 1910.1020(e).

10.1030(c)(1)(iv)

The Exposure Control Plan shall be reviewed and updated at least annually and whenever necessary to reflect new or modified tasks and procedures which affect occupational exposure and to reflect new or revised employee positions with occupational exposure. The review and update of such plans shall also:

10.1030(c)(1)(iv)(A)

Reflect changes in technology that eliminate or reduce exposure to bloodborne pathogens; and

10.1030(c)(1)(iv)(B)

document annually consideration and implementation of appropriate commercially available and effective safer medical devices designed to eliminate or minimize occupational exposure.

10.1030(c)(1)(v)

An employer, who is required to establish an Exposure Control Plan shall solicit input from non-managerial employees responsible for direct patient care who are potentially exposed to injuries from contaminated sharps in the identification, evaluation, and selection of effective engineering and work practice controls and shall document the solicitation in the Exposure Control Plan.

10.1030(c)(1)(vi)

The Exposure Control Plan shall be made available to the Assistant Secretary and the Director upon request for examination and copying.

10.1030(c)(2)

Exposure Determination.

10.1030(c)(2)(i)

Each employer who has an employee(s) with occupational exposure as defined by paragraph (b) of this section shall prepare an exposure determination. This exposure determination shall contain the following:

10.1030(c)(2)(i)(A)

A list of all job classifications in which all employees in those job classifications have occupational exposure;

10.1030(c)(2)(i)(B)

A list of job classifications in which some employees have occupational exposure, and

10.1030(c)(2)(i)(C)

A list of all tasks and procedures or groups of closely related task and procedures in which occupational exposure occurs and that are performed by employees in job classifications listed in accordance with the provisions of paragraph (c)(2)(i)(B) of this standard.

10.1030(c)(2)(ii)

This exposure determination shall be made without regard to the use of personal protective equipment.

1030(d)

Methods of Compliance --

10.1030(d)(1)

General. Universal precautions shall be observed to prevent contact with blood or other potentially infectious materials. Under circumstances in which differentiation between body fluid types is difficult or impossible, all body fluids shall be considered potentially infectious materials.

10.1030(d)(2)

Engineering and Work Practice Controls.

10.1030(d)(2)(i)

Engineering and work practice controls shall be used to eliminate or minimize employee exposure. Where occupational exposure remains after institution of these controls, personal protective equipment shall also be used.

10.1030(d)(2)(ii)

Engineering controls shall be examined and maintained or replaced on a regular schedule to ensure their effectiveness.

10.1030(d)(2)(iii)

Employers shall provide handwashing facilities which are readily accessible to employees.

10.1030(d)(2)(iv)

When provision of handwashing facilities is not feasible, the employer shall provide either an appropriate antiseptic hand cleanser in conjunction with clean cloth/paper towels or antiseptic towelettes. When antiseptic hand cleansers or towelettes are used, hands shall be washed with soap and running water as soon as feasible.

10.1030(d)(2)(v)

Employers shall ensure that employees wash their hands immediately or as soon as feasible after removal of gloves or other personal protective equipment.

10.1030(d)(2)(vi)

Employers shall ensure that employees wash hands and any other skin with soap and water, or flush mucous membranes with water immediately or as soon as feasible following contact of such body areas with blood or other potentially infectious materials.

1030(d)(2)(vii)

Contaminated needles and other contaminated sharps shall not be bent, recapped, or removed except as noted in paragraphs (d)(2)(vii)(A) and (d)(2)(vii)(B) below. Shearing or breaking of contaminated needles is prohibited.

10.1030(d)(2)(vii)(A)

Contaminated needles and other contaminated sharps shall not be bent, recapped or removed unless the employer can demonstrate that no alternative is feasible or that such action is required by a specific medical or dental procedure.

10.1030(d)(2)(vii)(B)

Such bending, recapping or needle removal must be accomplished through the use of a mechanical device or a one-handed technique.

10.1030(d)(2)(viii)

Immediately or as soon as possible after use, contaminated reusable sharps shall be placed in appropriate containers until properly reprocessed. These containers shall be:

10.1030(d)(2)(viii)(A)

Puncture resistant;

10.1030(d)(2)(viii)(B)

Labeled or color-coded in accordance with this standard;

10.1030(d)(2)(viii)(C)

Leakproof on the sides and bottom; and

10.1030(d)(2)(viii)(D)

In accordance with the requirements set forth in paragraph (d)(4)(ii)(E) for reusable sharps.

10.1030(d)(2)(ix)

Eating, drinking, smoking, applying cosmetics or lip balm, and handling contact lenses are prohibited in work areas where there is a reasonable likelihood of occupational exposure.

10.1030(d)(2)(x)

Food and drink shall not be kept in refrigerators, freezers, shelves, cabinets or on countertops or benchtops where blood or other potentially infectious materials are present.

10.1030(d)(2)(xi)

All procedures involving blood or other potentially infectious materials shall be performed in such a manner as to minimize splashing, spraying, spattering, and generation of droplets of these substances.

10.1030(d)(2)(xii)

Mouth pipetting/suctioning of blood or other potentially infectious materials is prohibited.

10.1030(d)(2)(xiii)

Specimens of blood or other potentially infectious materials shall be placed in a container which prevents leakage during collection, handling, processing, storage, transport, or shipping.

1030(d)(2)(xiii)(A)

The container for storage, transport, or shipping shall be labeled or color-coded according to paragraph (g)(1)(i) and closed prior to being stored, transported, or shipped. When a facility utilizes Universal Precautions in the handling of all specimens, the labeling/color-coding of specimens is not necessary provided containers are recognizable as containing specimens. This exemption only applies while such specimens/containers remain within the facility. Labeling or color-coding in accordance with paragraph (g)(1)(i) is required when such specimens/containers leave the facility.

10.1030(d)(2)(xiii)(B)

If outside contamination of the primary container occurs, the primary container shall be placed within a second container which prevents leakage during handling, processing, storage, transport, or shipping and is labeled or color-coded according to the requirements of this standard.

1030(d)(2)(xiii)(C)

If the specimen could puncture the primary container, the primary container shall be placed within a secondary container which is puncture-resistant in addition to the above characteristics.

10.1030(d)(2)(xiv)

Equipment which may become contaminated with blood or other potentially infectious materials shall be examined prior to servicing or shipping and shall be decontaminated as necessary, unless the employer can demonstrate that decontamination of such equipment or portions of such equipment is not feasible.

10.1030(d)(2)(xiv)(A)

A readily observable label in accordance with paragraph (g)(1)(i)(H) shall be attached to the equipment stating which portions remain contaminated.

10.1030(d)(2)(xiv)(B)

The employer shall ensure that this information is conveyed to all affected employees, the servicing representative, and/or the manufacturer, as appropriate, prior to handling, servicing, or shipping so that appropriate precautions will be taken.

10.1030(d)(3)

Personal Protective Equipment --

10.1030(d)(3)(i)

Provision. When there is occupational exposure, the employer shall provide, at no cost to the employee, appropriate personal protective equipment such as, but not limited to, gloves, gowns, laboratory coats, face shields or masks and eye protection, and mouthpieces, resuscitation bags, pocket masks, or other ventilation devices. Personal protective equipment will be considered "appropriate" only if it does not permit blood or other potentially infectious materials to pass through to or reach the employee's work clothes, street clothes, undergarments, skin, eyes, mouth, or other mucous membranes under normal conditions of use and for the duration of time which the protective equipment will be used.

10.1030(d)(3)(ii)

Use. The employer shall ensure that the employee uses appropriate personal protective equipment unless the employer shows that the employee temporarily and briefly declined to use personal protective equipment when, under rare and extraordinary circumstances, it was the employee's professional judgment that in the specific instance its use would have prevented the delivery of health care or public safety services or would have posed an increased hazard to the safety of the worker or co-worker. When the employee makes this judgement, the circumstances shall be investigated and documented in order to determine whether changes can be instituted to prevent such occurrences in the future.

10.1030(d)(3)(iii)

Accessibility. The employer shall ensure that appropriate personal protective equipment in the appropriate sizes is readily accessible at the worksite or is issued to employees. Hypoallergenic gloves, glove liners, powderless gloves, or other similar alternatives shall be readily accessible to those employees who are allergic to the gloves normally provided.

10.1030(d)(3)(iv)

Cleaning, Laundering, and Disposal. The employer shall clean, launder, and dispose of personal protective equipment required by paragraphs (d) and (e) of this standard, at no cost to the employee.

10.1030(d)(3)(v)

Repair and Replacement. The employer shall repair or replace personal protective equipment as needed to maintain its effectiveness, at no cost to the employee.

10.1030(d)(3)(vi)

If a garment(s) is penetrated by blood or other potentially infectious materials, the garment(s) shall be removed immediately or as soon as feasible.

10.1030(d)(3)(vii)

All personal protective equipment shall be removed prior to leaving the work area.

10.1030(d)(3)(viii)

When personal protective equipment is removed it shall be placed in an appropriately designated area or container for storage, washing, decontamination or disposal.

10.1030(d)(3)(ix)

Gloves. Gloves shall be worn when it can be reasonably anticipated that the employee may have hand contact with blood, other potentially infectious materials, mucous membranes, and non-intact skin; when performing vascular access procedures except as specified in paragraph (d)(3)(ix)(D); and when handling or touching contaminated items or surfaces.

10.1030(d)(3)(ix)(A)

Disposable (single use) gloves such as surgical or examination gloves, shall be replaced as soon as practical when contaminated or as soon as feasible if they are torn, punctured, or when their ability to function as a barrier is compromised.

10.1030(d)(3)(ix)(B)

Disposable (single use) gloves shall not be washed or decontaminated for re-use.

10.1030(d)(3)(ix)(C)

Utility gloves may be decontaminated for re-use if the integrity of the glove is not compromised. However, they must be discarded if they are cracked, peeling, torn, punctured, or exhibit other signs of deterioration or when their ability to function as a barrier is compromised.

10.1030(d)(3)(ix)(D)

If an employer in a volunteer blood donation center judges that routine gloving for all phlebotomies is not necessary then the employer shall:

10.1030(d)(3)(ix)(D)(1)

Periodically reevaluate this policy;

10.1030(d)(3)(ix)(D)(2)

Make gloves available to all employees who wish to use them for phlebotomy;

10.1030(d)(3)(ix)(D)(3)

Not discourage the use of gloves for phlebotomy; and

10.1030(d)(3)(ix)(D)(4)

Require that gloves be used for phlebotomy in the following circumstances:

10.1030(d)(3)(ix)(D)(4)(i)

When the employee has cuts, scratches, or other breaks in his or her skin;

10.1030(d)(3)(ix)(D)(4)(ii)

When the employee judges that hand contamination with blood may occur, for example, when performing phlebotomy on an uncooperative source individual; and

10.1030(d)(3)(ix)(D)(4)(iii)

When the employee is receiving training in phlebotomy.

10.1030(d)(3)(x)

Masks, Eye Protection, and Face Shields. Masks in combination with eye protection devices, such as goggles or glasses with solid side shields, or chin-length face shields, shall be worn whenever splashes, spray, spatter, or droplets of blood or other potentially infectious materials may be generated and eye, nose, or mouth contamination can be reasonably anticipated.

10.1030(d)(3)(xi)

Gowns, Aprons, and Other Protective Body Clothing. Appropriate protective clothing such as, but not limited to, gowns, aprons, lab coats, clinic jackets, or similar outer garments shall be worn in occupational exposure situations. The type and characteristics will depend upon the task and degree of exposure anticipated.

10.1030(d)(3)(xii)

Surgical caps or hoods and/or shoe covers or boots shall be worn in instances when gross contamination can reasonably be anticipated (e.g., autopsies, orthopaedic surgery).

10.1030(d)(4)

Housekeeping --

10.1030(d)(4)(i)

General. Employers shall ensure that the worksite is maintained in a clean and sanitary condition. The employer shall determine and implement an appropriate written schedule for cleaning and method of decontamination based upon the location within the facility, type of surface to be cleaned, type of soil present, and tasks or procedures being performed in the area.

10.1030(d)(4)(ii)

All equipment and environmental and working surfaces shall be cleaned and decontaminated after contact with blood or other potentially infectious materials.

10.1030(d)(4)(ii)(A)

Contaminated work surfaces shall be decontaminated with an appropriate disinfectant after completion of procedures; immediately or as soon as feasible when surfaces are overtly contaminated or after any spill of blood or other potentially infectious materials; and at the end of the work shift if the surface may have become contaminated since the last cleaning.

10.1030(d)(4)(ii)(B)

Protective coverings, such as plastic wrap, aluminum foil, or imperviously-backed absorbent paper used to cover equipment and environmental surfaces, shall be removed and replaced as soon as feasible when they become overtly contaminated or at the end of the workshift if they may have become contaminated during the shift.

10.1030(d)(4)(ii)(C)

All bins, pails, cans, and similar receptacles intended for reuse which have a reasonable likelihood for becoming contaminated with blood or other potentially infectious materials shall be inspected and decontaminated on a regularly scheduled basis and cleaned and decontaminated immediately or as soon as feasible upon visible contamination.

10.1030(d)(4)(ii)(D)

Broken glassware which may be contaminated shall not be picked up directly with the hands. It shall be cleaned up using mechanical means, such as a brush and dust pan, tongs, or forceps.

10.1030(d)(4)(ii)(E)

Reusable sharps that are contaminated with blood or other potentially infectious materials shall not be stored or processed in a manner that requires employees to reach by hand into the containers where these sharps have been placed.

10.1030(d)(4)(iii)

Regulated Waste --

10.1030(d)(4)(iii)(A)

Contaminated Sharps Discarding and Containment.

10.1030(d)(4)(iii)(A)(1)

Contaminated sharps shall be discarded immediately or as soon as feasible in containers that are:

10.1030(d)(4)(iii)(A)(1)(i)

Closable;

10.1030(d)(4)(iii)(A)(1)(ii)

Leakage resistant;

10.1030(d)(4)(iii)(A)(1)(iii)

Leakproof on sides and bottom; and

10.1030(d)(4)(iii)(A)(1)(iv)

Labeled or color-coded in accordance with paragraph (g)(1)(i) of this standard.

10.1030(d)(4)(iii)(A)(2)

During use, containers for contaminated sharps shall be:

10.1030(d)(4)(iii)(A)(2)(i)

Easily accessible to personnel and located as close as is feasible to the immediate area where sharps are used or can be reasonably anticipated to be found (e.g., laundries);

10.1030(d)(4)(iii)(A)(2)(ii)

Maintained upright throughout use; and

10.1030(d)(4)(iii)(A)(2)(iii)

Replaced routinely and not be allowed to overflow.

10.1030(d)(4)(iii)(A)(3)

When moving containers of contaminated sharps from the area of use, the containers shall be:

10.1030(d)(4)(iii)(A)(3)(i)

Closed immediately prior to removal or replacement to prevent spillage or protrusion of contents during handling, storage, transport, or shipping;

10.1030(d)(4)(iii)(A)(3)(ii)

Placed in a secondary container if leakage is possible. The second container shall be:

10.1030(d)(4)(iii)(A)(3)(ii)(A)

Closable;

10.1030(d)(4)(iii)(A)(3)(ii)(B)

Constructed to contain all contents and prevent leakage during handling, storage, transport, or shipping; and

10.1030(d)(4)(iii)(A)(3)(ii)(C)

Labeled or color-coded according to paragraph (g)(1)(i) of this standard.

10.1030(d)(4)(iii)(A)(4)

Reusable containers shall not be opened, emptied, or cleaned manually or in any other manner which would expose employees to the risk of percutaneous injury.

10.1030(d)(4)(iii)(B)

Other Regulated Waste Containment --

10.1030(d)(4)(iii)(B)(1)

Regulated waste shall be placed in containers which are:

10.1030(d)(4)(iii)(B)(1)(i)

Closable;

10.1030(d)(4)(iii)(B)(1)(ii)

Constructed to contain all contents and prevent leakage of fluids during handling, storage, transport or shipping;

10.1030(d)(4)(iii)(B)(1)(iii)

Labeled or color-coded in accordance with paragraph (g)(1)(i) this standard; and

10.1030(d)(4)(iii)(B)(1)(iv)

Closed prior to removal to prevent spillage or protrusion of contents during handling, storage, transport, or shipping.

10.1030(d)(4)(iii)(B)(2)

If outside contamination of the regulated waste container occurs, it shall be placed in a second container. The second container shall be:

1030(d)(4)(iii)(B)(2)(i)

Closable;

10.1030(d)(4)(iii)(B)(2)(ii)

Constructed to contain all contents and prevent leakage of fluids during handling, storage, transport or shipping;

10.1030(d)(4)(iii)(B)(2)(iii)

Labeled or color-coded in accordance with paragraph (g)(1)(i) of this standard; and

10.1030(d)(4)(iii)(B)(2)(iv)

Closed prior to removal to prevent spillage or protrusion of contents during handling, storage, transport, or shipping.

10.1030(d)(4)(iii)(C)

Disposal of all regulated waste shall be in accordance with applicable regulations of the United States, States and Territories, and political subdivisions of States and Territories.

10.1030(d)(4)(iv)

Laundry.

10.1030(d)(4)(iv)(A)

Contaminated laundry shall be handled as little as possible with a minimum of agitation.

10.1030(d)(4)(iv)(A)(1)

Contaminated laundry shall be bagged or containerized at the location where it was used and shall not be sorted or rinsed in the location of use.

10.1030(d)(4)(iv)(A)(2)

Contaminated laundry shall be placed and transported in bags or containers labeled or color-coded in accordance with paragraph (g)(1)(i) of this standard. When a facility utilizes Universal Precautions in the handling of all soiled laundry, alternative labeling or color-coding is sufficient if it permits all employees to recognize the containers as requiring compliance with Universal Precautions.

10.1030(d)(4)(iv)(A)(3)

Whenever contaminated laundry is wet and presents a reasonable likelihood of soak-through or leakage from the bag or container, the laundry shall be placed and transported in bags or containers which prevent soak-through and/or leakage of fluids to the exterior.

10.1030(d)(4)(iv)(B)

The employer shall ensure that employees who have contact with contaminated laundry wear protective gloves and other appropriate personal protective equipment.

10.1030(d)(4)(iv)(C)

When a facility ships contaminated laundry off-site to a second facility which does not utilize Universal Precautions in the handling of all laundry, the facility generating the contaminated laundry must place such laundry in bags or containers which are labeled or color-coded in accordance with paragraph (g)(1)(i).

10.1030(e)

HIV and HBV Research Laboratories and Production Facilities.

10.1030(e)(1)

This paragraph applies to research laboratories and production facilities engaged in the culture, production, concentration, experimentation, and manipulation of HIV and HBV. It does not apply to clinical or diagnostic laboratories engaged solely in the analysis of blood, tissues, or organs. These requirements apply in addition to the other requirements of the standard.

10.1030(e)(2)

Research laboratories and production facilities shall meet the following criteria:

10.1030(e)(2)(i)

Standard Microbiological Practices. All regulated waste shall either be incinerated or decontaminated by a method such as autoclaving known to effectively destroy bloodborne pathogens.

10.1030(e)(2)(ii)

Special Practices.

10.1030(e)(2)(ii)(A)

Laboratory doors shall be kept closed when work involving HIV or HBV is in progress.

10.1030(e)(2)(ii)(B)

Contaminated materials that are to be decontaminated at a site away from the work area shall be placed in a durable, leakproof, labeled or color-coded container that is closed before being removed from the work area.

10.1030(e)(2)(ii)(C)

Access to the work area shall be limited to authorized persons. Written policies and procedures shall be established whereby only persons who have been advised of the potential biohazard, who meet any specific entry requirements, and who comply with all entry and exit procedures shall be allowed to enter the work areas and animal rooms.

10.1030(e)(2)(ii)(D)

When other potentially infectious materials or infected animals are present in the work area or containment module, a hazard warning sign incorporating the universal biohazard symbol shall be posted on all access doors. The hazard warning sign shall comply with paragraph (g)(1)(ii) of this standard.

10.1030(e)(2)(ii)(E)

All activities involving other potentially infectious materials shall be conducted in biological safety cabinets or other physical-containment devices within the containment module. No work with these other potentially infectious materials shall be conducted on the open bench.

10.1030(e)(2)(ii)(F)

Laboratory coats, gowns, smocks, uniforms, or other appropriate protective clothing shall be used in the work area and animal rooms. Protective clothing shall not be worn outside of the work area and shall be decontaminated before being laundered.

10.1030(e)(2)(ii)(G)

Special care shall be taken to avoid skin contact with other potentially infectious materials. Gloves shall be worn when handling infected animals and when making hand contact with other potentially infectious materials is unavoidable.

10.1030(e)(2)(ii)(H)

Before disposal all waste from work areas and from animal rooms shall either be incinerated or decontaminated by a method such as autoclaving known to effectively destroy bloodborne pathogens.

10.1030(e)(2)(ii)(I)

Vacuum lines shall be protected with liquid disinfectant traps and high-efficiency particulate air (HEPA) filters or filters of equivalent or superior efficiency and which are checked routinely and maintained or replaced as necessary.

10.1030(e)(2)(ii)(J)

Hypodermic needles and syringes shall be used only for parenteral injection and aspiration of fluids from laboratory animals and diaphragm bottles. Only needle-locking syringes or disposable syringe-needle units (i.e., the needle is integral to the syringe) shall be used for the injection or aspiration of other potentially infectious materials. Extreme caution shall be used when handling needles and syringes. A needle shall not be bent, sheared, replaced in the sheath or guard, or removed from the syringe following use. The needle and syringe shall be promptly placed in a puncture-resistant container and autoclaved or decontaminated before reuse or disposal.

10.1030(e)(2)(ii)(K)

All spills shall be immediately contained and cleaned up by appropriate professional staff or others properly trained and equipped to work with potentially concentrated infectious materials.

10.1030(e)(2)(ii)(L)

A spill or accident that results in an exposure incident shall be immediately reported to the laboratory director or other responsible person.

10.1030(e)(2)(ii)(M)

A biosafety manual shall be prepared or adopted and periodically reviewed and updated at least annually or more often if necessary. Personnel shall be advised of potential hazards, shall be required to read instructions on practices and procedures, and shall be required to follow them.

10.1030(e)(2)(iii)

Containment Equipment.

10.1030(e)(2)(iii)(A)

Certified biological safety cabinets (Class I, II, or III) or other appropriate combinations of personal protection or physical containment devices, such as special protective clothing, respirators, centrifuge safety cups, sealed centrifuge rotors, and containment caging for animals, shall be used for all activities with other potentially infectious materials that pose a threat of exposure to droplets, splashes, spills, or aerosols.

10.1030(e)(2)(iii)(B)

Biological safety cabinets shall be certified when installed, whenever they are moved and at least annually.

10.1030(e)(3)

HIV and HBV research laboratories shall meet the following criteria:

10.1030(e)(3)(i)

Each laboratory shall contain a facility for hand washing and an eye wash facility which is readily available within the work area.

10.1030(e)(3)(ii)

An autoclave for decontamination of regulated waste shall be available.

10.1030(e)(4)

HIV and HBV production facilities shall meet the following criteria:

10.1030(e)(4)(i)

The work areas shall be separated from areas that are open to unrestricted traffic flow within the building. Passage through two sets of doors shall be the basic requirement for entry into the work area from access corridors or other contiguous areas. Physical separation of the high-containment work area from access corridors or other areas or activities may also be provided by a double-doored clothes-change room (showers may be included), airlock, or other access facility that requires passing through two sets of doors before entering the work area.

10.1030(e)(4)(ii)

The surfaces of doors, walls, floors and ceilings in the work area shall be water resistant so that they can be easily cleaned. Penetrations in these surfaces shall be sealed or capable of being sealed to facilitate decontamination.

10.1030(e)(4)(iii)

Each work area shall contain a sink for washing hands and a readily available eye wash facility. The sink shall be foot, elbow, or automatically operated and shall be located near the exit door of the work area.

10.1030(e)(4)(iv)

Access doors to the work area or containment module shall be self-closing.

10.1030(e)(4)(v)

An autoclave for decontamination of regulated waste shall be available within or as near as possible to the work area.

10.1030(e)(4)(vi)

A ducted exhaust-air ventilation system shall be provided. This system shall create directional airflow that draws air into the work area through the entry area. The exhaust air shall not be recirculated to any other area of the building, shall be discharged to the outside, and shall be dispersed away from occupied areas and air intakes. The proper direction of the airflow shall be verified (i.e., into the work area).

10.1030(e)(5)

Training Requirements. Additional training requirements for employees in HIV and HBV research laboratories and HIV and HBV production facilities are specified in paragraph (g)(2)(ix).

10.1030(f)

Hepatitis B Vaccination and Post-exposure Evaluation and Follow-up --

10.1030(f)(1)

General.

10.1030(f)(1)(i)

The employer shall make available the hepatitis B vaccine and vaccination series to all employees who have occupational exposure, and post-exposure evaluation and follow-up to all employees who have had an exposure incident.

10.1030(f)(1)(ii)

The employer shall ensure that all medical evaluations and procedures including the hepatitis B vaccine and vaccination series and post-exposure evaluation and follow-up, including prophylaxis, are:

10.1030(f)(1)(ii)(A)

Made available at no cost to the employee;

10.1030(f)(1)(ii)(B)

Made available to the employee at a reasonable time and place;

10.1030(f)(1)(ii)(C)

Performed by or under the supervision of a licensed physician or by or under the supervision of another licensed healthcare professional; and

10.1030(f)(1)(ii)(D)

Provided according to recommendations of the U.S. Public Health Service current at the time these evaluations and procedures take place, except as specified by this paragraph (f).

10.1030(f)(1)(iii)

The employer shall ensure that all laboratory tests are conducted by an accredited laboratory at no cost to the employee.

10.1030(f)(2)

Hepatitis B Vaccination.

10.1030(f)(2)(i)

Hepatitis B vaccination shall be made available after the employee has received the training required in paragraph (g)(2)(vi)(I) and within 10 working days of initial assignment to all employees who have occupational exposure unless the employee has previously received the complete hepatitis B vaccination series, antibody testing has revealed that the employee is immune, or the vaccine is contraindicated for medical reasons.

10.1030(f)(2)(ii)

The employer shall not make participation in a prescreening program a prerequisite for receiving hepatitis B vaccination.

10.1030(f)(2)(iii)

If the employee initially declines hepatitis B vaccination but at a later date while still covered under the standard decides to accept the vaccination, the employer shall make available hepatitis B vaccination at that time.

10.1030(f)(2)(iv)

The employer shall assure that employees who decline to accept hepatitis B vaccination offered by the employer sign the statement in Appendix A.

10.1030(f)(2)(v)

If a routine booster dose(s) of hepatitis B vaccine is recommended by the U.S. Public Health Service at a future date, such booster dose(s) shall be made available in accordance with section (f)(1)(ii).

10.1030(f)(3)

Post-exposure Evaluation and Follow-up. Following a report of an exposure incident, the employer shall make immediately available to the exposed employee a confidential medical evaluation and follow-up, including at least the following elements:

10.1030(f)(3)(i)

Documentation of the route(s) of exposure, and the circumstances under which the exposure incident occurred;

10.1030(f)(3)(ii)

Identification and documentation of the source individual, unless the employer can establish that identification is infeasible or prohibited by state or local law;

10.1030(f)(3)(ii)(A)

The source individual's blood shall be tested as soon as feasible and after consent is obtained in order to determine HBV and HIV infectivity. If consent is not obtained, the employer shall establish that legally required consent cannot be obtained. When the source individual's consent is not required by law, the source individual's blood, if available, shall be tested and the results documented.

10.1030(f)(3)(ii)(B)

When the source individual is already known to be infected with HBV or HIV, testing for the source individual's known HBV or HIV status need not be repeated.

10.1030(f)(3)(ii)(C)

Results of the source individual's testing shall be made available to the exposed employee, and the employee shall be informed of applicable laws and regulations concerning disclosure of the identity and infectious status of the source individual.

10.1030(f)(3)(iii)

Collection and testing of blood for HBV and HIV serological status;

10.1030(f)(3)(iii)(A)

The exposed employee's blood shall be collected as soon as feasible and tested after consent is obtained.

10.1030(f)(3)(iii)(B)

If the employee consents to baseline blood collection, but does not give consent at that time for HIV serologic testing, the sample shall be preserved for at least 90 days. If, within 90 days of the exposure incident, the employee elects to have the baseline sample tested, such testing shall be done as soon as feasible.

10.1030(f)(3)(iv)

Post-exposure prophylaxis, when medically indicated, as recommended by the U.S. Public Health Service;

10.1030(f)(3)(v)

Counseling; and

10.1030(f)(3)(vi)

Evaluation of reported illnesses.

10.1030(f)(4)

Information Provided to the Healthcare Professional.

10.1030(f)(4)(i)

The employer shall ensure that the healthcare professional responsible for the employee's Hepatitis B vaccination is provided a copy of this regulation.

10.1030(f)(4)(ii)

The employer shall ensure that the healthcare professional evaluating an employee after an exposure incident is provided the following information:

10.1030(f)(4)(ii)(A)

A copy of this regulation;

10.1030(f)(4)(ii)(B)

A description of the exposed employee's duties as they relate to the exposure incident;

10.1030(f)(4)(ii)(C)

Documentation of the route(s) of exposure and circumstances under which exposure occurred;

10.1030(f)(4)(ii)(D)

Results of the source individual's blood testing, if available; and

10.1030(f)(4)(ii)(E)

All medical records relevant to the appropriate treatment of the employee including vaccination status which are the employer's responsibility to maintain.

10.1030(f)(5)

Healthcare Professional's Written Opinion. The employer shall obtain and provide the employee with a copy of the evaluating healthcare professional's written opinion within 15 days of the completion of the evaluation.

10.1030(f)(5)(i)

The healthcare professional's written opinion for Hepatitis B vaccination shall be limited to whether Hepatitis B vaccination is indicated for an employee, and if the employee has received such vaccination.

10.1030(f)(5)(ii)

The healthcare professional's written opinion for post-exposure evaluation and follow-up shall be limited to the following information:

10.1030(f)(5)(ii)(A)

That the employee has been informed of the results of the evaluation; and

10.1030(f)(5)(ii)(B)

That the employee has been told about any medical conditions resulting from exposure to blood or other potentially infectious materials which require further evaluation or treatment.

10.1030(f)(5)(iii)

All other findings or diagnoses shall remain confidential and shall not be included in the written report.

10.1030(g)

Medical Recordkeeping. Medical records required by this standard shall be maintained in accordance with paragraph (h)(1) of this section.

10.1030(g)

Communication of Hazards to Employees --

10.1030(g)(1)

Labels and Signs --

10.1030(g)(1)(i)

Labels.

10.1030(g)(1)(i)(A)

Warning labels shall be affixed to containers of regulated waste, refrigerators and freezers containing blood or other potentially infectious material; and other containers used to store, transport or ship blood or other potentially infectious materials, except as provided in paragraph (g)(1)(i)(E), (F) and (G).

10.1030(g)(1)(i)(B)

Labels required by this section shall include the following legend:



10.1030(g)(1)(i)(C)

These labels shall be fluorescent orange or orange-red or predominantly so, with lettering and symbols in a contrasting color.

10.1030(g)(1)(i)(D)

Labels shall be affixed as close as feasible to the container by string, wire, adhesive, or other method that prevents their loss or unintentional removal.

10.1030(g)(1)(i)(E)

Red bags or red containers may be substituted for labels.

10.1030(g)(1)(i)(F)

Containers of blood, blood components, or blood products that are labeled as to their contents and have been released for transfusion or other clinical use are exempted from the labeling requirements of paragraph (g).

10.1030(g)(1)(i)(G)

Individual containers of blood or other potentially infectious materials that are placed in a labeled container during storage, transport, shipment or disposal are exempted from the labeling requirement.

10.1030(g)(1)(i)(H)

Labels required for contaminated equipment shall be in accordance with this paragraph and shall also state which portions of the equipment remain contaminated.

10.1030(g)(1)(i)(I)

Regulated waste that has been decontaminated need not be labeled or color-coded.

10.1030(g)(1)(ii)

Signs.

10.1030(g)(1)(ii)(A)

The employer shall post signs at the entrance to work areas specified in paragraph (e), HIV and HBV Research Laboratory and Production Facilities, which shall bear the following legend:



Name of the Infectious Agent)
(Special requirements for entering the area)
(Name, telephone number of the laboratory director or other responsible person.)

10.1030(g)(1)(ii)(B)

These signs shall be fluorescent orange-red or predominantly so, with lettering and symbols in a contrasting color.

10.1030(g)(2)

Information and Training.

10.1030(g)(2)(i)

The employer shall train each employee with occupational exposure in accordance with the requirements of this section. Such training must be provided at no cost to the employee and during working hours. The employer shall institute a training program and ensure employee participation in the program.

10.1030(g)(2)(ii)

Training shall be provided as follows:

10.1030(g)(2)(ii)(A)

At the time of initial assignment to tasks where occupational exposure may take place;

10.1030(g)(2)(ii)(B)

At least annually thereafter.

10.1030(g)(2)(iii)

[Reserved]

10.1030(g)(2)(iv)

Annual training for all employees shall be provided within one year of their previous training.

10.1030(g)(2)(v)

Employers shall provide additional training when changes such as modification of tasks or procedures or institution of new tasks or procedures affect the employee's occupational exposure. The additional training may be limited to addressing the new exposures created.

10.1030(g)(2)(vi)

Material appropriate in content and vocabulary to educational level, literacy, and language of employees shall be used.

10.1030(g)(2)(vii)

The training program shall contain at a minimum the following elements:

10.1030(g)(2)(vii)(A)

An accessible copy of the regulatory text of this standard and an explanation of its contents;

10.1030(g)(2)(vii)(B)

A general explanation of the epidemiology and symptoms of bloodborne diseases;

10.1030(g)(2)(vii)(C)

An explanation of the modes of transmission of bloodborne pathogens;

10.1030(g)(2)(vii)(D)

An explanation of the employer's exposure control plan and the means by which the employee can obtain a copy of the written plan;

10.1030(g)(2)(vii)(E)

An explanation of the appropriate methods for recognizing tasks and other activities that may involve exposure to blood and other potentially infectious materials;

10.1030(g)(2)(vii)(F)

An explanation of the use and limitations of methods that will prevent or reduce exposure including appropriate engineering controls, work practices, and personal protective equipment;

10.1030(g)(2)(vii)(G)

Information on the types, proper use, location, removal, handling, decontamination and disposal of personal protective equipment;

10.1030(g)(2)(vii)(H)

An explanation of the basis for selection of personal protective equipment;

10.1030(g)(2)(vii)(I)

Information on the hepatitis B vaccine, including information on its efficacy, safety, method of administration, the benefits of being vaccinated, and that the vaccine and vaccination will be offered free of charge;

10.1030(g)(2)(vii)(J)

Information on the appropriate actions to take and persons to contact in an emergency involving blood or other potentially infectious materials;

10.1030(g)(2)(vii)(K)

An explanation of the procedure to follow if an exposure incident occurs, including the method of reporting the incident and the medical follow-up that will be made available;

10.1030(g)(2)(vii)(L)

Information on the post-exposure evaluation and follow-up that the employer is required to provide for the employee following an exposure incident;

10.1030(g)(2)(vii)(M)

An explanation of the signs and labels and/or color coding required by paragraph (g)(1); and

10.1030(g)(2)(vii)(N)

An opportunity for interactive questions and answers with the person conducting the training session.

10.1030(g)(2)(viii)

The person conducting the training shall be knowledgeable in the subject matter covered by the elements contained in the training program as it relates to the workplace that the training will address.

10.1030(g)(2)(ix)

Additional Initial Training for Employees in HIV and HBV Laboratories and Production Facilities. Employees in HIV or HBV research laboratories and HIV or HBV production facilities shall receive the following initial training in addition to the above training requirements.

10.1030(g)(2)(ix)(A)

The employer shall assure that employees demonstrate proficiency in standard microbiological practices and techniques and in the practices and operations specific to the facility before being allowed to work with HIV or HBV.

10.1030(g)(2)(ix)(B)

The employer shall assure that employees have prior experience in the handling of human pathogens or tissue cultures before working with HIV or HBV.

10.1030(g)(2)(ix)(C)

The employer shall provide a training program to employees who have no prior experience in handling human pathogens. Initial work activities shall not include the handling of infectious agents. A progression of work activities shall be assigned as techniques are learned and proficiency is developed. The employer shall assure that employees participate in work activities involving infectious agents only after proficiency has been demonstrated.

10.1030(h)

Recordkeeping --

10.1030(h)(1)

Medical Records.

10.1030(h)(1)(i)

The employer shall establish and maintain an accurate record for each employee with occupational exposure, in accordance with 29 CFR 1910.1020.

910.1030(h)(1)(ii)

This record shall include:

910.1030(h)(1)(ii)(A)

the name and social security number of the employee;

910.1030(h)(1)(ii)(B)

A copy of the employee's hepatitis B vaccination status including the dates of all the hepatitis B vaccinations and any medical records relative to the employee's ability to receive vaccination as required by paragraph (f)(2);

910.1030(h)(1)(ii)(C)

A copy of all results of examinations, medical testing, and follow-up procedures as required by paragraph (f)(3);

910.1030(h)(1)(ii)(D)

The employer's copy of the healthcare professional's written opinion as required by paragraph (f)(5); and

910.1030(h)(1)(ii)(E)

A copy of the information provided to the healthcare professional as required by paragraphs (f)(4)(ii)(B)(C) and (D).

910.1030(h)(1)(iii)

Confidentiality. The employer shall ensure that employee medical records required by paragraph (h)(1) are:

910.1030(h)(1)(iii)(A)

Kept confidential; and

910.1030(h)(1)(iii)(B)

not disclosed or reported without the employee's express written consent to any person within or outside the workplace except as required by this section or as may be required by law.

910.1030(h)(1)(iv)

The employer shall maintain the records required by paragraph (h) for at least the duration of employment plus 30 years in accordance with 29 CFR 1910.1020.

910.1030(h)(2)

Training Records.

910.1030(h)(2)(i)

Training records shall include the following information:

910.1030(h)(2)(i)(A)

The dates of the training sessions;

910.1030(h)(2)(i)(B)

The contents or a summary of the training sessions;

910.1030(h)(2)(i)(C)

The names and qualifications of persons conducting the training; and

910.1030(h)(2)(i)(D)

the names and job titles of all persons attending the training sessions.

910.1030(h)(2)(ii)

Training records shall be maintained for 3 years from the date on which the training occurred.

10.1030(h)(3)

Availability.

10.1030(h)(3)(i)

The employer shall ensure that all records required to be maintained by this section shall be made available upon request to the Assistant Secretary and the Director for examination and copying.

10.1030(h)(3)(ii)

Employee training records required by this paragraph shall be provided upon request for examination and copying to employees, to employee representatives, to the Director, and to the Assistant Secretary.

10.1030(h)(3)(iii)

Employee medical records required by this paragraph shall be provided upon request for examination and copying to the subject employee, to anyone having written consent of the subject employee, to the Director, and to the Assistant Secretary in accordance with 29 CFR 1910.1020.

10.1030(h)(4)

Transfer of Records. The employer shall comply with the requirements involving transfer of records set forth in 29 CFR 1910.1020(h).

10.1030(h)(5)

Sharps injury log.

10.1030(h)(5)(i)

The employer shall establish and maintain a sharps injury log for the recording of percutaneous injuries from contaminated sharps. The information in the sharps injury log shall be recorded and maintained in such manner as to protect the confidentiality of the injured employee. The sharps injury log shall contain, at a minimum:

10.1030(h)(5)(i)(A)

The type and brand of device involved in the incident,

10.1030(h)(5)(i)(B)

The department or work area where the exposure incident occurred, and

10.1030(h)(5)(i)(C)

An explanation of how the incident occurred.

10.1030(h)(5)(ii)

The requirement to establish and maintain a sharps injury log shall apply to any employer who is required to maintain a log of occupational injuries and illnesses under 29 CFR part 1904.

10.1030(h)(5)(iii)

The sharps injury log shall be maintained for the period required by 29 CFR 1904.33.

10.1030(i)

Dates —

10.1030(i)(1)

Effective Date. The standard shall become effective on March 6, 1992.

10.1030(i)(2)

The Exposure Control Plan required by paragraph (c) of this section shall be completed on or before May 5, 1992.

10.1030(i)(3)

Paragraphs (g)(2) Information and Training and (h) Recordkeeping of this section shall take effect on or before June 4, 1992.

Paragraphs (d)(2) Engineering and Work Practice Controls, (d)(3) Personal Protective Equipment, (d)(4) Housekeeping, (e) HIV and HBV Research Laboratories and Production Facilities, (f) Hepatitis B Vaccination and Post-Exposure Evaluation and Follow-up, and (g)(1) Labels and Signs of this section, shall take effect July 6, 1992.

FR 64004, Dec. 06, 1991, as amended at 57 FR 12717, April 13, 1992; 57 FR 29206, July 1, 1992; 61 FR 5507, Feb. 13, 1996; 66 FR 5325 Jan., 18, 2001; 71 FR 16672 and 16673, April 3, 2006; 73 FR 75586, Dec. 12, 2008; 76 FR 33608, June 8, 2011; 76 FR 80740, Dec. 27, 2011; 77 FR 19934, April 3, 2012]

▶ Next Standard (1910.1030 App A)

▶ Regulations (Standards - 29 CFR) - Table of Contents

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DEPARTMENT OF LABOR

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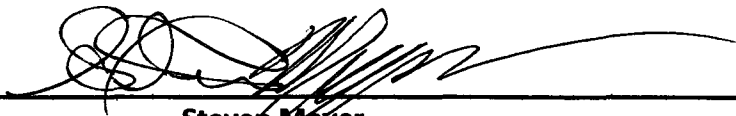
MAY 27 2016

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SUTTER
CLERK OF THE COURT
By JACKIE LASWELL Deputy

**Report
of the
2015-2016
Sutter County Grand Jury**

**Steven Meyer-Foreperson, Addam Heltsley, Andrew Sampeck, Annette Roach,
Carrie Mitchell, Christy Cook-Pratt, Gail Stillwell, Gerald Marta, Jacqueline McLaughlin,
John Forberg, Kristen Hart, Marianne Ethington, Pablo Fischetti, Perry Pasquale,
Richard Libby, Richard Snyder, Teresa Smith, William Carter**

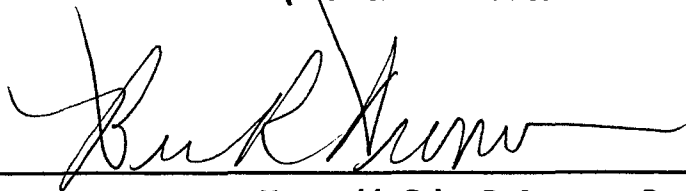
**Final Report [pursuant to Penal Code 933(a) on subject:
Pension Enhancements: A Case of Government Code Violations and
a Lack of Transparency**



**Steven Meyer
2015-2016 Foreperson**

May 18, 2016
Date

Pursuant to Penal Code Section 933(a), the Presiding Judge makes the finding that the foregoing report is in compliance with the Title 4, Chapter 3 of the Penal Code ("Powers and Duties of the Grand Jury").



**Honorable Brian R. Aronson, Presiding Judge
Superior Court of California, County of Sutter County**

May 20, 2016
Date

**PENSION ENHANCEMENTS:
A CASE OF GOVERNMENT CODE VIOLATIONS AND A LACK OF
TRANSPARENCY**

SUMMARY

Unfunded pension liabilities are a concern for county and city governments throughout California. The Sutter County Grand Jury (SCGJ) elected to review the health of Sutter County's pension plan, its impact on the budget, and the process by which the plan was adopted.

The SCGJ found that the Board of Supervisors (BOS) approved a retirement plan on August 31, 2004 that enhanced the formula for employee retirements for all County employees. The new plan was made retroactive to the date of hire. The BOS approved the new plan on the Consent Calendar that is normally used for non-controversial items. This method of approval deprived the public the full opportunity for review and discussion. Additionally, there were no adequate actuarial studies completed to determine the full impact on the County's fiscal health. The SCGJ finds these actions to be in violation of the California Government Code (GC).

The result of the enhanced retirement plan has taken the County from having a surplus of \$28,797,894 in the retirement fund in 2001 to an unfunded liability of \$110,802,083 in 2014. It is difficult to determine the full impact of carrying such an obligation forward. However, the present impact to the County is a risk to the financial health of the County's future.

It is the recommendation of the SCGJ for the BOS to develop, adopt and implement policy and procedures to prevent future violations of the GC. The SCGJ recommends it is in the best interest of the County to employ an internal auditor to ensure that the County is in full compliance with Federal & State law and County Policy & Procedures.

GLOSSARY

Actuary : A statistician who computes insurance risks and premiums.

Actuarial : 1 - relating to statistical calculation. 2 - of or relating to actuaries.

Obfuscation : To make (something) more difficult to understand.

Consent Calendar (Excerpt from Sutter County Agenda Summary - Attachment A):

"The Consent Calendar groups together those items which are considered non-controversial or for which prior policy direction has been given to staff and that require only routine action by the Board. The Chairman will advise the audience that the matters may be adopted in total by one motion; however, the Board may, at its option or upon request of a member of the public, consider any matter separately."

BACKGROUND

In July of 2015, the SCGJ received a letter from a member of the 2004-2005 Marin County Grand Jury regarding the pension enhancements of four agencies in their county. Their

investigation uncovered a pattern of abuse where the public was eliminated from the process through obfuscation, violations of the Government Code and disregard of the rights of the citizens of Marin County. The result of these pension enhancements increased the unfunded liability of Marin County taking that county from having a surplus of several million dollars in year 2000 to massive debt by year 2013. The SCGJ decided to investigate Sutter County's pension plan, which was approved in 2004, and determine what impact it has had on the County's financial health.

RESOURCES

The SCGJ:

- Interviewed:
 - Sutter County Auditor-Controller
 - Representatives of the County
- Reviewed Documents:
 - Agendas & minutes of the Sutter County Board of Supervisors' (BOS) meetings
 - Actuarial results of the County's pension plan
 - Sutter County Budget
 - Sections of the California Government Code

DISCUSSION

The SCGJ reviewed California GC Sections 7507, 23026, 31515.5 and 31516. These statutes impose specific obligations on the County when they consider pension increases. The purpose of these statutes is to ensure timely public disclosure, allow for a public discussion at board meetings, and to require a reasoned decision-making process based on actuarial input.

GC Section 7507 requires that counties *“secure the services of an enrolled actuary to provide a statement of the actuarial impact upon future annual costs before authorizing increases in public retirement plan benefits. The future annual costs as determined by the actuary shall be made public at a regularly scheduled meeting at least two weeks prior to the adoption of any increases in public retirement plan benefits.”*

Similar to GC Section 7507, GC Section 31516 requires that the board of supervisors:

- *“shall hire an “actuary to provide a statement of the actuarial impact upon future annual costs before authorizing benefits.” [Emphasis Added]*
- It also provides that the actuary's report *“shall be made public at a public meeting at least two weeks prior to the adoption of any increases in benefits.” [Emphasis Added]*

GC Section 23026 contains four separate requirements that the board of supervisors of any local pension system must fulfill before enhancing pension benefits. It states that the board of supervisors:

- ***“shall make public, at a regularly scheduled meeting of the board, all salary and benefit increases that affect either or both represented employees and non-represented employees;”*** [Emphasis Added]
- ***“shall include notice of any salary or benefit increase... on the agenda for the meeting as an item of business;”*** [Emphasis Added]
- ***“shall provide that notice “prior to the adoption of the salary or benefit increase;”*** [Emphasis Added]
- ***“shall include an explanation of the financial impact that the proposed benefit change or salary increase will have on the funding status of the county employees’ retirement system.”*** [Emphasis Added]

Similar to GC Section 23026, GC Section 31515.5 (2001) requires the board of supervisors to notice, at a regularly scheduled meeting, all salary and benefit increases. It authorizes the preparation of an actuarial estimate on the impact of the salary and benefit requirements. Specifically, the mandatory language provides that the board of supervisors:

- ***“shall make public, at a regularly scheduled meeting of the board, all salary and benefit increases that affect either or both represented employees and non-represented employees;”*** [Emphasis Added]
- ***“shall include a notice of any salary or benefit increase on the agenda for the meeting as an item of business;”*** [Emphasis Added]
- ***“shall include an explanation of the financial impact that the proposed benefit change or salary increase will have on the funding status of the county employees’ retirement system.”*** [Emphasis Added]

Government Code provisions require a public airing of proposed pension increases for public employees and the actual costs of those increases. The SCGJ found that the BOS failed to comply with these sections of Government Code and approved enhanced retirement benefits which added millions of dollars of unfunded liability to the Sutter County taxpayers.

Evidence reviewed by the SCGJ shows that in 2004, the BOS failed to comply with Government Code 7507, 23026, 31515.5, and 31516 in the following manner:

- The BOS failed to provide disclosure of the true cost of the enhanced retirement package at a scheduled meeting two weeks prior to its approval.
- The BOS placed the controversial enhanced retirement on the Consent Calendar instead of as an “item of business.”
- The BOS failed to clearly describe the enhanced retirement items by placing them on the Consent Calendar in the following format (Excerpt from Attachment A):

- o *“7) Approval of Memoranda of Understanding for the General (A04-173), Professional (A04-174), and Supervisory Units (A04-175); Addenda to Memoranda of Understanding for the Fire Safety (A04-176) and Law Enforcement (A04-177) Units; and Addendum to Salary and Benefit Agreement for Confidential Unit Employees (A04-178)”*

This obscure language, without adequate supporting material, did not allow for full transparency and very possibly curtailed or discouraged full public participation. One significant issue, in the supporting material, included an enhanced retirement formula that enriched the employees' retirement from date of hire instead of the date the agreements were approved. This single issue had a profound impact on the financial health of the County as well as an added burden to the taxpayers. (See Attachment B)

The BOS refused to remove the “item” regarding the enhanced retirement from the Consent Calendar as requested by the Sutter County Auditor-Controller. The Auditor-Controller is an independently elected officer of the County. Their primary duty is to provide fiscal and management services to and on behalf of the people of Sutter County. By refusing to honor this request, the BOS unilaterally prohibited an independently elected officer of the County from performing their primary function, which is to fiscally protect the public.

FINDINGS

- F1. The BOS violated GC Section 31516 by failing to secure an actuarial statement that explained the financial impact of the pension increase and present it to the public at least two weeks prior to its approval.
- F2. The BOS violated GC Section 23026 by placing the item which enhanced pension benefits on the Consent Calendar instead of “as an item of business.”
- F3. The BOS refused to remove this highly controversial issue from the Consent Calendar when requested to do so by the Sutter County Auditor-Controller.
- F4. The BOS removed a safeguard that was designed to fiscally protect the citizens of Sutter County by refusing the Sutter County Auditor-Controller's request to bring the enhanced benefits package forward for public review and further study.

RECOMMENDATIONS

- R1. The BOS develop, adopt and implement policy and procedures, including staff training, to prevent future violations of the California Government Code.
- R2. The BOS designate that the Auditor-Controller develop written quarterly reports for the public to view as to the financial security of the County's pension fund.
- R3. The BOS employ an internal auditor, by the next fiscal year, to ensure that the County is in full compliance with Federal & State law and County Policy & Procedures.

R4. The BOS adopt a policy where transparency in the County's legislative process should take precedence over expediency, especially concerning fiscal matters.

REQUEST FOR RESPONSES

Pursuant to Penal Code Section 933.05, the grand jury requests responses as follows:

- Sutter County Board of Supervisors
- Sutter County Auditor-Controller

INVITED RESPONSES

- Sutter County CAO

APPENDIX

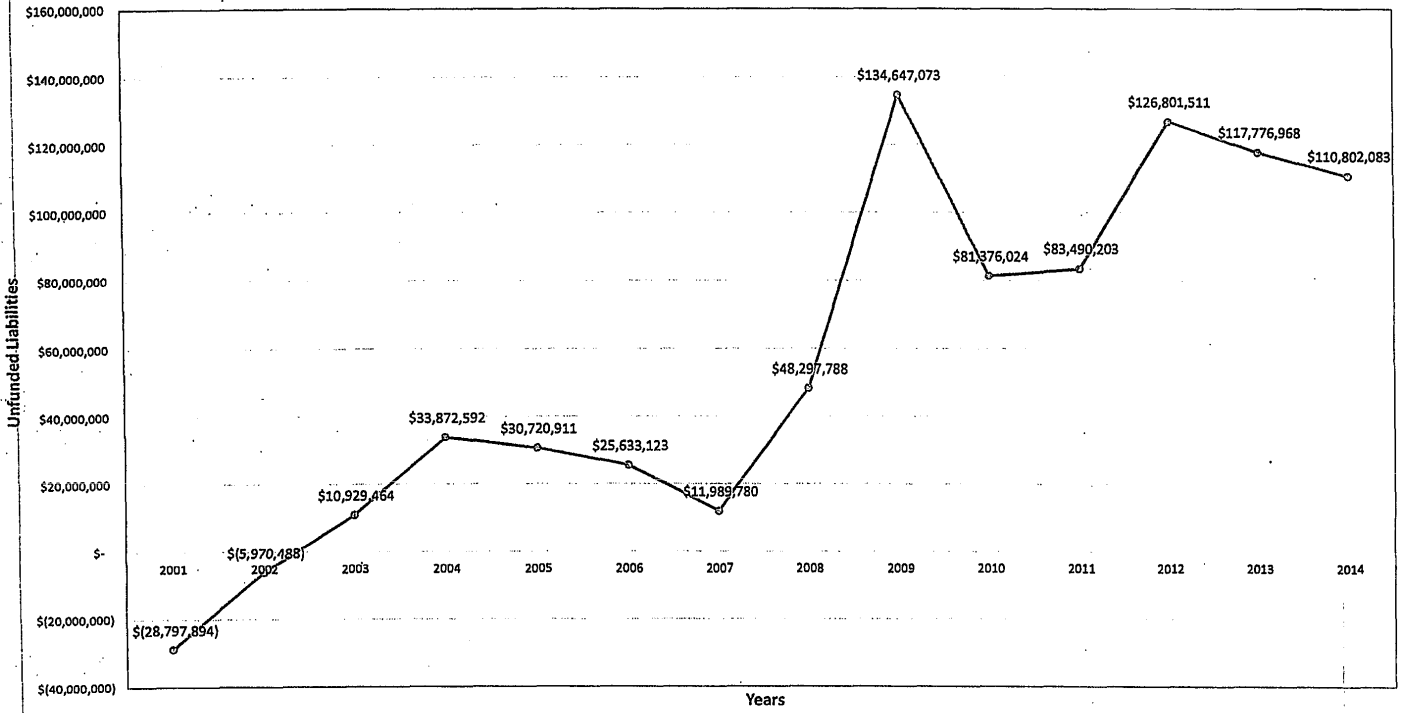
Sutter County Board of Supervisors Agenda Summary

Sutter County - Total Unfunded Pension Liabilities

DISCLAIMER

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

Sutter County - Total Unfunded Pension Liabilities



Agenda August 31, 2004

The complete agenda, including backup materials is posted in the entrance of the County Office Building, 1160 Civic Center Boulevard., Yuba City, and the County Library, 750 Forbes Avenue, Yuba City. The Agenda Summary and Approved Minutes are also posted on the Sutter County Website at <http://www.SutterCounty.org>

Board of Supervisors

County of Sutter

AGENDA SUMMARY

August 31, 2004

CONSENT CALENDAR

The Consent Calendar groups together those items which are considered non-controversial or for which prior policy direction has been given to staff and that require only routine action by the Board. The Chairman will advise the audience that the matters may be adopted in total by one motion; however, the Board may, at its option or upon request of a member of the public, consider any matter separately.

Personnel Department

7) Approval of Memoranda of Understanding for the General, Professional and Supervisory Units; Addenda to Memoranda of Understanding for the Fire Safety and Law Enforcement Units; and Addendum to Salary and Benefit Agreement for Confidential Unit Employees

Public Works Department

MINUTE BOOK 3-E PAGE 318

AUGUST 31, 2004

BOARD OF SUPERVISORS

COUNTY OF SUTTER, STATE OF CALIFORNIA

SESSION OF AUGUST 31, 2004

PUBLIC PARTICIPATION

Robert Stark, 1587 Holly Tree Drive, Yuba City, said that Item #7 on the Consent Calendar relating to approval of Memoranda of Understanding for the General, Professional and Supervisor Units; addenda to Memoranda of Understanding for the Fire Safety and Law Enforcement Units; and addendum to Salary and Benefit agreement for Confidential Unit employees should be considered a controversial item and should not be included on the Consent Calendar.

CONSENT CALENDAR

On motion of Supervisor Kroon, seconded by Supervisor Munger, and carried by those present, the Board approved the Consent Calendar as follows:
Clerk of the Board

Personnel Department

7) Approval of Memoranda of Understanding for the General (A04-173), Professional (A04-174) and Supervisory Units (A04-175); Addenda to Memoranda of Understanding for the Fire Safety (A04-176) and Law Enforcement (A04-177) Units; and Addendum to Salary and Benefit Agreement for Confidential Unit Employees (A04-178)

Note: There was no reference to Actuarial Study Regarding Pension Enhancements for Sutter County Employees

Agenda Page 1 August 17, 2004

The complete agenda, including backup materials is posted in the entrance of the County Office Bldg., 1160 Civic Center Blvd., Yuba City, and the County Library, 750 Forbes Ave., Yuba City. The Agenda Summary and Approved Minutes are also posted on the Sutter County Website at <http://www.SutterCounty.org>

Board of Supervisors

County of Sutter

AGENDA SUMMARY

August 17, 2004

7:00 P.M. REGULAR MEETING/CALL TO ORDER

Roll Call

Pledge of Allegiance to The Flag

APPROVAL OF MINUTES

- 1) Approval of the minutes of the August 10, 2004 regular session

Agenda Page 2 August 17, 2004

PUBLIC PARTICIPATION

Members of the public will be allowed to address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board. Any member of the audience who may wish to bring a matter before the Board that has not been agendized may do so at this time; however, State law provides that no action may be taken on any item not appearing on the posted Agenda. The Board requests that comments be limited to three minutes.

CONSENT CALENDAR

The Consent Calendar groups together those items which are considered non-controversial or for which prior policy direction has been given to staff and that require only routine action by the Board. The Chairman will advise the audience that the matters may be adopted in total by one motion; however, the Board may, at its option or upon request of a member of the public, consider any matter separately.

Board Clerk

- 2) Approval of preparation of a Gold Resolution for Joseph Dailey for 26 years of service to the Sutter County Fish and Game Advisory Commission

Community Services

- 3) Set Public Hearing on the Certified Unified Program Agency (CUPA) fee schedule. Suggested date: August 31, 2004 at 7:00 p.m.

Fish and Game Advisory Commission

- 4) Acceptance of resignation of Joseph P. Dailey as District 1 representative and authorization to post vacancy

Human Services – Mental Health

- 5) Approval of final amendment to contract with State Department of Alcohol and Drug Programs for reimbursable services

- 6) Approval of submission of two applications for California State Incentive Grants for Reduction of Binge Drinking and Related Problems among Youth and Young Adults to the State Department of Alcohol and Drug Programs

Human Services – Welfare & Social Services

- 7) Approval of Official Leave of Absence for a Social Worker

Agenda Page 3 August 17, 2004

Public Works

8) Approval of award of contract to Baldwin Contracting for overlay of Garden Highway from SR 99 to North of Messick Road and authorize Public Works director to execute contract and all documents related to the administration of the contract

Sutter-Yuba Mental Health Advisory Board

9) Acceptance of resignation of Roberta Osgood as Family representative and authorization to post vacancy

Sheriff-Coroner

10) Second presentation and adoption of an ordinance to amend the Sutter County Ordinance Code by repealing Section 465-020(g) and enacting Chapter 467 relating to massage establishments and massage practitioners, and to establish a fee of \$42.00, payable to the Sheriff, for the processing of permits relating thereto

CORRESPONDENCE

11) Letter from Jim Denney, Sheriff-Coroner to Assemblyman LaMalfa regarding his efforts in helping restore the Rural Counties Public Safety funding and preservation of local booking fees

12) Letter from Sutter County Local Agency Formation Commission regarding Tierra Buena Area 2 Reorganization No. 322, LAFCO-04-06

13) Letter to the Board from Julie Stark, Community Memorial Museum expressing appreciation for the installation of the museum's new main gallery lighting

CORRESPONDENCE NOT INCLUDED IN AGENDA PACKET

14) Correspondence from the State Water Resources Control Board regarding applications 18085 and 18087, order approving petition for temporary transfer of up to 20,000 acre-feet of water to the environmental water account (cc: Public Works)

15) Agenda for the Regional Council of Rural Counties on August 18, 2004

16) Notice of Regular Meeting of the Consolidated Area Housing Authority of Sutter County for August 19, 2004

PUBLIC COMMENT

During this time, the public may comment regarding any item discussed by the Board during this meeting.

WELL 2B OR NOT 2B, HOW MUCH IS MY BILL?

SUMMARY

The Sutter County Grand Jury (SCGJ) visited the Sutter Community Services District (SCSD) at 1880 Acacia Ave in Sutter, CA on several occasions. The SCGJ was given an overview of the SCSD's history, operations, budget and the responsibilities of the SCSD District Manager and Board of Directors.

The SCSD provides water services to meet the needs of the unincorporated Community of Sutter and the area surrounding it. The SCSD is the only local potable water supplier in the area. The SCSD was designed to utilize three wells (Well 1, Well 2B and Well 3) to provide water to users within its service area. After water is pumped from the wells, it is stored in a 750,000 Gallon Storage tank where it is gravity fed to 1,096 metered connections, or approximately 3,600 residents. As of September 2015, Well 2B had been taken out of service due to exceeding the maximum contaminant level for arsenic. The maximum contaminant level for arsenic per section 64431 of California Code of Regulations (CCR), is 0.010 milligrams per liter or 10 ug/L.

Upon review of the SCSD's residents billing statements, the SCGJ found inconsistencies and negligence within the billing practices. Some residents of the SCSD have been charged an additional Base Rate fee without proper documentation supporting such charges. It was also found that on two occasions the SCSD under-charged residents for water usage after a rate increase was implemented. This resulted in a loss of revenue for the SCSD.

During the SCGJ investigations, it was found that there is a lack of understanding of the SCSD's Bylaws and Ordinances by the representatives of the SCSD. Many of the documents provided to the SCGJ were outdated and/or lacking complete references and/or understandable language.

The SCGJ recommends that an outside auditor be hired to review for billing inconsistencies and that the Bylaws and Ordinances of the SCSD should be corrected and/or updated. The SCGJ also recommends that the SCSD Board of Directors and the District Manager implement a training program to educate the SCSD representatives on the updated Ordinances and Bylaws.

BACKGROUND

The SCGJ received a number of complaints concerning the SCSD's customer service and possible billing violations. During the investigation, it was evident that a number of SCSD residents have been billed twice for a "Base Rate Fee" each month. These charges could not be substantiated within the SCSD's Ordinances.

According to a complainant, they had been charged two Base Rate fees monthly for over ten years. The complainant went to the SCSD multiple times over several years to ask about the charge and to have the second Base Rate fee removed. It was explained to them that it was because the complainant had a hose running from the house to an RV parked on the property. The resident asked if the hose was removed from the RV if the charge would be removed, but

was told by management that it would not be removed regardless of any changes the complainant made. The complainant later learned of another resident who had also been charged an additional Base Rate and was able to have it removed from their billing. The complainant went again into SCSD about the additional fee and was told it could not be removed due to an ordinance.

RESOURCES

The SCGJ:

- Interviewed:
 - Representatives of the SCSD
 - Various Customers
- Attended:
 - SCSD Board of Directors Meetings
 - Tour of SCSD Offices
- Reviewed:
 - The California Division of Drinking Water Field Operations Branch Annual Inspection Report 2015
 - Billing Records of Residents of the SCSD (See Attachment A)
 - SCSD Board of Directors Meeting's Agenda and Minutes
 - SCSD Bylaws
 - SCSD Board of Directors policy manual
 - SCSD Ordinances 91-05, 92-01, 92-02, 93-01, and 96-04
 - District Fee Schedule (March 2015 and January 2016)
 - Written Correspondence from SCSD (See Attachment B)
 - SCSD Organizational Chart
 - California State Water Resources Control Board Division of Drinking Water Annual Compliance Report 2014
 - SCSD Water Distribution Map
 - Residents' Complaints

DISCUSSION

Upon receiving a complaint concerning the SCSD, the SCGJ elected to investigate the validity of the concerns. The SCGJ conducted a tour of the facilities, interviewed representatives and residents of the SCSD, and reviewed documentation provided by the SCSD. The following is the result of that investigation.

Well 2B

Well 2 was taken out of service due to exceeding the maximum contaminant level for arsenic. A new well (Well 2B) was drilled 50 feet from Well 2 in 2012. Within three years, September 2015, Well 2B was put on "standby" due to exceeding the maximum contaminant level for

arsenic. The maximum contaminant level for arsenic per section 64431 of California Code of Regulations (CCR), is 0.010 milligrams per liter or 10 ug/L. The SCSD is looking into modifying Well 2B to determine if they can bring the water up to standard levels or to consolidate it with Well 1 and Well 3.

Additional Water Meter Base Rate Fee

According to the SCSD Ordinances, 91-05, 92-01, 92-02, and 96-04 and the SCSD District Fee schedule (See Attachment C), only one Monthly Base Rate, currently \$9.57, is to be charged per water meter hookup. Some residents with one water meter have been billed two monthly Base Rates for 12 years or more.

The SCGJ found that the additional Base Rate was charged to residents for the following reasons: an RV trailer on the property with a water hose from the house to the RV, a duplex unit, two residential structures on one property, and other residences for no apparent reason. The SCSD's District Manager and a Board of Directors (BOD) Member stated that the fee originated from an ordinance. However, the SCSD BOD and District Manager were unable to locate or substantiate that Ordinance to support an additional Base Rate charge.

The SCGJ contacted an adjacent water district regarding their Rate Schedule. The representative of that district stated that they do not charge an additional Base Rate fee for any of the circumstances within this report. They also stated that the residences are already paying for the metered usage of the water and that a second base rate is not required regardless of how the resident is utilizing the water.

Billing Statements

The SCGJ reviewed SCSD billing statements and found that some fees are incorporated into one-line item. For instance, the additional billing of the Base Rate was denoted on the billing statements as one Base Rate item. If the Base Rate had been listed on the bill as two line items, residents may have been able to identify the improper billing that was charged to them.

Incorrect Billing of Water Rates

The SCGJ reviewed several of the SCSD residents' billing statements and documents. This led to the discovery that all residents were not billed the correct rates for their water consumption on at least two occasions: March 2015 and January 2016. The water consumption rate billed did not accurately reflect the set district rates. On March 2015, the billing rate equated to \$1.04 per 100 cubic feet (cf) of water used instead of the required rate of \$1.18 per 100cf of water used. On January 2016, the billing rate equated to \$1.12 per 100cf of water used instead of the required rate of \$1.25 per 100cf of water used. The residents were charged less than the approved rates resulting in a substantial loss to the SCSD in the amount of \$3,173.38. It was found that the error occurred when an employee changed the rate and did not follow the procedures as outlined in the training manual for the billing system.

Water Rate Estimations

During the investigation of the SCSD, the SCGJ was informed of SCSD Ordinance 91-05 Article 10 Section 1008, which states: *“If a meter is found to be not registering, the charges for service shall be at the minimum monthly rate and estimated consumption. Such estimates shall be made from previous consumption for a comparable period or by such other methods as determined by the Water Department and its decision shall be final.”* [Emphasis Added]

This allows the SCSD to estimate the water consumption if the meter is broken. However, it was found that water usage between 2014 and 2015 would be dramatically different and should not be estimated. In 2015, the State and the SCSD issued water saving requirements, which were not in place in 2014. Water usage varies from month to month and year to year. The difference in what one resident uses in one month as compared to the previous years or even the previous month may be extremely different. The SCGJ contacted an adjacent water district regarding their policies concerning broken water meters. The SCGJ found that it is not customary to estimate water usage when a meter is no longer registering.

Bylaws and Ordinances

The SCGJ requested the SCSD Bylaws and Ordinances to assist in this investigation. The SCGJ found the following:

The Bylaws language was difficult to understand and/or made reference to unspecified Government Code (i.e.: Article I and Article II). This does not provide a clear understanding of the qualifications and terms for the directors. Additionally, the meeting place and times listed in the SCSD Bylaws are no longer accurate (i.e.: Article III).

The Ordinances that were provided contained discrepancies and ambiguous language. Examples include:

Ordinance 91-05 Article 9 General Use Regulations

*“Section 901. NUMBER OF SERVICES PER PREMISES. The applicant may apply for as many services as may be reasonably required for the applicants premises; provided that the pipeline system from each service be independent of the others and that they not be interconnected. **In no case shall there be fewer than one service and one meter per family residential unit on a premises.** The cost of all services shall be borne by the applicant.”*

*“Section 902. SUPPLY TO SEPARATE PREMISES. Each premises shall have at least one connection and one meter. When two or more buildings are maintained on a single premises, one connection may serve both except as provided in **section 434** hereinabove.”* [Emphasis Added]

The language in Section 901 is unclear concerning what is a family residential unit. Additionally, the SCGJ was unable to locate a section 434.

BOD Meeting Minutes

The SCGJ found that only the current agenda of the meeting of the BOD is posted on the SCSD website. The minutes of BOD meetings are not currently posted on the website or in the office within public view.

FINDINGS

- F1. Well 2B was shut down after being in use for three years due to exceeding the State Levels for arsenic.
- F2. SCSD is evaluating whether to consolidate Well 2B with Well 1 and Well 3 to continue to utilize Well 2B.
- F3. The SCGJ found that some residents with one water meter hookup have been billed since at least 2002 for two monthly Base Rates fees. The SCSD and SCGJ were unable to substantiate that a second Base Rate fee should have been applied.
- F4. The SCSD billing does not provide a detailed breakdown of charges. The SCGJ found that the two Monthly Base Rate charges were not itemized on the bill/statements as two separate line items.
- F5. The SCGJ found that the SCSD did not bill the residents the correct amount for water usage on two occasions, March 2015 and January 2016, which caused a loss of revenue (\$3,173.38) to the district.
- F6. The SCSD Ordinance 91-05 Article 10 Section 1008 allows the SCSD to estimate water consumption based upon prior use when a water meter is no longer functioning.
- F7. The SCSD Board of Directors/Officers and representatives of the SCSD lack a full understanding of the SCSD Bylaws, Ordinances, and Code Compliance Policies and Procedures.
- F8. The SCSD By-Laws are outdated in regards to meeting place/time and posting of meeting requirements. There is no clear definition of election qualifications and terms of directors.
- F9. The SCSD Ordinance 91-05 Article 9 Section 902 makes a reference to outdated Section 434.
- F10. The SCSD BOD Meetings' minutes are not posted for public viewing on the SCSD's website or within the SCSD's office.

RECOMMENDATIONS

- R1. An environmental review be done to determine if the consolidation of Well 2B with Well 1 and Well 3 will compromise the potable water supply with high arsenic levels.
- R2. If Well 2B cannot be consolidated into Well 1 and Well 3's potable water supply, that Well 2B be isolated for the use as fire suppression and construction utilization.
- R3. No further wells be drilled at the same site as Well 2 and Well 2B.
- R4. The SCSD immediately hire an outside auditor to review and determine the duplicate amount that was charged erroneously to residents that had only one water meter hookup. The time frame that the outside auditor should review is from January 01, 2001 to June 2016. Upon completion of the audit, the SCSD should immediately reimburse the residents affected by the additional base rate fee the full amount plus interest.
- R5. The SCSD should evaluate the billing/statements and have an itemized line for each fee charged to the residences of the SCSD (i.e.: Base Rate Fee #1, Base Rate Fee #2).
- R6. Training be implemented to all appropriate representatives of the SCSD on how to use the water usage billing system. When a consumption rate is changed within the billing system, two people should verify the rate change for accuracy. Sample billings should be printed prior to mailing to residents to ensure that the billing rates are correct.
- R7. Remove the SCSD estimating bill Ordinance 91-05 Article 10 Section 1008.
- R8. The SCSD's Bylaws and Ordinances be reviewed for accuracies in regards to compliance with current law. Additionally, identifying term limits for the SCSD Board of Directors and make proper references in the SCSD Bylaws in regards to the exact Government Code being referenced.
- R9. All representatives of the SCSD are educated on the SCSD Ordinances. Additionally, the District Manager and the BOD should familiarize themselves with the Bylaws and the Board of Directors Policy Manual.
- R10. The SCSD BOD Meetings' minutes for the prior six months be posted for public viewing on the SCSD's website and the most recent SCSD BOD meeting minutes on the bulletin board within the SCSD's office.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the grand jury requests responses as follows:

- Sutter Community Services District Board

INVITED RESPONSES

- Sutter Community Services District General Manager

BIBLIOGRAPHY

Sutter Community Services District Ordinances

APPENDIX

Redacted SCSD Water Bill

SCSD Written Correspondence

SCSD District Fees

DISCLAIMER

This report is issued by the 2015-2016 SCGJ with the recusal of one juror. This juror did not participate in any part of the investigation, which included interviews, deliberations, and the preparation and acceptance of this report.

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

SUTTER COMMUNITY SERVICES DISTRICT
 P.O. BOX 710 • SUTTER, CA 95982 • (530) 755-1733

RETURN TO SERVICE ADDRESS

FIRST CLASS MAIL
 US POSTAGE PAID
 SUTTER, CA
 PERMIT #010

ACCOUNT NUMBER		SERVICE I.D.		DUE DATE		ADDRESS SERVICE REQUESTED	
[REDACTED]		[REDACTED]		Upon Receipt			
PREV. READ DATE		CUR. READ DATE		AFTER 20TH OF MONTH		AMOUNT DUE	
12/29/15		01/27/16		36.90		28.62	
PREVIOUS READING	CURRENT READING	CONSUMPTION	AMOUNT	ACCOUNT NUMBER		SERVICE I.D.	
3210	3214	400	4.48	4025		4025	
Test Rate			5.00				
			19.14				
MOD BANK-EVERY 2ND TUESDAY 10AM AT THE SYO							
PAST DUE AMOUNT		CURRENT CHARGES		TOTAL DUE			
0.00		28.62		28.62			
DUE DATE		AFTER 20TH OF MONTH					
Upon Receipt		36.90					

[REDACTED]
 [REDACTED] MULBERRY STREET
 SUTTER, CA 95982-

SERVICE ADDRESS

MULBERRY STREET
 SUTTER, CA 95982

337

SUTTER COMMUNITY SERVICES DISTRICT
 P.O. BOX 710 • SUTTER, CA 95982 • (530) 755-1733

ACCOUNT NUMBER		SERVICE I.D.		PREV. READ DATE		CUR. READ DATE	
[REDACTED]		[REDACTED]		02/25/16		03/29/16	
SERVICE	PREVIOUS READING	CURRENT READING	CONSUMPTION	AMOUNT			
Water	3218	3222	400	5.00			
Valve Test				5.00			
Base Rate				19.14			
Water Restrictions Still in Effect							
PAST DUE AMOUNT		CURRENT CHARGES		TOTAL DUE			
37.42		29.14		66.56			
DUE DATE		AFTER 20TH OF MONTH					
Upon Receipt		74.84					

SERVICE ADDRESS

MULBERRY STREET
 SUTTER, CA 95982



SUTTER COMMUNITY SERVICES DISTRICT

1880 ACACIA AVENUE
P.O. BOX 710
SUTTER, CALIFORNIA 95982-0710

(530) 755-1733
FAX (530) 755-1777

January 13, 2016

Sutter County Grand Jury:

At the meeting on January 12, 2016, I noticed that some of your questions were directed towards notification to customers in regards to a positive samples. I would like to mention to the jury you can always call our State Water Resources Control Board. Mr. Reese Crenshaw, Senior Engineer would be glad to talk to you about the notification procedures. He also would be a good person to talk to in regards to Sutter Community Services District's management and operations.

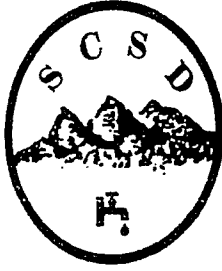
I have tried to find the exact Ordinance that states if a trailer is on the property and hooked up to the city's water you will be charged another base rate. To date I have not been able to locate it, but as I had mentioned at the meeting, at this time we do not enforce this. I have read this in our ordinance and I am sure the Board of Directors passed it.

Thank you for taking your time to visit Sutter CSD. Should you need further information please do not hesitate to call or email me.

Sincerely,


General Manager
Sutter Community Services District

sutterwater@aol.com



SUTTER COMMUNITY SERVICES DISTRICT

1880 ACACIA AVENUE
P.O. BOX 710
SUTTER, CALIFORNIA 95982-0710

(530) 755-1733
FAX (530) 755-1777

March 3, 2016

[REDACTED]

Dear [REDACTED]

Enclosed please find the information you requested at our last meeting. I have the Districts legal counsel checking their files for the ordinance regarding customers being charged two base rates. I included a list of twelve customers that are being charged that double rate. The majority are two homes with one water hookup or duplex homes.

I know I told you at the meeting I would email all the requested paperwork, but I was unable to do so, I hope this is okay.

[REDACTED] should you need anything further or if I left anything out please call me and I will do my very best to follow through. It has been a pleasure meeting you and everyone on Grand Jury.

Sincerely,

[REDACTED]

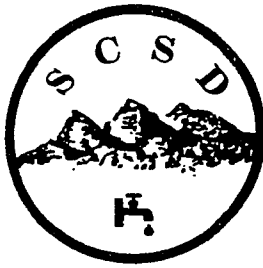
General Manager

SUTTER COMMUNITY SERVICES DISTRICT

CUSTOMERS THAT ARE BEING CHARGE DOUBLE BASE RATE – TWO RESIDENTS ON ONE LOT

- 1.) [REDACTED] BUTTE AVENUE (Two Houses)
- 2.) [REDACTED] FIRST AVE. (? Only one House)
- 3.) [REDACTED] GRIFFITH (Big motor home but not hooked up)
- 4.) [REDACTED] WALNUT (Duplex)
- 5.) [REDACTED] ACACIA AVE. (Business front home rear)
- 6.) [REDACTED] SO BUTTE ROAD (Duplex)
- 7.) [REDACTED] ACACIA AVE. (Two Houses)
- 8.) [REDACTED] MAPLE (Two Houses)
- 9.) [REDACTED] CALIFORNIA (Duplex)
- 10.) [REDACTED] MULBERRY (House and Trailer House "stationary")
- 11.) [REDACTED] MULBERRY (? One home only)
- 12.) [REDACTED] MULBERRY (Duplex)

The list above the only 12 customers that are being charged two base rates they are mostly customers with two homes on one property.



SUTTER COMMUNITY SERVICES DISTRICT

1880 ACACIA AVENUE
P.O. BOX 710
SUTTER, CALIFORNIA 95982-0710

(530) 755-1733
FAX (530) 755-1777

DISTRICT FEES

Base Rate.....	\$9.01
Water Rate.....	\$1.18
<i>100 CUBIC FEET = 748 GALLONS (Per 100 cubic feet)</i>	
New Account Fee.....	\$13.10
Security Deposit.....	\$40.00
<i>(Reimbursement on account after 1 year with good balance history)</i>	
Late Fee (After the 20 TH of the month)	\$8.28
Shut Off Fee	\$22.08
Turn On Fee.....	\$22.08
Unlawful Turn On Fee.....	\$22.08
Hook Up Fee Residential (New Service).....	\$7,500
Meter Fee	\$298.13
Meter Accuracy Test.....	\$15.99
Backflow Box Concrete.....	\$25.04
Backflow Lid Steel.....	\$109.71
Backflow Lid.....	\$19.08
Backflow Valve Testing (monthly)	\$5.00
Backflow Valve Testing (annual).....	\$60.00
Outside Backflow Testing Fee.....	\$10.90
Returned Check.....	\$38.63
Broken Lock	\$18.17

***WE ACCEPT CASH, CHECK, MONEY ORDER, VISA, MASTERCARD & DISCOVER**
(Please note that there is a 3% convenience fee for all credit/debit card transactions)

**Please put your account number and service I.D. number on your check or money order.*

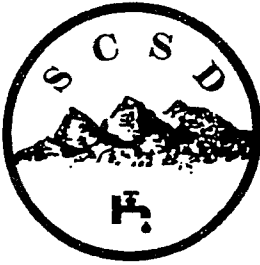
**You can also drop your payment off in the drop box night deposit located on the left side of the door.*

**To pay on-line visit Sutterwater.com*

OFFICE HOURS

Monday – Thursday 8:00 am – 5:00 pm
Closed Between 12:00 pm – 1:00 pm lunch
Friday 8:00 am – 12:00 pm
Closed Saturday and Sunday

Effective March 2015



SUTTER COMMUNITY SERVICES DISTRICT

1880 ACACIA AVENUE
P.O. BOX 710
SUTTER, CALIFORNIA 95982-0710

(530) 755-1733
FAX (530) 755-1777

DISTRICT FEES

Base Rate.....	\$9.57
Water Rate.....	\$1.25
<i>100 CUBIC FEET = 748 GALLONS (Per 100 cubic feet)</i>	
New Account Fee.....	\$13.10
Security Deposit.....	\$40.00
<i>(Reimbursement on account after 1 year with good balance history)</i>	
Late Fee (After the 20 TH of the month)	\$8.28
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OFFICE HOURS

Monday – Thursday 8:00 am – 5:00 pm
Closed Between 12:00 pm – 1:00 pm lunch
Friday 8:00 am – 12:00 pm
Closed Saturday and Sunday

Effective January 1, 2016

Usage Report

From: 03/01/2015 Through: 03/31/2015

Sorted By: Account Number

Service	Measure	Act Usage	Bill Usage	Adj Usage	Adj Amt	Charges
WATER	Cubic	1522300.	1522300.	0.	0.00	15802.72
VAL TEST	Gallons	0.	0.	0.	0.00	1975.00
BASE RATE	Gallons	2500.	2500.	0.	0.00	10259.78
BFL TEST	Gallons	0.	0.	0.	0.00	94.50
Number of Accounts		1050				
Number of Locations		1123				
Account/Location Combinations		1137				

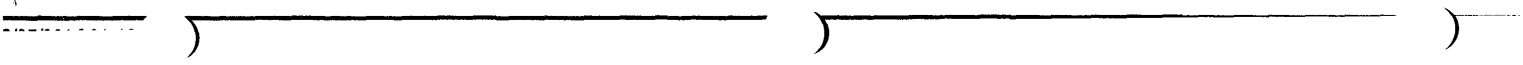
15223 CF usage @ 1.04 = \$ 15802.72
 error charge

15223 CF usage @ 1.18 = $\frac{17963.14}{2160.42}$

Loss Revenue
 customers under
 charged.

and
 totals

0



Usage Report

From: 01/01/2016 Through: 01/31/2016

Sorted By: Account Number

Service	Measure	Act Usage	Bill Usage	Adj Usage	Adj Amt	Charges
Grand Totals						
WATER	Cubic	779200.	779200.	0.	0.00	8759.24
VAL TEST	Gallons	0.	0.	0.	0.00	2000.00
BASE RATE	Gallons	0.	0.	0.	0.00	10958.29
BFL TEST	Gallons	0.	0.	0.	0.00	480.00
Number of Accounts		1048				
Number of Locations		1121				
Account/Location Combinations		1127				

7792 - cf. usage @ 1.12 = 8727.04
 error charged

7792 cf usage @ 1.25 = 9740.00

\$1,012.96

error charged
 customer
 January 2016

AN OUTLOOK ON SUTTER COUNTY PUBLIC BUILDINGS

SUMMARY

The Sutter County Grand Jury (SCGJ) toured several Sutter County government buildings and facilities. What the SCGJ concluded was that the County needs to focus on several areas of concern. Namely, they need to upgrade a Facilities Master Plan which should focus on consolidation of compatible County departments into a single facility as well as developing a comprehensive telecommunication plan to address the future needs created by growth and advanced technology. Currently, the County appears to be reacting to the changing dynamics in a disjointed and inefficient manner wasting taxpayer dollars. Another issue of concern is the age of many of the County buildings which are near or past their useful lives. This has resulted in increased maintenance costs and custodial demand while exposing both staff and the public to potential health and safety issues. A third issue of concern is that several of the buildings appear to be out of compliance with the Americans with Disability Act (ADA) exposing the County to litigation and/or Federal enforcement.

GLOSSARY

Facilities Master Plan: The purpose of the plan is to develop and communicate an efficient process to change the County facilities to better accommodate and support its current and future needs on a regularly updated basis.

Telecommunication Master Plan: A strategic road map for telecommunication development in the County to meet present and future needs.

Americans with Disabilities Act: The ADA is a civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public.

BACKGROUND

The SCGJ identified locations for inclusion in this year's review of County facilities. Two locations, Child Protection Services and Oswald-Tudor Fire Station, were toured as a follow-up to the 2014-2015 SCGJ Report to determine if prior recommendations had been addressed.

The Sutter County General Services Department (GSD) has oversight in regards to County facilities. The SCGJ requested from the GSD several documents pertaining to the County's building and maintenance responsibilities. Those documents are listed below.

RESOURCES

The SCGJ:

- Interviewed:
 - Representatives of the County

- Toured:
 - 44 2nd St, Yuba City, CA (Whiteaker Hall)
 - 433 2nd St, Yuba City, CA (Clerk-Recorder's Office)
 - 463 2nd St, Yuba City, CA (Courthouse East)
 - 466 2nd St, Yuba City, CA (Hall of Records/Board of Supervisors Chambers)
 - 512 2nd St, Yuba City, CA (General Services Information Technology Division)
 - 1280 Barry Rd, Yuba City, CA (Oswald-Tudor Fire Station)
 - 1130 Civic Center Blvd., Yuba City, CA (Development Services)
 - 1077 Civic Center Blvd, Yuba City, CA (Sutter County Jail)
 - 1965 Live Oak Blvd, Yuba City, CA (Child Protective Services)
 - 275 Samuel Dr, Yuba City, CA (General Services Fleet Management)
 - 10321 Live Oak Blvd, Live Oak, CA (Sutter County Library – Barber Branch)
 - 2147 California St, Sutter, CA (Sutter County Library – Sutter Branch)

- Reviewed Documents:
 - County Owned Property Occupied by County Departments
 - Leased Property Occupied by County Departments (Lessee)
 - County Property Leased to Others
 - Maintenance requests and projects for the past 24 months
 - Listing of all employee injury and/or health incidents by facility for the past 24 months
 - Listing of all environmental health inspections for the past 24 months
 - A copy of the most recent Facilities Master Plan (Draft 2000)
 - Information regarding the maintenance of Whiteaker Hall
 - Properties available for rental to non-County users

DISCUSSION

Need of a Facilities Master Plan

In the last sixteen years, the County has failed to finalize, adopt or update a Facilities Master Plan. Such a plan outlines a strategy, needs assessment, and methods to plan and manage space. With the completion of the new court house, the County has an opportunity to improve the efficient use of additional space. However, without a master plan, it appears to be acting in a disjointed and uncoordinated manner. For example, the entire second floor of the building located at 463 Second Street, which had been used for court rooms, was completely vacated and is vacant at the time of this report. Security was eliminated when the court vacated the building exposing the Treasurer-Tax Collector, the Auditor-Controller and the District Attorney to increased vulnerability. Note: The County has only recently addressed this issue by hiring a private security firm. However, a question is raised as to the adequacy of security in view of the significantly increased revenue that the Treasurer-Tax Collector handles during certain times of the year.

Another example of a lack of planning occurred on February 25, 2014, when the Sutter County Board of Supervisors (BOS) approved a contract with Chevron Energy Solutions to erect ten solar arrays among other energy saving upgrades. A loan was provided by PNC Equipment,

LLC in the form of a Master Equipment Lease-Purchase agreement, committing the County to pay back 9.1 million dollars over a fifteen year period plus a 1.5 million dollar down payment. The energy savings was to fund the project over a period of years. However, the lack of a current Facilities Master Plan resulted in solar panels going on or near dilapidated buildings that couldn't provide the space or support the structures. The largest array was to be erected on the Sutter County Airport but had to be constructed at an alternate site because of complications which would have created an extended delay. At the time of this report, nearly two thirds of the solar arrays are yet to be connected to the grid. Although, two annual payments to PNC have already been made costing the County hundreds of thousands of dollars because of delayed energy production.

Although requested, the County could not provide a comprehensive telecommunications plan. Such a plan is crucial for directing telecommunications technology and should be a factor when developing a Facilities Master Plan. Current systems, as well as a lack of future directions, may pose significant challenges in planning for future facilities. Telecommunication requirements could present significant costs to the County and should be a key component when planning for the future.

Need for Consolidation

County buildings are scattered throughout Sutter County, often miles apart, exposing employees and the public to traffic, wasted time and money, just to handle the basic needs of the various government services. For example, if a taxpayer needed to visit the Assessor's Office located on Civic Center Blvd and then needed to go to the Treasurer-Tax collector on Second Street to pay the tax bill, the taxpayer is required to travel across town to do so.

Aging Facilities

Child Protective Services (CPS) is housed in temporary structures that have long ago become obsolete. This provides an unhealthy and depressing environment for staff and the families involved who are already emotionally stressed and need a clean and secure environment.

The Oswald/Tudor fire station on Barry Road houses fire engines that no longer can fit into the existing structure. Expensive equipment is exposed to the elements, vandalism and theft.

ADA Compliance Issues

Several buildings were observed that appear to be out of compliance with ADA requirements. The branch libraries in Sutter and Live Oak are outdated buildings with broken sidewalks, poor parking and bathroom facilities which do not adequately meet accessibility standards.

The following facilities were inspected:

1965 Live Oak Blvd, Yuba City, CA (Child Protective Services)

CPS is a division within the Welfare and Social Services Department. CPS is the major system of intervention of child abuse and neglect in California and is often the first official agency that these children come in contact with. The facility housing this service is a group of older modular buildings with sagging floors, a leaking roof and other structural problems. The gravel parking lot

has inadequate drainage (Attachment A) and lighting affecting the safety of staff and their clients. The overall environment is unattractive and provides little security.

1280 Barry Rd, Yuba City, CA (Oswald-Tudor Fire Station)

The SCGJ conducted an investigation into the Oswald/Tudor Fire Station, which details the ongoing issues at this location. Some repairs as addressed in the 2014-15 SCGJ report have been completed, including new siding and roof replacement. (See Fire/Emergency Report)

44 2nd St, Yuba City, CA (Whiteaker Hall)

Whiteaker Hall is managed by the Sutter County Sheriff's Office. Although its main function is a training facility, it is also rented to the public for social events, and houses the Sheriff's Office work release program. For public events the facility requires a deposit of \$200 and a fee of \$150, making it the least expensive of the three halls available to rent from Sutter County. Rental of the facility includes use of the main hall, lounge, a large outdoor area, restrooms, a full kitchen with refrigerators, oven/stove tops, and sinks. During the prior fiscal year the facility has been rented to the public forty-eight times.

During the tour of Whiteaker Hall, a number of maintenance and custodial issues were observed. The interior of the building is dirty and unsightly. The main hall of the building, where the majority of events are held, has a large number of cosmetic issues that need attention. For example, the ceiling tiles are stained and damaged beyond repair. The kitchen was filthy, with visible dust, spider webs and evidence of other pests. This was especially true regarding the stove and sink areas. The bathrooms appeared clean, however had visible mold in the men's restroom and the shower areas had a musty odor. The bar area appears worn with minor damage to the walls and missing tiles on the ceiling.

The grounds were well maintained. The parking lot was adequately paved with no apparent damage and was free of debris. The outside patio and range were clean. The grass was well groomed, and the out buildings appeared well maintained. It is important to note that the range is only usable by authorized personnel. It also should be noted that the SCGJ was unable to access several storage areas as well as the Sheriff's Office Work Release Program administrative area during this visit.

433 2nd St, Yuba City, CA (Clerk-Recorder's Office)

During the tour it was noted that the facility lacks dedicated handicapped parking and the high ceilings inhibit efficient heating and cooling. The interior, however, appears to be functional and remains serviceable for County needs.

463 2nd St, Yuba City, CA (Courthouse East)

This courthouse no longer functions as a court. All court functions have been moved to the new courthouse which has left much of Courthouse East vacant and unused. The building is two stories with only a portion of the lower floor being occupied by County departments. The entire second floor is not being utilized by the County. The elevator has been disabled and the staircase

is blocked with yellow "Do Not Enter" tape on the base of the stairs and a row of chairs at the top of the stairs.

The Sutter County Courts have not removed all of the furnishings used during the Courts' service at this location. However, if additional County operations are moved into this location, they may be utilized by those departments.

At the time of this report, there was not a known published plan as to occupancy and the reuse of this building. The building could be utilized by current County departments that are lacking adequate space to conduct their work. One example is the Treasurer-Tax Collector's Office. Another example is the GSD Information Technology Division, which could be consolidated into a single location. Also, the SCGJ could utilize this space because there is room to store their records and conduct other routine grand jury functions. The SCGJ currently shares a facility with another County department. This is an inconvenience to both the current occupants of that facility and the SCGJ.

466 2nd St, Yuba City, CA (Hall of Records/Board of Supervisors Chambers)

Most of the regular meetings of the Sutter County Board of Supervisors (BOS) occur at the Sutter County Hall of Records. This building is also used for study sessions, Sutter County Planning Commission meetings, or other public meetings, when available.

BOS meetings are recorded on video and streamed live on the Internet. They are aired on Comcast Cable Channel 18 at 8 p.m. on Wednesday night following the Tuesday night meetings.

The Hall of Records is a very old building and suffers from a number of problems. A few of those problems are as follows:

- Poor acoustics. The public often cannot hear what the speakers are saying and this is often aggravated when microphones are turned off.
- A lack of modern bathroom facilities. Attendees must use the facilities in an adjoining building with access via an uncovered sidewalk. This is inconvenient at best and very difficult to use for individuals with mobility issues.
- A poor storage environment. The County Administrator's office stores County records in the basement of the building. This places the records in a poor environment subject to floods, poor climate control and difficult access. The space is not monitored for unwanted entry, moisture or fire. The basement is shared by the control room housing the camera system used to "live feed" the Internet. The SCGJ was unable to gain access to the control room or the small bathroom facility used by staff.

512 2nd St, Yuba City, CA (GSD Information Technology Division)

A majority of the GSD IT staff work at this location. However, a majority of the equipment is located elsewhere. Staff are regularly required to commute to Courthouse East to conduct routine activities.

1130 Civic Center Blvd., Yuba City, CA (Development Services)

The Sutter County Development Services includes multiple divisions and functions: Building Services, Environmental Health, Fire Service Administration, Planning Services, Planning Commission coordination, Public Works Engineering, Road Maintenance and Water Resources. Investigation revealed that the consolidation of staff and the significant storage of paper records have resulted in cramped working conditions for this department.

1077 Civic Center Blvd, Yuba City, CA (Sutter County Jail)

The age of the older jail structure and internal equipment is the cause of growing problems. Due to age, security gate hardware for the doors and cells is often not commercially available. Thereby, requiring custom solutions be developed or created to maintain a secure environment.

The lack of air conditioning continues to be an issue with both staff and inmates. Some inmates located at the Sutter County Jail are on medications that require the inmate to be kept in an environment under 80 degrees. When inmates are given temperature sensitive medications and are then exposed to a temperature that conflicts with the medication, it can cause adverse reactions to the inmate including making them less cooperative and temperamental. In turn, this makes the corrections officers' duties more difficult to complete.

The housing of AB109 inmates has introduced more plumbing maintenance issues. Inmates place a variety of items in toilets with the intent of causing plumbing system problems. Antiquated plumbing and disposal methods require staff to physically penetrate concrete floors to address issues within the jail structure. Materials are also causing problems with the city treatment plant. This requires additional processes, equipment, and services to process the sewage leaving the jail prior to delivery to the City waste collection system.

275 Samuel Dr, Yuba City, CA (GSD-Fleet Management)

The fleet maintenance center appeared well kept, clean, functional and safe. Recent additions to overhead structures have improved working conditions. GSD staff reported that heavy traffic had caused natural gas line issues due to vibration. This problem has been corrected.

10321 Live Oak Blvd, Live Oak, CA (Sutter County Library – Barber Branch)

The library is located on the main highway with limited off-street unpaved parking and no designated Handicap parking or other ADA accommodations. The single bathroom also appears out of ADA compliance or other current accessibility standards. The exterior of the structure is in need of minor maintenance, such as crack repairs, painting and window caulking. The windows appear old and not energy efficient.

2147 California St, Sutter, CA (Sutter County Library – Sutter Branch)

The Sutter Branch of the Sutter County Library has limited unpaved parking and no designated ADA accessible parking. Additionally, exterior ADA accommodations were not apparent. The single bathroom also does not meet ADA or other current accessibility standards. The interior is well lit, open and organized. At least one half of the ceiling lacks insulation. The remaining half was enclosed so the SCGJ was unable to determine the status in that portion of the ceiling. The

heating and cooling system was recently upgraded and staff report that it is suitable for the buildings current needs.

FINDINGS

- F1. The County's current Facilities Master Plan is outdated and doesn't address current facility needs. Additionally, the County does not have a comprehensive telecommunications plan.
- F2. The County has recently upgraded energy savings components including solar systems on buildings and sites that may not be appropriate for future needs.
- F3. Many of the County buildings are near or past their useful lives, requiring increased maintenance costs and modernization to accommodate changing needs.
- F4. Whiteaker Hall does not meet the same standards in regards to maintenance and custodial care as observed in other County facilities.
- F5. Space is available at 463 Second Street. However, there is no published plan on how to utilize it.
- F6. Records stored in the basement of the Hall of Records are at risk of being lost, damaged or destroyed. They are also in a location which is difficult to access.
- F7. The Sutter County Jail has internal equipment problems due to age. The security gate hardware is often not commercially available requiring costly custom solutions. Evaporative cooling systems provide inadequate cooling for certain inmates suffering from medical conditions or treatments. There are additional plumbing maintenance issues attributed to the Housing of AB109 inmates, increasing the pressure on the antiquated plumbing.

RECOMMENDATIONS

- R1. The County should expedite the development of both short and long term facilities master plans. This will alleviate confusion, reduce unnecessary modifications, and maintenance challenges. This will also minimize business unit disruptions currently plaguing County departmental operations. A comprehensive telecommunications plan should be developed in conjunction with the development of a facilities master plan. Consolidation of departments should be utilized wherever possible in the design of this Master Plan.
- R2. An audit of all of the County facilities should be conducted as soon as possible for ADA compliance.
- R3. A standard checklist for routine maintenance should be adopted by General Services and initialed by those responsible after accomplishing those duties on the list. A regularly scheduled follow up inspection should be performed at these facilities.

R4. Aging buildings and facilities should be upgraded or replaced as soon as possible. The Sutter County Jail, Child Protective Services modular buildings and the Oswald-Tudor fire station should be the top priorities.

R5. The BOS meeting place should be relocated to a more suitable location (ADA Compliant). A more suitable storage location for the records should be developed.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the grand jury requests responses as follows:

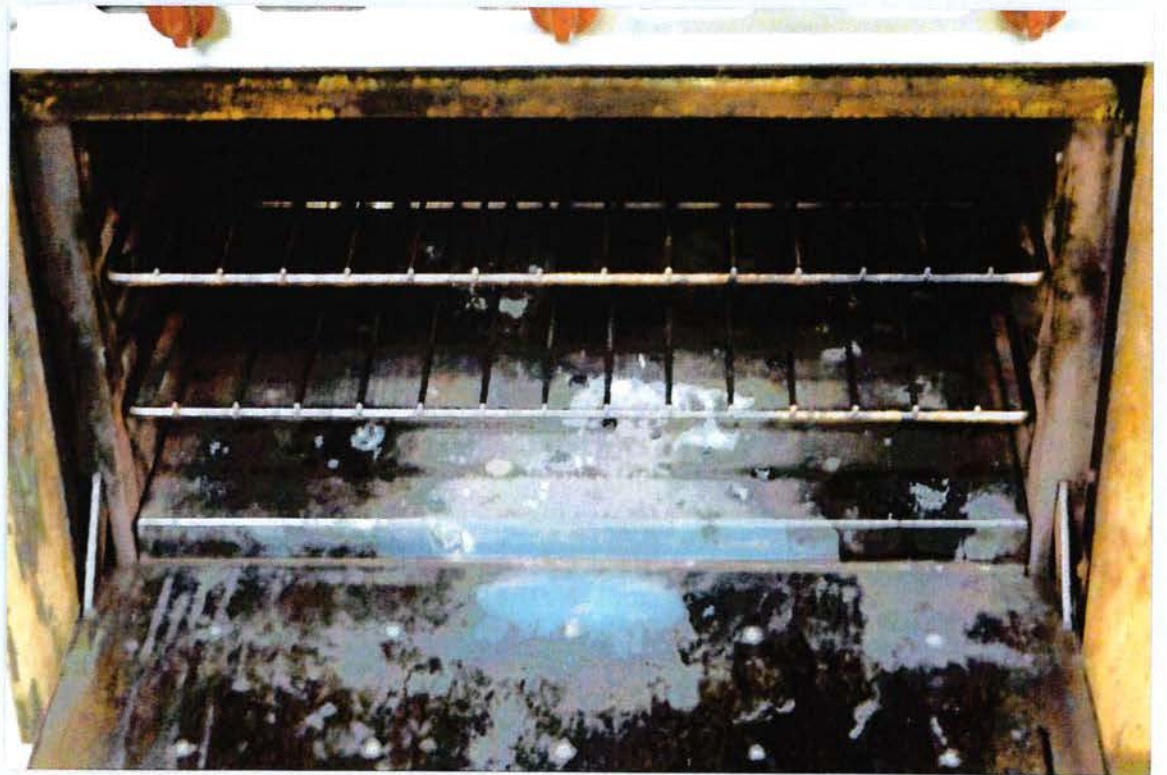
- Sutter County Sheriff (F7, R4)
- Sutter County Board of Supervisors

INVITED RESPONSES

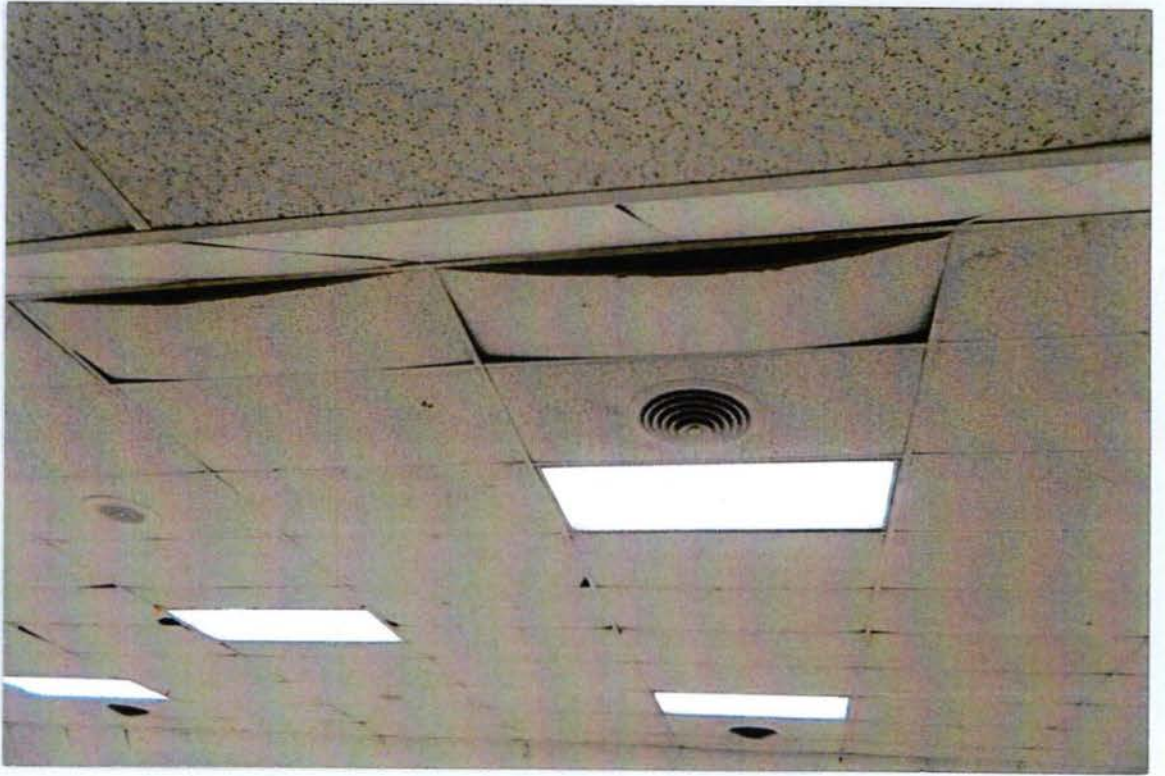
- Sutter County CAO
- Director of General Services Department

DISCLAIMER

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.







ENDORSED FILED

MAY 27 2016

**Report
of the
2015-2016**

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SUTTER
CLERK OF THE COURT
By JACKIE LASWELL Deputy

Sutter County Grand Jury

**Steven Meyer-Foreperson, Addam Heltsley, Andrew Sampeck, Annette Roach,
Carrie Mitchell, Christy Cook-Pratt, Gail Stillwell, Gerald Marta, Jacqueline McLaughlin,
John Forberg, Kristen Hart, Marianne Ethington, Pablo Fischetti, Perry Pasquale,
Richard Libby, Richard Snyder, Teresa Smith, William Carter**

**Final Report [pursuant to Penal Code 933(a) on subject:
A Need for Greater Public Transparency: COIN**



**Steven Meyer
2015-2016 Foreperson**

May 18, 2016
Date

**Pursuant to Penal Code Section 933(a), the Presiding Judge makes the finding that the
foregoing report is in compliance with the Title 4, Chapter 3 of the Penal Code
("Powers and Duties of the Grand Jury").**



**Honorable Brian R. Aronson, Presiding Judge
Superior Court of California, County of Sutter County**

May 20, 2016
Date

A NEED FOR GREATER PUBLIC TRANSPARENCY: CIVIC OPENNESS IN NEGOTIATIONS (COIN)

SUMMARY

Civic Openness in Negotiations (COIN) is an ordinance that brings greater transparency to the public regarding labor negotiations between the local legislative body and its employees involving wages, conditions of employment, and benefits.

The Board of Supervisors (BOS) negotiates expensive contracts with many entities without adequate public input. There has been little or no input from the public due to a lack of knowledge regarding contracts and negotiations because of minimal transparency in Sutter County. These contracts are approved, many times, without an independent economic analysis. It is necessary to conduct an economic analysis because their purpose is to describe the actual fiscal costs of these contracts.

The SCGJ recommends the BOS should adopt a (COIN) ordinance. The SCGJ recommends it is in the best interest of the County to employ an internal auditor to ensure compliance with the requirements of (COIN).

BACKGROUND

The SCGJ was given information regarding an ordinance approved by the city of Costa Mesa that was titled "Civic Openness in Negotiations (COIN)."

Traditionally, labor negotiations have been done behind closed doors, with virtually no oversight or input from the public. In 2012, the city of Costa Mesa approved an ordinance that would require negotiations between the City Council and its employees to be made public. The objectives of (COIN) are as follows:

- Bring maximum sunshine [exposure] to the negotiations of the most expensive contracts in which the city enters.
- Bring in a professional negotiator to represent the taxpayers' interest.
- Give the public easy access to the cost of each benefit under consideration.
- Show the public each offer and counteroffer.
- Allow for ample time for the public and media to examine the contract before it is approved by the legislative body.

Similarly to Costa Mesa (before its adoption of COIN), Sutter County BOS also conducts its labor negotiations behind closed doors. The SCGJ received documents regarding COIN and reviewed Sutter County policy and past practices in labor negotiations. The SCGJ initiated an investigation to consider whether COIN would be beneficial to the citizens of Sutter County and the BOS.

RESOURCES

The SCGJ:

- Interviewed:
 - Sutter County Auditor-Controller
 - Sutter County County Counsel
 - Sutter County Taxpayers' Association
- Reviewed Documents:
 - Costa Mesa COIN informational PowerPoint (Attachment A)
 - BOS' Meeting Agendas and Minutes
 - Sections of the California Government Code

DISCUSSION

In Sutter County, labor negotiations are generally held behind closed doors where a professional negotiator is hired to bring the various entities together. Once an agreement is resolved, the proposal is brought forward for a vote by the BOS. The public is not involved in negotiations or made aware of the agreement until the agenda is published, which is generally the Friday prior to the board meeting on Tuesday evening. As a result, little time is given for the public to process and analyze how the agreement will affect the budget or County resources. Generally, there is no independent economic analysis provided.

Two examples of the County's adoption of contracts that imposed a significant financial obligation on the part of its citizens with a minimum of public review follow:

- On August 31, 2004, an enhanced retirement package for the Sutter County employees was approved by the BOS on the consent calendar, even though the Sutter County Auditor/Controller requested that it be pulled and placed as an action item. As a result, the public was precluded from participating in the decision making process. There was no independent analysis provided. The supporting material was written in an unclear manner; and by placing it on the consent calendar, public discussion was blocked. (See Pension Enhancement Report)
- On February 25, 2014, a \$10,500,000 agreement with Chevron Energy Solutions was approved by the BOS. The purpose of the agreement was to build a series of solar arrays, upgrade HVAC systems, and provide other energy saving improvements which were designed to reduce the County's energy costs. The system was designed and rushed through for approval without an independent financial analysis and with only minimal public input. **The BOS even denied the request by the Sutter County Auditor-Controller to delay the vote until further study on the financial impact of the project could be studied.** (See SCGJ Chevron Solar Report)

Recognizing the need for more open government, the Governor of California approved Senate Bill No. 331. This bill encourages counties, cities and special districts to establish specific

procedures for the negotiation and approval of significant contracts that would allow the public to be better informed.

SB 331 Section 22176 refers to negotiations with employees and states, in part, that any: *city, county or special district that adopts a "civic openness in negotiation" (COIN) ordinance is required to use any of the following as a part of any collective bargaining process undertaken pursuant to the Meyers-Milias-Brown Act:*

- a. Preparation of an independent economic analysis describing the fiscal costs of benefit and pay components currently provided to members of a recognized employee organization, as defined in Section 3501 of the Government Code.*
- b. The completion of the independent economic analysis prior to the presentation of an opening proposal by the public employer.*
- c. Availability for review by the public of the independent economic analysis before presentation of an opening proposal by the public employer.*
- d. Updating of the independent economic analysis to reflect the annual or cumulative costs of each proposal made by the public employer or recognized employee organization.*
- e. Updating of the independent economic analysis to reflect any absolute amount or change from the current actuarially computed unfunded liability associated with the pension or postretirement health benefits.*
- f. The report from a closed session of a meeting of the public employer's governing body of offers, counteroffers, or supposals made by the public employer or the recognized employee organization and communicated during that closed session.*
- g. The report from a closed session of a meeting of the public employer's governing body of any list of names of persons in attendance during any negotiations session, the date of the session, the length of the session, the location of the session, or pertinent facts regarding the negotiations that occurred during a session.*

SB 331 Section 22178 refers to contractual agreements and to contracts with a value of at least two hundred fifty thousand dollars (\$250,000) within the fiscal year approved by the city, county or special district shall designate an unbiased independent auditor to review the cost of any proposed contract.

In part, that: *(b) The independent auditor shall prepare a report on the cost of the contract and provide the report to all parties and make it available to the public before the governing body takes any action to approve or disapprove the contract. The report shall comply with the following:*

- 1. The report shall include a recommendation regarding the viability of the contract, including any supplemental data upon which the report is based, and shall determine the fiscal impacts attributable to each term and condition of the contract.*

2. *The report shall be made available to the public at least 30 days before the issue can be heard before the governing body and at least 60 days before any action to approve or disapprove the contract by the governing body.*
3. *Any proposed changes to the contract after it has been approved by the governing body shall adhere to the same approval requirements as the original contract. The changes shall not go into effect until all of the requirements of this subdivision are met.*

FINDINGS

- F1. The Sutter County Board of Supervisors has negotiated expensive contracts with various entities, including the employees' union representatives, with little or no public input or knowledge.
- F2. Often, these contracts were approved without an independent economic analysis describing their fiscal costs.

RECOMMENDATIONS

- R1. The BOS adopt, by the next fiscal year, a Civic Openness in Negotiations (COIN) ordinance.
- R2. The BOS employ an internal auditor, by the next fiscal year, to ensure compliance with the requirements of (COIN).

REQUEST FOR RESPONSES

Pursuant to Penal Code Section 933.05, the grand jury requests responses as follows:

- Sutter County Board of Supervisors
- Sutter County Auditor-Controller

INVITED RESPONSES

- Sutter County CAO

DISCLAIMER

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