

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: CHIEF EXECUTIVE OFFICE

BOARD AGENDA # B-9

Urgent Routine

AGENDA DATE September 24, 2002

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT: CONSIDERATION AND APPROVAL OF RESPONSE TO 2001-2002 STANISLAUS COUNTY CIVIL GRAND JURY FINAL REPORTS NUMBERS THREE, FOUR, SIX, SEVEN AND NINE

STAFF
RECOMMEN-
DATIONS:

1. ACCEPT THE RESPONSES TO GRAND JURY FINAL REPORTS THREE, FOUR, SIX, SEVEN AND NINE, WITH ANY MODIFICATIONS MADE AFTER CONSIDERATION BY THE BOARD, AND AUTHORIZE THE CHAIR TO FORWARD IT TO THE PRESIDING JUDGE OF THE SUPERIOR COURT.
2. DIRECT THE CHIEF EXECUTIVE OFFICER TO ENSURE THAT THE RECOMMENDED ACTIONS BE FOLLOWED AND COMPLETED BY EACH COUNTY DEPARTMENT AS APPROPRIATE AND REPORT BACK TO THE BOARD DURING THE MID-YEAR BUDGET EVALUATION.

FISCAL
IMPACT:

There is no direct fiscal impact associated with this response.

BOARD ACTION AS FOLLOWS:

DISCUSSION: This year the Civil Grand Jury distributed nine parts of their Final Report, Part Three, Four, Six, Seven and Nine of which pertain to County government. In accordance with California Penal Code Section 933(c), the Board of Supervisors has 90 days to comment to the Presiding Judge of the Superior Court, on the findings and recommendations. The response provided to you today is well within that 90-day period.

The investigations conducted by the Civil Grand Jury into issues associated with the departments represented by elected officials have been addressed under separate cover by those elected officials, pursuant to Section 914 that requires that the elected officials comment within 60 days to the Presiding Judge of the Superior Court. All the elected official responses are attached for your information

FINAL REPORT – PART THREE FOR THE STANISLAUS COUNTY HEALTH SERVICES AGENCY

Grand Jury Case No. 02-12-C - regarding a written complaint from a medical professional regarding the Stanislaus County Health Services Agency (SCHSA)

Response to Findings:

Finding #1 - According to the California Health and Safety Code, Section 1441, the County may establish a County hospital; however, it is not required to do so.

Agree.

Finding #2 – For financial reasons, the County closed Stanislaus Medical Center and sub-contracted all hospital services to Tenet through the Omnibus Agreement.

Agree.

Finding #3 - The Omnibus Agreement, signed November 30, 1997 by the CEO of Stanislaus County and the CEO of DMC, outlines each party's responsibilities and duties pertaining to health care in Stanislaus County as outlined below:

- a. This is a twenty (20) year agreement with automatic renewals each year thereafter.
- b. Tenet can cancel the agreement if the county fails to pay any amount due DMC.
- c. "DMC shall be the exclusive supplier to the County of all

inpatient services required by County for the patients of the clinics mostly at MediCal rates, emergency care and certain other free support functions for law enforcement and the coroner."

- d. DMC paid \$12,000,000.00 to the County for this exclusive right as stipulated in this agreement.
- e. DMC and the County shall jointly publicize that DMC now provides the health care services the County once provided.
- f. For those patients at DMC who become qualified as eligible indigents, the County will pay for inpatient care (subject to free patient days) retroactive to the date of the inpatient admission at DMC. The County does not pay for emergency care of related transportation.

Agree.

Finding #4- If patients are found to be ineligible for any County program and have no insurance, they shall be considered part of DMC's normal charity care.

Agree.

Finding #5- Because DMC operates as a hospital, it cannot refuse to see any patient based on ability to pay as required in the Emergency Medical and Treatment Active Labor Act.

Agree.

Finding #6 – The Omnibus Agreement does not address the issue of payment of emergency room physicians' fees.

Agree.

Finding #7- There is no written agreement between the County and CERP.

Agree.

Finding #8 - Prior to the signing of the Omnibus Agreement, the CEO of DMC stated publicly at a Stanislaus County Board of Supervisors meeting that DMC would cover all costs related to ER services.

Agree.

Finding #9- The California Healthcare for Indigents Program and Rural Health Services Program (Proposition 99) allocates funds to participating counties. These funds are collected from a tobacco tax imposed on cigarettes.

Agree.

Finding #10 - Senate Bill 2132 and Assembly Bill 75 define how funds collected by Proposition 99 can be used.
Agree.

Finding #11- The State of California Maddy Fund, created by Senate Bill 612 has available funding for emergency medical services including emergency room physicians' fees.
Agree.

Finding #12- Funds from these legislative actions are distributed by the Stanislaus Foundation for Medical Care.
Agree.

Finding #13 – In California, hospitals cannot employ physicians; therefore, all ER physicians must contract with the hospital to use the facilities. DMC contracted with CERP to fulfill this obligation.
Agree.

Finding #14- The services provided by the ER physicians are billed separately by CERP.
Agree.

Finding #15- DMC bills patients separately for rooms, equipment and supplies.
Agree.

Finding #16- It is the responsibility of DMC to insure that the emergency room is staffed.
Agree.

Finding #17- The County has never paid for, nor is it obligated to pay for, emergency services for MIA patients.
Agree, partially. Prior to the County hospital closing, the HSA contracted directly with emergency physicians (CEP) to staff the emergency room. As part of that contract, the County paid a monthly stipend to cover the cost of services provided by CEP for uninsured patients and other uncompensated care.

Finding #18 – From the documents produced by the complainant, the \$659,352.00 in billing fees were for CERP services only.
Cannot agree or disagree, as this information has not been shared with the County.

Finding #19 – The County's eleven (11) health care clinics are designed to handle non-emergency health care issues.

Agree.

Finding #20 – The County health care clinics, as well as the urgent care(s), are not required to treat patients before checking their ability to pay.

Agree, with clarification. HSA only operates one urgent care center.

Finding #21- The County health care clinics charge a fee for MIA patients determined by their ability to pay. These are on a sliding scale fee based on the number of family members, asset limits, and income.

Agree, with clarification. Eligibility is based upon a review of income and assets. Based upon a formula for income and assets an individual may have a share of cost that must be met prior to all health care cost being covered by the county.

Finding #22 - All non-MIA patients are required to make a \$40.00 (originally \$50) co-payment before they are seen at the County health care clinics.

Disagree, in part. All patients seen in HSA's primary care clinics and urgent care center who do not have a payor source are requested to pay a \$40 deposit for services rendered. Co-payments are required of commercial insurers, as well as share of cost payments are also requested.

Finding #23 - Two of these clinics receive federal funds which allow non-MIA patients to be seen without a co-payment.

Disagree, in part. Only one clinic is certified as a rural health clinic. Individuals without insurance are seen on a sliding payment scale based upon a self-declaration of income and assets. As rural health reimbursement does not cover ancillary testing, patients will be charged for the cost of any laboratory, radiology, or other ancillary testing. Medications are also not covered.

Finding #24- SCHSA has recently established a pilot program at DMC to help enroll eligible patients into the MIA program.

Agree.

Response to Recommendations:

Recommendation # 1.- CERP seek restitution from DMC for un-reimbursed expenses and/or un-collectable fees.

Agree, although cannot comment on the implementation of this recommendation or the ability for DMC to implement this recommendation.

Recommendation #2 -CERP continue to seek reimbursement from Stanislaus Foundation for Medical Care for monies provided by state legislation.

Agree, although cannot comment on the implementation of this recommendation or the ability for California Emergency Physicians to implement this recommendation.

Recommendation #3 – County clinic referrals to DMC ER should only be given to patients who warrant emergency treatment.

Agree. This recommendation has already been implemented.

Recommendation #4 - The County extend the hours at the health care clinics to enhance patient services and to lessen the non-emergency patient load in the emergency rooms throughout the County.

Agree, but unable to implement at this time. Given the current financial challenges of the Agency and the potential for increased deficit due to State Budget actions, the uncertain time frame necessary to recruit providers to the community and the current hiring freeze, the Health Services Agency cannot commit to a time frame to implement this recommendation. The agency will continue to look for methods to fund smart growth and expansion to meet the growing health care needs of the populations we serve within the resources allocated and the framework of their strategic plan.

Recommendation # 5 - The County actively publicize and promote the clinic locations, types of service available, and fees. This information should be available in all clinic locations.

Agree, in part. While more resources for promotional activities are desirable, in a period of budget constraints and uncertain funding, those financial resources available should first be directed towards patient care. The Agency will continue its efforts to promote and publicize services and service locations using paid and non-paid publicity and community outreach activities

within the constraints of the financial resources that have been budgeted for this activity.

Recommendation #6 - Routine meetings be re-established to discuss ongoing patient issues and improve the level of communication between DMC and the County. CERP should be included in these discussions.

Agree. HSA has implemented this recommendation.

Recommendation #7 – SCHSA aggressively identify and enroll eligible Medically Indigent Adults (MIA) residents.

Agree. HSA has implemented this recommendation.

Recommendation #8 – The County's internal auditors provide annual oversight in the MIA eligibility process.

Disagree. The Department of Health Services Medically Indigent Care Reporting System (MICRS), as well as the Fair Hearing process outlined in the Stanislaus County Code, provide annual external oversight to the MIA eligibility process. HSA has reviewed the two referenced processes that are in place with the Auditor-Controller's Office and they have indicated that the reporting that is done to the State provides oversight for those who apply under the program.

The Health Services Agency's specific response is attached.

FINAL REPORT – PART FOUR FOR THE STANISLAUS COUNTY AUDIT

Grand Jury Case NO. 02-14-GJ – regarding Section 925 of the California Penal Code which mandates that the Civil Grand Jury “shall investigate and report on the operations, accounts, and records of the officers, departments, or functions of the County...”

STANISLAUS COUNTY CHIEF EXECUTIVE OFFICER

The Chief Executive Officer is required to respond to the following findings and recommendations. Findings 12, 13 (c) and (d) and 18, Recommendation 9.

Response to Findings:

Finding #12- Contrary to County policy, employees failed to obtain competitive quotes prior to making credit card purchases.

Disagree. We disagree that County employees are violating the Purchase Card Policy because they failed to obtain competitive quotes prior to making credit card purchases. In reviewing the County's Purchase Card Policy, which is administered by the County Auditor-Controller, there is actually no requirement that employees obtain competitive quotes, but rather, the policy "encourages" employees to obtain such quotes. Notwithstanding the working of the Policy, County employees routinely contact Purchasing staff prior to ordering goods or services, in order to obtain information on possible existing contracts and/or sources of supply. Moreover, by Board of Supervisors' directive of August 7, 2001, departments are mandated to include in their internal policies a requirement to check with Purchasing first and to use Purchasing contracts when they exist except in cases of emergencies. Both Purchasing and the Auditor-Controller's Office will continue to communicate this requirement to all County departments. We have also requested that the Auditor-Controller's Office review the Purchase Card Policy with the goal of changing it to read that obtaining three quotes will be mandatory, rather than permissive. The only exceptions will be when an emergency purchase is involved or the commodity/service is already made available in the Purchasing Division's Commodities/Services Catalog.

Finding #13 (c) and (d) - The Purchasing Department has not been responsive in the past, and (d) Employee Time: Follow-up is redundant, time consuming and non-productive.

Agree. The use of the purchase card for non-fixed asset purchases and emergency purchases makes good sense. The requisition/purchase order process used in Purchasing, while electronic, may take several days from initiation to delivery of goods. This process in part requires data input, an approval chain function, and process time in the buyers' requisition queue. Procurement through use of purchase cards as intended by the Purchase Card Policy, allows departments to bypass some of the more labor intensive functions and department follow-up time associated with procurement through the Purchasing Division.

Finding #18- A 2002 internal audit discovered that seventy-three (73) receipts were missing out of 2,155 transactions. Of those departments with missing receipts, thirty-one (31) were from the office of the CEO. The majority of all receipts were found at a later date and given to the proper individual, but they were not available at the time of the audit.

Agree.

Response to Recommendations:

Recommendation #9- A complete analysis of the Purchase Card Program be conducted to determine actual savings to the County, if any. Cost factors should include time spent researching and approving purchases, ordering, checking invoices, approving payments, and checking with the appropriate departments (MIS, Purchasing, or Emergency Dispatch) to determine the best price/vendor. Internal audits, inventory control, and any other relevant costs associated with the purchase should also be determined.

Disagree, in part. Please note the Auditor-Controller's response to this item where he indicates that significant savings of \$508,207 to the County has been made by use of the County's Purchase Card Policy. In addition to those savings noted in the Auditor's response, and analysis of actual savings made in the purchase of high volume commodity items from key vendors, e.g., computer, furniture, office supplies, miscellaneous industrial supplies, etc., reveals an estimated savings this past fiscal year in the amount of \$677,261 under the County's Purchase Card Policy, and \$1,356,305 on regular purchase order procurements. Purchasing's goal is to secure the best buys, and in this regard, Purchasing will continue to identify discount opportunities for County departments. These discounts will be posted on Purchasing's recently developed Commodities/Services Catalog which is available to all employees through the County intra-net.

AUDITOR-CONTROLLER

The Auditor-Controller responded directly to the Presiding Judge of the Superior Court as required by law, but those areas in which there were some additional comments are included here, as part of the overall response. The Auditor-Controller's complete response is attached.

Response to Findings: The Auditor Controller generally agreed to all the findings.

Response to Recommendations:

Recommendation #3- Purchase cards with limits of \$5,000 or more must be approved in writing by the department head, the Auditor-Controller, and the CEO. This written policy needs to be

implemented by October 1, 2002.

Agree, in part. This recommendation requires further analysis. All purchasing cards, regardless of limit, are approved by the department and a member of the Auditor-Controller's Office administrative staff. Purchasing Cards with limits of \$10,000 or more are approved by the Chief Executive Officer. Analysis of this recommendation will be completed by December 31, 2002.

Recommendation #4- The County develop criteria to reduce the number of outstanding credit cards-thirty-four (34%) of all County employees currently have a credit card. A review of card limits with appropriate reductions should occur annually.

Agree. This recommendation has not been implemented but will be in the future. A listing of individual cards will be provided to department heads for their review and verification. Any card no longer needed will be canceled.

Recommendation #5- The internal auditors review the process for cancellation of purchase cards when a County employee resigns, retires, or transfers to another department, or when a card is lost or stolen. These cards are to be returned to the Auditor-Controller's Office and immediately deactivated.

Agree, in part. This recommendation has not been implemented. The review of the internal auditor processes for cancellation of purchase cards will be included as one of the audit steps and will be performed by the Internal Auditors during the scheduled Purchasing Card Audits for the 2002-2003 fiscal year.

Recommendation #6- Travel and expense forms be consistent within all County departments. The Sheriff's Department has established an excellent model for expense reports that could be used.

Agree, in part. This recommendation requires further analysis. The County, at one time, used a generic travel and expense form. It was recognized that the generic form was not meeting the needs of all departments. We will be identifying specific items that must be included on all travel and expense forms. Compliance to this requirement will be verified during credit card audits.

Recommendation #7- Travel and purchase card transactions of all department heads, including the CEO, be approved by their respective supervisor(s).

Disagree, in part. Each year the Auditor-Controller conducts an audit of all credit card transactions by the elected and appointed officials of the County. The audit findings and recommendations are

then forwarded to the Board of Supervisors for review during a scheduled Board meeting..

Recommendation #8- Receipts for all meals showing date, place and amount must be attached to time cards when requesting reimbursement. An explanation of the business activity should be included along with names of others in attendance.

Agree. The receipts will be maintained at the department level. Audits will assure compliance.

Recommendation #9 – A complete analysis of the Purchase Card Program be conducted to determine actual savings to the County, if any. Cost factors should include time spent researching and approving purchases, ordering, checking invoices, approving payments, and checking with the appropriate departments (MIS, Purchasing, or Emergency Dispatch) to determine the best price/vendor. Internal audits, inventory control, and any other relevant costs associated with the purchase should also be determined.

Agree, in part. It is important to refer to the original September 27, 1994 agenda item which detailed actual savings. The Auditor provides detailed information to this recommendation in his attached response and the Purchasing Agent has completed a review of savings due to discounts as a result of this program..

STANISLAUS COUNTY LIBRARIAN

Response to Findings: The Librarian agrees with all Library specific findings with the exception of the following clarifications.

Finding #14- The County has eleven (11) satellite libraries. With the exception of Denair, each has a non-interest bearing checking account at a local bank.

Agree, with clarification. The County has 12 satellite libraries, excluding Modesto. With the exception of Denair and Empire, each has a non-interest bearing checking account at a local bank.

Finding #14-C – Denair delivers their funds directly to the County treasury.

Agree, with clarification. Denair and Empire deliver their funds directly to the Modesto Branch Library for deposit to the County treasury.

Finding #16- The internal purchase card audit discovered two (2) transactions for meals that were charged by a Library employee on a purchase card. These same transactions were also reimbursed through the payroll system in the same amounts.

Agree, with clarification. The internal purchase card audit discovered two (2) transactions for meals that were charged by a Library employee on a purchase card. These same transactions were also reimbursed through the payroll system in different amounts.

Response to Recommendations: The following responses are to those recommendations to which the Librarian was required to directly respond.

Recommendation #1- The County continue to educate employees on purchase card policies and emphasize the necessity to reconcile, review, and approve the Transaction Detail Reports within ten (10) days of receipt. This should be the number one priority of each department.

Agree, in part. The Library attempts to reconcile, review and approve the Transaction Detail Report within ten days of receipt; however, reconciliation cannot occur until receipt of materials purchased with the purchase card. Charges for books ordered on the purchase card may appear prior to the actual receipt of the books at the Library, and therefore cannot be reconciled within the specified time limit. The Transaction Detail Report is a top priority of the Library and is completed as soon as possible upon receipt of all materials.

Recommendation #2- Management enforce the policy that no employee shall allow another to use their purchase card.

Agree. The recommendation has been implemented at the Library. As of August 15, 2002, written Library policy was issued to all employees stating no employee shall allow another to use their purchase card. Additionally, all employees will receive a written and verbal reminder of the policy when signing out their purchase cards.

Recommendation #3- Purchase cards with limits of \$5,000 or more must be approved in writing by the department head, the Auditor-Controller, and the CEO. This written policy needs to be implemented by October 1, 2002.

Agree. The recommendation has been implemented at the

Library. The library has requested permission for a total of six (6) new purchase cards with limits of \$5,000 or more. The holders of these cards are the County Librarian, three Managers, the Storekeeper, and the Acquisition Library Assistant responsible for placing book orders.

Recommendation #4- The County develop criteria to reduce the number of outstanding credit cards-thirty-four percent (34%) of all County employees currently have a credit card. A review of card limits with appropriate reductions should occur annually.

Agree. The recommendation has been implemented at the Library. The library has reduced the number of purchase cards held by canceling nine (9) cards during July 2002. A review of cardholders and limits will be conducted annually.

Recommendation #5- The internal auditors review the process for cancellation of purchase cards when a County employee resigns, retires, or transfers to another department, or when a card is lost or stolen. These cards are to be returned to the Auditor-Controller's Office and immediately de-activated.

Agree. The library destroys purchase cards whenever an employee resigns, transfers to another department, when a card is lost or stolen, and when the card is no longer required by the employee. The Library then forwards a purchase card maintenance form to the Auditor-Controller's Office for de-activation.

Recommendation #6- Travel and expense forms be consistent within all County departments. The Sheriff's Department has established an excellent model for expense reports that could be used.

Agree. The recommendation will be implemented at the Library if implemented by the County.

Recommendation #7- Travel and purchase card transactions of all department heads, including the CEO, be approved by their respective supervisor(s).

Agree. The recommendation has been implemented by the Library. The County Librarian will forward all requests for travel and purchase card transactions to the CEO's office for approval if this process is put into place.

Recommendation #8- Receipts for all meals showing date, place and amount must be attached to time cards when requesting

reimbursement. An explanation of the business activity should be included along with names of others in attendance.

Disagree, in part. Current County travel policy does not require receipts for meal reimbursement on time cards. The recommendation will be implemented at the Library as required by County policy.

Recommendation #12- Satellite library funds and any other funds held in departmental bank accounts must be transferred into the County treasury on a monthly basis.

Agree. The recommendation has been implemented at the Library. As of April 2002, satellite library funds held in departmental bank accounts are transferred into the County treasury on a monthly basis.

Recommendation #13- The Library supplies inventory be locked at all times with one person made responsible to disburse items as needed.

Agree. This recommendation has been implemented by the Library. The Storekeeper is responsible to disburse items as needed. As of August 2002, the supply room was re-keyed, with three (3) keys issued: one key each to the Storekeeper, the County Librarian and the Library Business Manager.

Recommendation #14- Each department have one (1) employee assigned to purchase office supplies. More expensive items should be ordered through the Purchasing Department.

Agree. The recommendation has been implemented by the Library. The Storekeeper is assigned to purchase office supplies, including those more expensive items, which are ordered through the Purchasing Department.

Recommendation #15- Timecards that request expense reimbursement should be reviewed by internal auditors to insure proper documentation.

Agree. The recommendation has been implemented at the Library. The Library's accounting clerks review all timecards, including those requesting expense reimbursement, to ensure proper documentation.

FINAL REPORT-PART SIX FOR THE STANISLAUS COUNTY COMMUNITY SERVICES AGENCY

Grand Jury Case No. 02-10-C- regarding a written complaint from four (4) employees of the Stanislaus County Community Services Agency (SCCSA) regarding reclassification of employees within the agency.

Complaint #1 – Employees who elected to accept an internship position as part of the new reclassification plan were given a two percent 2% raise. Two (2) months later, some employees had this two percent (2%) raise rescinded by the County without explanation.

Response to Findings: The County is in full agreement with the findings.

Response to Recommendations: The Grand Jury concluded that there were no improprieties on the part of the County and did not have any recommendations.

Complaint #2 – The reclassification plan is unfair to existing employees, and there is no method of “grandfathering” those employees who are currently “doing the job”.

Response to Findings: The County is in full agreement with the findings.

Response to Recommendations: The Grand Jury concluded that the SCCSA addressed the needs of employees and took appropriate and equitable actions and did not have any recommendations. No response was required.

FINAL REPORT-PART SEVEN FOR THE STANISLAUS COUNTY CORRECTIONAL FACILITIES INSPECTION

Grand Jury Case No. 02-13-GJ - regarding the investigation into the correctional facilities as mandated by Penal Code Section 919 (b), “the Grand Jury shall inquire into the condition and management of the public prisons within the county.”

Stanislaus County Men’s Jail Inspection --- The Sheriff responded directly to the Presiding Judge of the Superior Court as required by

law. The Sheriff agreed with all the findings included in the Grand Jury Report. In response to the recommendations, the Sheriff indicated that a recommendation for a Needs Assessment Plan for replacing the current facility is included in the current budget as well as the capital project assessment. The other two recommendations are in the process of being implemented. The Sheriff's complete response is attached.

Chief Executive Office Response

Recommendation #1- A Needs Assessment Plan for replacing the current facility be finalized by 2004. The plan would include cost estimates, funding resources and a completion date.

Agree, in part. The Stanislaus County Public Safety Center Master Plan was adopted in the late 1980's. The Master Plan lays out the requirements for both adult incarceration facilities and law enforcement facilities needed by the County over a 20-year period and beyond. Significant progress has been made in constructing the first phases of the Safety Center Master Plan, including the construction of the Public Safety Center Phase I Housing Units, Kitchen and Laundry Facilities, Minimum Security Facilities and the Sheriff's Operations Center. The County has invested millions of dollars in the construction of these new facilities since the early 1990's. The next need portion of the plan is for the Core Jail Building and additional housing, estimated at that time to cost in excess of \$50 million. Unfortunately, adequate funding is not available to proceed now with the construction. We do agree and have included in our upcoming Capital Improvement Plan a recommendation to update the Needs Assessment and Planning Study. We will continue to pursue any opportunities to fund additional new jail facilities.

Stanislaus County Public Safety Center Inspection- The Sheriff agreed with all the findings and no response was required.

Stanislaus County Honor Farm Inspection- The Sheriff agreed with all findings made by the Grand Jury. In response to specific recommendations, the Sheriff offered the following:

Recommendation #1- Stanislaus County purchase a back-up generator sufficient to operate the entire facility including the on-premise fire suppressant equipment.

Disagree. This recommendation will not be implemented since it is not reasonable to operate the entire facility when power

fails. Essential functions must continue. The Sheriff will take a close look at the emergency power and its present configuration.

Recommendation #2- Stanislaus County resurface the parking lots and the road running from Grayson Road to the parking areas.

Agree. The resurfacing of the parking lots and the parking areas along Grayson Road has been funded and bids are currently being received.

Recommendation #3- Drug-sniffing canines be used for unscheduled work-through inspections of the facility to deter the flow of contraband.

Agree. The practice to use drug-sniffing dogs has been utilized for many years. The Sheriff will try to increase the number of times that it will be used during this year.

Recommendation #4- Improve lighting of the perimeter fences to deter the flow of contraband into the facility. This will also increase overall security.

Agree, in part. The recommendation to improve perimeter lighting will require further study.

Stanislaus County Juvenile Hall Inspection- The Stanislaus County Juvenile Hall was inspected December 13, 2002.

Response to Findings: The Chief Probation Officer agrees with the findings.

Response to Recommendations: A grant was being sought for funding for the reconfiguration of the main booking area. Unfortunately, the funding was not approved. The Probation Department has submitted the redesign and renovation of the Juvenile Hall Booking/Intake/Reception area as a project to be considered as part of the County's ten year Capital Improvement Plan.

The Chief Executive Office agrees with the response submitted by the Chief Probation Officer.

FINAL REPORT PART NINE FOR THE STANISLAUS COUNTY CIVIL GRAND JURY OPERATIONS AND ISSUES

Grand Jury Case No. 02-24-GJ – regarding an investigation into the following issues:

1. Confidentiality of Grand Jury information.
2. Grand Jury procedural issues.
3. The independence of the Grand Jury system in Stanislaus County being compromised.

Complaint #1 –A letter of complaint from a former Grand Jury member alleging the Grand Jury staff person has usurped the independence and compromised the integrity of the Stanislaus County Civil Grand Jury.

Response to Findings: Neither the Stanislaus County Chief Executive Officer, nor the Board of Supervisors would have any knowledge of the findings as listed.

Response to Recommendation: The recommendations as listed speak to the process of Grand Jury selection and procedures, over which neither the Chief Executive Officer nor the Board of Supervisors would have any knowledge of or authority.

The Grand Jury staff person and the County Counsel have independently prepared detailed responses to specifically address each of the findings and recommendations, as appropriate. Their detailed responses are attached.

Complaint #2: A letter of complaint from a local elected official asking:

1. Which grand juror or other person(s) authorized the release of the Mayor's letter to a member of the BOS?
2. Has such a release violated any section of the California Penal Code and/or the Oath of Grand Jurors pertaining to secrecy in Grand Jury proceedings?
3. What will be done to make certain that the Stanislaus County Grand Jury functions according to the spirit and intent of the statute?

Response to Findings:

Finding #8- A current BOS member testified that on May 18, 2001, he found a copy of the Mayor's letter on his desk in an un-stamped City of Modesto envelop.

Agree.

Finding # 26- A current BOS member testified he asked County Counsel for a legal opinion regarding posting the Mayor's letter on his personal website.

Agree.

Finding #27- The BOS member testified that, acting on advice from County Counsel that the Mayor's letter was a public document, he posted the letter on his personal website.

Agree.

Finding #28- The BOS member testified that, acting on advice from County Counsel that the Mayor's letter was a public document, he posted the letter on his personal website.

Agree.

Finding #29- The BOS member testified upon finding that he had misplaced the first copy of the Mayor's letter, he requested County Counsel to send him an additional copy.

Agree.

Finding # 37- County Counsel testified he called the BOS member suggesting the letter be removed from his website due to public controversy.

Agree.

The remainder of the findings associated with this complaint involve testimony from others, including the Grand Jury staff person or County Counsel. The Grand Jury staff person and the County Counsel have independently prepared detailed responses to specifically address each of the findings and recommendations, as appropriate. Their detailed responses are attached. It should be noted that the CEO reviewed these responses in preparing this report and had a member of his staff contact former Grand Jurors from the 2000-2001 Grand Jury. The purpose of these contacts was to try and independently confirm the statement of findings in the Final Report Part Nine of the 2002-2003 Grand Jury. We felt this was necessary since the Report contained many contradictions

and differences. Each person was asked questions regarding contact with the County Counsel and Grand Jury Staff person. No questions were asked regarding the content of the 2000-2001 report concerning the Clerk-Recorder or other matters that would be considered confidential. Further on in this response we do discuss issues that raise additional concerns contained in the 2002-2003 Grand Jury Report and statements made by the former Grand Jurors we contacted.

Response to Recommendations: The recommendations as listed speak to Grand Jury procedures, over which neither the Chief Executive Officer nor the Board of Supervisors would have any authority.

Complaint #3: The CGJ may have been subjected to undue influence by non-CGJ members in an attempt to manipulate the CGJ process.

Response to Findings: The following are the responses to those findings directly related to the Chief Executive Office. The remainder of the findings associated with this complaint involved testimony from others, including the Grand Jury staff person or County Counsel. The Grand Jury staff person and the County Counsel have independently prepared detailed responses to specifically address each of the findings and recommendations, as appropriate. Their detailed responses are attached to this report to the Board.

Finding #14- The committee chairperson of Case 01-10-C testified being "fed" only certain information by the County, and felt the complaint was initiated to eliminate the Clerk-Recorder.

Disagree. We found no evidence to support this finding. It is unclear which committee chair on Case 01-10-C testified to being "fed" only certain information by the County and further testified that the complaint was initiated to eliminate the Clerk-Recorder. The County Chief Executive Officer was the complaining party in Case 01-10-C. The CEO filed a complaint with the Grand Jury on August 22, 2000. This complaint, when filed, included a significant amount of documentation to establish the basis of the complaint. This documentation included all information the CEO had available at the time the complaint was prepared. The information included a list of persons who had provided information voluntarily, at their own request over the course of several months. Each person who voluntarily met with the CEO or members of his

staff was told that the information they provided could be shared with other responsible officials if it was deemed important to understanding, resolving, and acting upon the concerns that were being discussed.

The CEO made his decision to file the complaint regarding the Clerk-Recorder when it was clear that sufficient information was present to warrant an investigation. After legal discussions with the County Counsel regarding the proper and legal avenue to proceed, it became clear the provision of Penal Code Section 919 applied in this matter. Penal Code Section 919 says the Grand Jury is responsible for investigating the possible willful or corrupt misconduct by an elected official. The CEO believed the documents, interviews with persons and accounting records constituted the "possibility" in this matter. On August 22, 2000, the CEO had delivered to the Grand Jury a complaint into this possible misconduct that made nine allegations. The complaint indicated a list of persons the CEO and/or his staff had talked with, individuals who could be possible witnesses if the Grand Jury were to act on the complaint.

In phone conversations with three Grand Jurors who were on the committee that prepared the report on Case 01-10-C each of them was asked if there had been an attempt by the County Counsel or other officials to "feed" or exercise undue influence on the work of the committee. All acknowledged Mr. Krausnick being interviewed as a witness in the case. All said there was no contact other than the testimony as a called witness. The Chair did say she sought Mr. Krausnick's opinion regarding the change in format being requested by another Grand Juror. The Committee Chair further defined the conversation by saying she wanted to keep the current report format and asked the County Counsel if that was okay. The Chairperson said the County Counsel said that was fine. No other contact with Mr. Krausnick was reported.

The finding says "fed only certain information to the committee". We could find no evidence in our conversations with former Grand Jurors, CEO staff, County Counsel or other County staff that provided information to the Grand Jury in Case 01-10-C except that which was contained in the original complaint filed by the CEO. What occurred during interviews of witnesses of the Grand Jury is unknown to us.

Finding #29- DA testified the CEO and County Counsel continued to pressure his office to file criminal charges in reference to Grand Jury Case 01-10-C.

Disagree. While we don't know if the District Attorney

actually testified to this we know that the District Attorney received from the CEO on August 22, 2000 the same materials provided to the Grand Jury. The CEO says no discussions were held with the DA or any of his staff regarding the filing of criminal charges. The CEO does recall a conversation with the DA after the report of Case 01-10-C was released in which the audit findings of the Auditor-Controller were discussed and the fact that Karen Mathews had paid back to the County funds the audit disallowed. The discussion focused on this as consistent with other audits where a disallowance is made and the person responsible repays the County. The CEO denies urging the DA to prosecute the Clerk-Recorder. In fact, it is the opinion of the CEO that after filing the complaint with the Grand Jury and providing the same information to the District Attorney the question of what actions, reports and judgements were made were not his responsibility. The information had been provided to the proper authorities.

Finding #49- CEO testified that he was aware that the GJ staff person wanted to make a presentation to the BOS regarding case file 01-10-C.

Agree. The CEO became aware of this matter when informed by the County Counsel of the conversation the Grand Jury staff person had over a lunch at DEWZ restaurant with a former Grand Juror. During this conversation, the Grand Jury staff person reported that a former Grand Juror represented himself as a close personal friend of the Clerk-Recorder; that Ms. Mathews had told him that she was being investigated; and that Ms. Mathews would commit suicide if anything negative was written. The County Counsel told the CEO that he had advised the Grand Jury staff person to make a written record of the contact and what was said. The County Counsel also indicated that the Grand Jury staff person was very upset over this inappropriate contact; was going to or had advised the Grand Jury Foreman and was thinking about telling the Board of Supervisors.

The CEO discussed this information with the Sheriffs Lieutenant in charge of personal security for the Clerk-Recorder to determine if there was any possibility that the emotional state of the Clerk-Recorder could lead one to believe this reaction could be a possibility. Based on this and subsequent conversations it was decided by the CEO to put into place a support system in the event the report was adverse and the Clerk-Recorder reacted in a way that presented a danger to herself.

After these plans had been made the CEO did request the County Counsel to let the Grand Jury know of his plans and

determine if a date for a release of a report was able to be determined. This was because the security detail Lieutenant was going to be the person to deliver the report (if one was released) to the Clerk-Recorder. This Sheriff's Lieutenant had a personal relationship with the Clerk-Recorder and had substantial experience in helping determine whether a person was acting in a manner that could become a danger to themselves. In addition, professional mental health workers were asked to be available on a stand-by basis - again, making knowledge of the date a report was going to be released important. At no time during these discussions with the various parties, was there any attempt to gain information about a reports contents, although a Mr. Dave Thomas and Carmen Sabatino, Mayor of Modesto, had discussed a Grand Jury report concerning the Clerk-Recorder on a radio talk show program hosted by Mr. Thomas. This occurred several weeks prior to the release of the report.

Secondly, we had no knowledge that a report was actually going to be released. However, the CEO made certain assumptions based on what he did know including concerns of the Clerk-Recorder and knowledge of the emotional stresses she had been under for several years because of the attack on her by criminal elements.

These activities, and those engaged in by the County Counsel, were at the direction of the CEO, motivated by concern for the well being of the Clerk-Recorder. Communication with the Grand Jury was only to ascertain a date a report would be released so our plans could be set in place.

Finding #61- County Counsel testified GJ staff person forwarded a written hostile work environment complaint to the CEO.

Agree, with clarification. The Grand Jury staff person verbally shared a complaint with County Counsel regarding a hostile work environment. All such complaints, whether verbal or written, are taken seriously and investigated. The matter was referred to the Deputy County Counsel, assigned to work with the Chief Executive Office- Human Resources Unit due to the fact that the Deputy Executive Officer for Human Resources was off on a medical leave at the time. The Grand Jury staff person was told by the Deputy County Counsel that a written complaint was not required because the verbal complaint was sufficient to start the investigative process. The Grand Jury staff person was encouraged by the Deputy County Counsel to document all interactions related to the complaint so that the individual investigating would have that information from which to work.

Finding #62- CEO testified that the GJ staff person met with Deputy Executive Officer and County Counsel regarding a hostile work environment complaint, but to his knowledge a formal complaint was not filed.

Agree, with clarification. The Grand Jury staff person met with the County Counsel and the Deputy County Counsel assigned to the Chief Executive Office-Human Resources Unit regarding the hostile work environment complaint, not the Deputy Executive Officer for HR. The Deputy Executive Officer for HR was informed of the verbal complaint upon her return to work in late January, 2002.

Finding # 63- Deputy Executive Officer testified she was on leave from December 7, 2001 through January 22, 2002, when the purported complaint was made. She had no contact with the GJ staff person until early April 2002, and has never received a hostile work environment complaint from GJ staff.

Agree, in part. The Deputy Executive Officer testified to the fact that while she had not received a written hostile work environment complaint personally from the Grand Jury staff person, she was aware that County Counsel and the Deputy County Counsel did receive a verbal complaint during her absence. She further testified to the fact that an investigation had been/was being conducted by a third party into the allegations.

Finding #66- The most recent formal job classification study of the GJ staff position was conducted by Melson and Boggs on June 20, 1997.

Disagree. The most recent formal job classification study of the Grand Jury staff position was conducted by CEO staff in 2001. The study was conducted in response to a written request submitted by District Attorney James Brazelton dated April 19, 2001. As a result of this new study, the Grand Jury staff position was recommended to be reclassified, from Confidential Assistant IV to Manager II and approved as part of the 2001-2002 Final Budget presented in September, 2001. The recommendation included the caveat that if the level of independence was removed and more direct supervision provided, a return to the classification of Confidential Assistant IV would be appropriate.

Finding #67- Melson and Boggs' report regarding the GJ staff position job classification study, dated June 24, 1997, concluded the position should remain as a Senior Executive Secretary (now

known as Confidential Assistant IV).

Agree, with clarification. The 1997 classification study concluded that the position should remain a Confidential Assistant IV. The subsequent study conducted by the Chief Executive Office in 2001 was based upon new duties that added a higher level of responsibility and independence to the position. This was the result of changes in state law that left the position a County employee instead of a Court employee. The County CEO took the position that in order to avoid the appearance of conflicts the Grand Jury Staff Person would need to act independently from the County, taking direction from the Grand Jury Foreman and Presiding Judge. However, the County would provide support to the Grand Jury Staff person on administrative matters related to personnel, budget, purchasing, etc.

Finding # 68- GJ staff person was promoted to Manager II position on September 22, 2001. Job description has changed and now staff person is reporting to the Deputy Executive Officer for administrative purposes.

Agree.

Finding #69- CEO testified Deputy Executive Officer is assigned to work with GJ staff person regarding issues of budget, personnel and administrative matters.

Agree.

Finding #70- CEO testified that GJ staff person was previously under direct supervision of the Presiding Judge and the Court Administrator.

Agree, in part. The CEO also stated his understanding that the Grand Jury staff person took day to day direction from the Grand Jury Foreman.

Response to Recommendations:

Recommendation #1- Prior staff person should not be re-assigned to Grand Jury Office.

Disagree. The decision of who, what duties and responsibilities and reporting relationships rests with each Grand Jury. The former Grand Jury staff person is by all accounts, except for this Grand Jury report, recognized as a talented, committed, professional who always took care to be supportive of each Grand Jury. The response by the former Grand Jury Staff Person attached to this document speaks for itself. The thirty-nine (39)

exhibits accompanying the response clearly demonstrate the professionalism, discretion and skill this valuable Grand Jury staff person contributed to the Grand Jury process over the past eleven (11) years.

If the incumbent Grand Jury should chose to re-employ former Grand Jury Staff person (Marnie Ardis), the County CEO would work cooperatively in this decision, just as was done for the 2001-2002 Grand Jury.

Recommendation #2- GJ staff person needs to be under the auspices of the Court rather than the County. An inherent conflict of interest exists when the CGJ investigates departments and officials of the County.

Disagree. The Grand Jury each year has the sole authority to determine the level, type and arrangements it needs to support itself. The 2001-2002 report raises no facts that speak to conflicts of interest arising because the Grand Jury staff person was on the County's payroll instead of the Courts. The County operated under the requirements of the law, made clear in correspondence to the Grand Jury Foreman, Presiding Judge and the Grand Jury Staff Person that the County role was solely for administrative, budget, personnel and payroll purposes. The Grand Jury Staff Person was responsible to the Grand Jury Foreman and Presiding Judge as appropriate.

It is clear in reviewing the Grand Jury Staff Persons response and the accompanying documentation, that there were persons, who in fact put themselves into a position where they were privy to confidential Grand Jury information and restricted or attempted to restrict communication between the Grand Jury Staff Person and the Presiding Judge. The alleged reading of a previous Grand Jury report prior to release would clearly be a violation of the Penal Code.

Again we reiterate it is the sole responsibility of each Grand Jury to make their decisions.

Recommendation #3- GJ staff position should remain Confidential Assistant IV or equivalent.

Agree, in part. If the duties and reporting relationships remain structured as recommended in this Grand Jury Report, we would agree with this statement. The 2001 classification study clearly stated that if the level of independence was removed and direct supervision provided, the classification of Confidential Assistant IV would be appropriate.

Recommendation #6- BOS should consider disciplinary measures for the improper actions by County Counsel relative to CGJ matters.

Disagree - based upon the review of the Grand Jury Report; discussions with members of the 2000-2001 Grand Jury including the three members who drafted the report on the Clerk-Recorder for consideration by the full panel; documentation attached to the conclusions reached; the enormous assumptions made (without supporting evidence) that the County Counsel was the initiating party for the complaint filed with the 2000-2001 Grand Jury related to the Clerk-Recorder; the clear documentation that the County Counsel at all times was interacting with the Grand Jury at their request; and that the County Counsel sought limited information regarding the date of the release of a report at the request of the CEO. These established facts, demonstrate the County Counsel was acting in accordance with the law, his assigned duties and responsibilities and at the direction or request of the Grand Jury and CEO.

Recommendation # 7- This report be referred to the California State Attorney General's Office to review for possible criminal violations.

Agree. On August 13, 2002, Board Chairman Tom Mayfield sent a letter to Sheriff Les Weidman requesting the assistance of his office in conducting a fact finding investigation involving Grand Jury Report 02-04-CJ. Based on this request, the Sheriff had a conversation with the State Attorney General's Office to ensure that there would be no conflicts if the Attorney General was going to also conduct an investigation. The Sheriff subsequently informed the CEO and the Board that the Attorney General would be conducting an independent investigation and therefore, the Sheriff felt it appropriate to not involve his office.

As a part of the CEO's inquiries into these matters, it was discovered that the County Counsel had provided the Attorney General's Office with materials and information related to some of the issues addressed in Grand Jury Report 02-04-GJ. In the County Counsel's correspondence to the State Attorney General's Office he wrote, "I believe all parties will benefit from this matter being referred to you for review.

Additionally, the County believes that the Report (02-04-CJ) includes in it, findings and statements that require further investigation and believe the Attorney General's Office is the appropriate place for this to be done.

The above are direct responses to the specific findings and recommendations surrounding Grand Jury Case No. 02-24-GJ as required by law. The following are additional recommendations:

1. The Board of Supervisors direct the CEO to submit a letter to the State Attorney General that has the report attached and makes available information arising from our investigation into this matter and any assistance the Attorney General feels is appropriate.
2. Consider preparation of a complaint to the 2002-2003 Grand Jury regarding attempts of individuals to interfere with the 2000-2001 Grand Jury investigation into the Clerk-Recorder. This information was attained as a result of the work done to prepare this response.
3. Direct the CEO to complete the Hostile Work Environment Complaint investigation and to take such appropriate actions as would be done with any County office in accordance with County policy, State and Federal law.
4. Authorize the CEO to permanently reassign the Grand Jury staff person to the Chief Executive Office as an Associate Management Consultant (Manager II).

**POLICY
ISSUE:**

Pursuant to California law, the Board of Supervisors must respond to the Presiding Judge of the Superior Court no later than 90 days after submittal of the Annual Report. Adoption of this response meets this requirement.

**STAFFING
IMPACT:**

There is no staffing impact associated with this report.



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DATE: September 19, 2002

MEMO TO: Reagan M. Wilson
Chief Executive Officer

FROM: Michael H. Krausnick *M.H. Krausnick*
County Counsel

IN RE: COUNTY COUNSEL RESPONSE TO 2001-2002 CIVIL
GRAND JURY CASE NO. 02-24-GJ

I am submitting my response to the 2001-2002 Civil Grand Jury report for case number 02-24-GJ, hereinafter referred to as "the Report," to you as a respondent to the report. I have forwarded a copy of my response to the Presiding Judge of the Superior Court.

I.

INTRODUCTION

My response is divided into three sections. The first section addresses each relevant finding and conclusion set forth in Complaints one, two and three in which the Office of County Counsel is referenced in this response. The second section contains statements and observations regarding the Report. The third section contains a list of exhibits that are attached and referenced in this response. I will be present at the Board of Supervisors meeting on September 24th to answer any questions Board members may have regarding my response to the Report. I have also provided an Executive Summary of my response.

- I. **RESPONSE TO FINDINGS AND CONCLUSIONS SET FORTH IN COMPLAINTS ONE, TWO AND THREE, IN WHICH THE OFFICE OF COUNTY COUNSEL IS REFERENCED.**

COMPLAINT #1:

1. Complaint #1, Finding #6 on Page 9:

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"County Counsel testified to having reviewed the Grand Jury Handbook written by the Grand Jury staff person, reporting it was reviewed by Deputy County Counsel as well. County Counsel does not recall the section describing the staff person attending full body meetings."

Response:

DISAGREE in part.

Marnie Ardis, Grand Jury staff person for the past eleven years, asked the Office of County Counsel to review a draft of the 2001 Grand Jury Handbook. I assigned that task to Deputy County Counsel Dean Wright, who is experienced in Grand Jury matters. Mr. Wright reviewed the draft handbook and returned it to Grand Jury staff person Marnie Ardis with his suggested changes.

The Grand Jury Handbook has been considered by past Civil Grand Juries to be a "living document" and has been modified over the years by various Civil Grand Juries. It is my understanding that the Grand Jury Handbook is reviewed annually by the Presiding Judge of the Superior Court, court personnel and individual grand jurors.

The "preface" section to the 2000 Grand Jury Handbook states that:

"The purpose of this *Grand Jury Handbook* is to provide direction and guidelines to new Civil Grand Jury members.... Procedures and policies may need revision to reflect the changing philosophies of succeeding Grand Juries. Changes in the law may also necessitate revisions. The contents of this *Handbook* can be updated a page at a time as changes occur. Under *California Penal Code* Section 916, each Grand Jury 'shall determine its own rules of proceedings.'

The *Grand Jury Handbook* is an official document that has been read and approved for legal content by the County Counsel, District Attorney, Executive Officer/Jury Commissioner, and all the Superior Court judges.

The *Handbook* will be distributed to Grand Jurors after they are sworn in by the Presiding Judge."

The 2000 Grand Jury Handbook included a section regarding "recording secretary," which stated, "The office administrator attends the full panel meetings and prepares the minutes." The Office of County Counsel considers this phrase to mean that the Grand Jury staff

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3. Complaint #1, Finding #21, Page 11:

"GJ staff person attendance in full body meetings was later brought to County Counsel's attention. His office sent a letter recommending this section be stricken from the Handbook."

Response:

DISAGREE, in part.

One day after the Office of County Counsel was informed that the Grand Jury staff person had been allowed to attend full body meetings, the County Counsel shared its opinion that Penal Code section 939 limited attendance to only the grand jurors. The Office of County Counsel did not provide a letter, or any other written document, recommending striking any section of the Handbook concerning attendance in full meetings of the Grand Jury. I request that the letter referred to in this finding be made public because the document is the best evidence of its content.

4. Complaint #1, Conclusion #11, Page 12:

"In a memo to GJ staff person, County Counsel insisted that the correct methodology of report writing (a finding is a fact), should be retained."

Response:

DISAGREE.

The statement set forth in Conclusion #11 **incorrectly states** that I wrote a memorandum to the "Grand Jury staff person" on the methodology of report writing. I did **not** write a memorandum to the Grand Jury staff person on the methodology of report writing. I have never insisted on a correct methodology of report writing. I have always maintained that any proposed changes in Grand Jury reports be put in writing and sent to the Presiding Judge of the Superior Court for review. **The Grand Jury's conclusions that I insisted on a particular method of report writing and sent the memo to a Grand Jury staff person are false and inaccurate.** I request that the memo referred to in this finding be made public because this letter is the best evidence of its content.

COMPLAINT #2:

5. Complaint #2, Finding #2, Page 14:

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"A fax of the Mayor's letter was received on May 16, 2001 addressed to the Grand Jury Foreperson regarding case 01-10-C."

Response:

DISAGREE, in part.

Mayor Sabatino's letter dated May 16, 2001, **did not** reference any specific case number. Case 01-10-C was not identified or released to the public by the 2000-2001 Civil Grand Jury until May 30, 2001. Mayor Sabatino's letter dated May 16, 2001, to 2000-2001 Civil Grand Jury Foreperson William D. Compton references the Stanislaus County "Elections office" as an issue of concern. Case 01-10-C was not related to the operations of the Election's Office. It concerned improper actions and misconduct by former Clerk-Recorder Karen Mathews. Foreperson Compton's May 18, 2001, response to Mayor Sabatino's letter **did not** acknowledge that any investigation was occurring and advised Mayor Sabatino that Grand Jury investigations are confidential and that if any investigation the Grand Jury was conducting required the Mayor's testimony, the Mayor would be advised by the Grand Jury.

6. Complaint #2, Finding #4, Page 14:

"In the full panel meeting of May 17, 2001, the Mayor's letter was discussed, deliberated and voted on. For this reason it became, and remains a confidential document. A consensus was reached that the Mayor had no information germane to the investigation."

Response:

DISAGREE, in part.

I disagree with the legal conclusion in Finding #4 that Mayor Sabatino's letter dated May 16, 2001, became a confidential document simply because the Grand Jury discussed it. I gave members of the 2001-2002 Civil Grand Jury Ad Hoc Committee No. 4, **hereinafter referred to as "the Committee,"** eight reasons why the Mayor's May 16, 2001, letter and the response by Grand Jury Foreperson Compton dated May 18, 2001, were public documents. The eight reasons given are:

1. California law and case decisions regarding public records support release of documents to allow the public to oversee the actions of public officials in areas that the public may have an interest. Access to information concerning

- public business is fundamental and a right granted to the public under the Public Records Act.
2. Mayor Sabatino's letter to the Grand Jury and the Grand Jury Foreperson's response were discussed publicly by Mayor Sabatino on a public news radio station on June 4, 2001, and at a public meeting July 9, 2001, some months prior to my advising Supervisor Simon that the matters were public documents.
 3. By Mayor Sabatino publicly discussing the letters and their content in public on at least two occasions, any claim of confidentiality was eliminated by the public discussion of the letters. By misrepresenting the content of the two letters, the Mayor placed them in the public's domain and further increased the public's right to discover their content. Government Code Section 6254.5 notes that if documents are made public, they lose their claim of confidentiality.
 4. Mayor Sabatino discussed these two letters in a public forum on July 9, 2001, at the new Grand Jury orientation, once again placing the letters in public domain. As noted earlier, Mayor Sabatino misrepresented the facts relating to the two letters which resulted in another public discussion and a printed article in the Modesto Bee on July 10, 2001. All of these actions occurred before I had any contact with Supervisor Simon regarding the letters.
 5. There are, to my knowledge, no laws in California that apply "confidentiality" rules to the two letters in question. The letters were **not** part of any Civil Grand Jury investigation. They were **not** documents that the entire Grand Jury reviewed as part of, or related to, an on-going investigation. The two letters **did not** enjoy the "confidentiality" protection applied to Civil Grand Jury documents received during an investigation. Applicable California code sections regarding a grand jury show that the prohibition against disclosure of grand jury records is very narrowly defined and applies only to sworn testimony, evidence introduced during deliberations, grand jury deliberations, grand jury discussions, and voting particularities of grand juries. The two letters do not fit within any of these areas. Further, California law prohibiting disclosure of grand jury matters apply only to grand jurors.
 6. The fact that Mayor Sabatino **used** City of Modesto letterhead to send his letter to the Grand Jury, and signed the letter as Mayor, acts to make the

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May 16, 2001, letter to the Civil Grand Jury Foreperson a public document, which is subject to release under the Public Records Act. The response that was sent back from Mr. Compton, the then Civil Grand Jury Foreperson, to Mayor Sabatino was sent to him at the City of Modesto address and, therefore, became a city document subject to disclosure under the Public Records Act.

7. Mayor Sabatino's letter of May 16, 2001, did not rise to the level of a Grand Jury complaint or other Grand Jury matter where Grand Jury confidentiality attaches.
8. I applied the appropriate balancing test that is prescribed under California law in favor of not having secret communications and having all documents that are not specifically exempted under the Public Records Act or other applicable laws made available to the public. In my legal opinion and applying the balancing test, I concluded these two letters met the test to be disclosed and that under the totality of circumstances of this case, a dominating public interest in disclosure of the two letters existed (see Exhibit 1).

The Mayor's request to testify and the Grand Jury's response that it would call him, if needed, was never part of the evidentiary material considered by the Grand Jury in its investigation; and, therefore, could not have been relied upon or presented to the Grand Jury for its final report regarding the former Clerk-Recorder. I provided the Committee the legal basis for concluding the letters were public documents and were not confidential. In contrast, the Report does not state a legal basis supporting the finding. In my opinion, there is neither a legal nor factual basis for the Grand Jury to conclude the documents were confidential.

The Grand Jury noted in Finding #4, page 14, that, "A consensus was reached that the Mayor had no information germane to the investigation."

7. Complaint #2, Finding #6, Page 14:

"The GJ Foreperson drafted a reply to the Mayor declining his request to appear as a witness. The contents of this letter were also approved and voted on by the full panel."

Response:

DISAGREE, in part.

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The May 18, 2001, response to the Mayor's May 16, 2001, letter by the 2000-2001 Grand Jury Foreperson simply states that the Mayor will be called by the 2000-2001 Civil Grand Jury, if needed. The Foreperson's response did not decline a request to appear as a witness. The response states affirmatively that the Mayor will be called to testify, if needed. The Grand Jury finding that "the Mayor's request to testify was declined" ignores Foreperson Compton's statement that he would be called, if needed, and mischaracterizes what was stated in Foreperson Compton's May 18, 2001, reply to Mayor Sabatino.

8. Complaint #2, Finding #10, Page 15:

"Two (2) prior grand jurors testified they were confronted by the Mayor who threatened a civil lawsuit. This occurred at two (2) separate social functions in July 2001."

Response:

AGREE.

This finding corroborates other information I received sometime in July regarding threats of a lawsuit against the 2000-2001 Grand Jury. This finding also supports a reason why I requested from Grand Jury staff person Marnie Arnis, the Mayor's May 16, 2001, letter and the Foreperson's May 18, 2001, response.

On June 4, 2001, the Mayor referred to the letters on the radio. The Mayor again made the content of the letters public on July 9, 2001, when he publicly discussed the two letters in his comments to the 2001-2002 Grand Jury during its orientation and in my presence. An article in the Modesto Bee dated July 10, 2001 (see Exhibit 2) confirms that Mayor Sabatino raised the issue of the two letters during a July 9, 2001, public presentation to the 2001-2002 Grand Jury.

Frank Clark, a 2000-2001 Civil Grand Jury member and holdover Grand Juror for the 2001-2002 Civil Grand Jury, took great exception to Mayor Sabatino's statements and responded to Mayor Sabatino at the July 9, 2001, Grand Jury orientation. A heated exchange between Grand Juror Frank Clark and Mayor Sabatino took place as is evidenced by the July 10, 2001, Modesto Bee article (see Exhibit 2).

The exchange between the Mayor and Grand Juror Frank Clark is another example of the Mayor's public discussion of the Mayor's May 16, 2001, letter and the May 18, 2001, response by Foreperson Compton. The July 10, 2001, Modesto Bee article reported that Grand Juror Frank Clark rejected the idea that the 2000-2001 Civil Grand Jury was caught

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up in politics and quoted Frank Clark as stating, "I think four words described last year's grand jury: honesty, dedication, thoroughness and integrity."

The Mayor made the letters public when he discussed them on the radio on June 4, 2001, and at the 2001-2002 Civil Grand Jury orientation on July 9, 2001. In those public discussions, the Mayor implied that he had information which was relevant to a specific Civil Grand Jury investigation and that the 2000-2001 Civil Grand Jury refused to interview him.

The exchange between Mayor Sabatino and Grand Juror Frank Clark on July 9, 2001, resulted in a letter to the editor dated July 16, 2001 (see Exhibit 3), which speaks directly to the Mayor's request to the Civil Grand Jury to be interviewed. The published letter also serves as another "public" airing of the Mayor's May 16, 2001, letter.

9. Complaint #2, Finding #11, Page 15:

"GJ staff person testified that she spoke to County Counsel about a rumored civil law suit against the CGJ."

Response:

AGREE.

Grand Jury staff person Marnie Ardis called me in the first part of July, 2001, and advised me about a possible lawsuit being threatened against the 2000-2001 Civil Grand Jury and its members.

10. Complaint #2, Finding #12, Page 15:

"GJ staff person testified County Counsel informed her the Mayor's letter was a public document and asked her to fax him a copy."

Response:

AGREE.

See response to Complaint #2, Finding #14, at page 10 of this document.

11. Complaint #2, Finding #13, Page 15:

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"GJ staff person testified she faxed a copy of the Mayor's letter and the Foreperson's reply to County Counsel."

Response:

AGREE.

12. Complaint #2, Finding #14, Page 15:

"GJ staff person testified she released the letters to County Counsel on the basis that he was her legal advisor."

Response:

AGREE.

The Office of County Counsel is one of the legal advisors to the Grand Jury. My purpose for obtaining the Mayor's May 16, 2001, letter and the Grand Jury Foreperson's May 18, 2001, response was to determine whether or not there was liability exposure for the Civil Grand Jury, its members, and the County of Stanislaus. In addition, I advised Grand Jury staff person Marnie Ardis that the Mayor had discussed these letters in public settings and that the two letters were public documents.

13. Complaint #2, Finding #15, Page 15:

"Court Administrator testified County Counsel's role is simply to advise CGJ about libelous statements; but at some unknown point the role became one of primary advisor."

Response:

DISAGREE.

The Office of County Counsel does more than simply advise the Grand Jury whether its reports contain potentially libelous material. Penal Code section 934 provides, "The grand jury may, at all times, request the advice of the court, or the judge thereof, the district attorney, the county counsel, or the Attorney General, unless advice is requested, the judge of the court, or county counsel as to civil matters, shall not be present during the sessions of the grand jury."

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Over the past 18 years, Civil Grand Juries have requested advice from the Office of County Counsel on legal issues relating to the Civil Grand Jury. The County Counsel is one of several advisors to the Grand Jury but is not a "primary advisor." In fact, the words "primary advisor" are not set forth in California law. The four legal advisors specified in Penal Code section 934 may be requested to provide legal advice to the Civil Grand Jury.

The Presiding Judge of the Superior Court can provide legal advice to Grand Juries on civil and criminal matters. It has been my experience that the Presiding Judge of the Superior Court is the legal advisor that provides the most guidance to the Civil Grand Jury and has the most contact with the Civil Grand Jury Foreperson.

This year I have formalized the practice outlined in the Grand Jury Handbook that the only contact the Office of County Counsel will have with the Civil Grand Jury will be through written requests from the Grand Jury Foreperson requesting legal advice on specific issues. There will be no verbal contact between any individual member of the County Counsel's Office and individual Civil Grand Jury members on any matter.

In the 2000 Grand Jury Handbook under the section entitled "Proper Advisors and Investigatory Assistant," the handbook described the role of "County Counsel" as one of the legal advisors to the Civil Grand Jury. It states:

- "1. **The County Counsel** - The County Counsel is the civil legal advisor to the county, all of its departments, officers, commissions, and a number of special districts. The Penal Code authorizes the Grand Jury to request the advice of the County Counsel.

The jury may allow the County Counsel to be present during sessions pertaining to a question about the legality of the investigation.

It is recommended that each Grand Jury request by letter, signed by the Foreperson, opinions, or assistance from the office of the County Counsel. No juror, acting alone, should burden the office of the County Counsel with individual verbal or written requests. Opinions of the County Counsel should likewise be rendered to the Grand Jury in writing. (Emphasis added.)

14. Complaint #2, Finding #16, Page 15:

"GJ staff person testified Court Administrator reviewed final reports for legal content and liability in previous years."

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Response:

AGREE, in part.

I have no personal knowledge whether the court administrator reviewed final grand jury reports prior to public release. However, there is no legal authority for a "court administrator" to review Grand Jury reports prior to such reports being released to the public. Penal Code section 934 provides that a member of the court, the District Attorney, County Counsel, or Attorney General are the only persons that may provide legal advice to a grand jury. Court administrators do not have training or legal expertise to review final grand jury reports for legal content and potential liability.

15. Complaint #2, Finding #18, Page 15:

"GJ staff person testified she felt her job possibly could be in jeopardy if she refused a request from County Counsel."

Response:

DISAGREE, in part.

I do not know whether Ms. Ardis testified that she felt her job was in jeopardy, but I do know that in no way did I cause Ms. Ardis to feel the way she is alleged to have felt as stated in Finding #18. I simply asked Ms. Ardis to furnish me a copy of the Mayor's May 16, 2001, letter and the Grand Jury Foreperson's May 18, 2001, reply. I did not state, threaten or imply that her job status was in jeopardy, if she refused to provide the two letters. Further, at no other time did I do anything to cause Ms. Ardis to feel the way she is alleged to have felt in Finding #18.

16 Complaint #2, Finding #19, Page 15:

"A 2000-2001 Grand Juror testified that County Counsel and the GJ staff person had a close working relationship."

Response:

DISAGREE, in part.

I have had a professional working relationship with Marnie Ardis for the past eleven years. It is my personal opinion that Marnie Ardis has performed in an outstanding manner in her job as a Grand Jury staff person. There were times over the past eleven years that I had

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minimal contact with Marnie Ardis during an entire year. The vast majority of the contacts with Grand Jury staff person Marnie Ardis over the past eleven years has been to only review Civil Grand Jury reports for liability or answer legal questions regarding the Civil Grand Jury's jurisdiction to investigate certain entities.

It was my practice to review the Civil Grand Jury reports for possible liability within a 48-hour period following receipt of the reports and return the Civil Grand Jury reports to the Grand Jury staff person. My review was limited to whether or not there were any potentially libelous statements included in the reports or other matters that could expose Civil Grand Jurors to liability. I did **not** review the reports for "content" and never changed the "content" of any Grand Jury report.

17. Complaint #2, Finding #20, Page 15:

"County Counsel testified the Grand Jury is custodian of all Grand Jury documents."

Response:

AGREE, in part.

The finding fairly represents my statements to the Committee. It is my opinion that the Grand Jury is the custodian of Grand Jury documents received during an investigation.

18. Complaint #2, Finding #21, Page 15:

"In testimony, County Counsel agreed the GJ staff person exerted influence over the CGJ."

Response:

DISAGREE.

This finding does not accurately reflect my statement to the Committee. It is, and has been, my opinion that Grand Jury staff person Marnie Ardis played an important part in assisting the Grand Jury in performing its functions and duties for the past eleven years. I do not recall ever saying that the Grand Jury staff person "exerted influence" over the Grand Jury. The Grand Jury support person **does not write** Grand Jury reports, **does not vote** on Grand Jury reports, and **does not sign** Grand Jury reports. I do not believe that a staff person is in the position to exert influence over a Civil Grand Jury, nor do I believe

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or have any information that Grand Jury staff person, Marnie Ardis, ever "exerted influence" over any Civil Grand Jury.

19. Complaint #2, Finding #22, Page 15:

"County Counsel testified he requested a copy of the Mayor's letter in his capacity as legal advisor, absolutely believing he had legal authority to do so."

Response:

AGREE.

See response to Complaint #2, Findings #10, 11, 12, 13 and 14, at pages 8-10 of this document.

20. Complaint #2, Finding #23, Page 16:

"County Counsel testified another motivation for requesting the documents was his concern for the health of an involved party."

Response:

DISAGREE.

I do not understand or recall the context in which this statement is made. I do not recall testifying before the Committee regarding a correlation between a request for documents and an individual's health.

21. Complaint #2, Finding #25, Page 16:

"County Counsel recused himself from case 01-10-C prior to requesting a copy of the Mayor's letter."

Response:

DISAGREE.

I did not tell the Committee that I "recused" myself. I explained to members of the Committee that "recusal" is a legal term to describe a situation where an attorney, judge,

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or office, such as the Office of the District Attorney, is removed from participating in a particular legal matter, and that the term "recusal" is inapplicable to the role of County Counsel in Grand Jury investigations.

I told the members of the Committee that my past practice has been not to review for liability the final report of a Civil Grand Jury investigation where I was called to testify. During my 18 years as County Counsel, I have been called to testify approximately three or four times in Grand Jury cases. Each time that I testified, I have requested that the Grand Jury have the District Attorney's Office review the Grand Jury report for liability. I was called to testify in case number 01-10-C, by the Committee investigating former Clerk-Recorder Karen Mathews for misconduct in office. Because I testified, I did not review the final Grand Jury Report 01-10-C prior to its release to the County. Instead, Grand Jury Report 01-10-C was forwarded by Grand Jury staff person Marnie Ardis to District Attorney Jim Brazelton for review for liability.

In addition, I requested a copy of Mayor Sabatino's May 16, 2001, letter in mid-July 2001, which was almost two months after case 01-10-C criticizing former Clerk-Recorder Karen Mathews had been publicly released. Even though I did not review the report for liability, as the County's legal advisor, I am responsible for evaluating any potential County liability related to Grand Jury matters. Regardless of who reviews a Grand Jury report for liability prior to its public dissemination, it remains the duty of County Counsel, as the County's legal advisor, to consider matters of potential liability related to the Grand Jury.

22. Complaint #2, Finding #26, Page 16:

"A current BOS member testified he asked County Counsel for a legal opinion regarding posting the Mayor's letter on his personal website."

Response:

AGREE.

I received the two letters from Ms. Ardis on or shortly after July 10, 2001, to determine potential liability to the Grand Jury and the County. More than a month later, Supervisor Simon contacted me in August, 2001, and indicated that he found, placed on his desk at Tenth Street Place, a copy of the Mayor's May 16, 2001, letter to the Grand Jury Foreperson and a copy of Foreperson Compton's May 18, 2001, response. Supervisor Simon asked me whether the two letters were public documents. I told Supervisor Simon that I believed they were public documents, and that I would review this matter and call him the following day. I called him back the next day, after reviewing the matter, and advised him that it was my opinion that the two letters were public documents.

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23. Complaint #2, Finding #27, Page 16:

"The BOS member testified County Counsel declared the letters public documents."

Response:

AGREE.

See response to Complaint #2, Finding #26, at page 15 of this document, and responses to Complaint #2, Findings #2, 4, 11, 12 and 39, at pages 5-7, 9, and 20-21 of this document.

24. Complaint #2, Finding #28, Page 16:

"The BOS member testified that, acting on advice from County Counsel that the Mayor's letter was a public document, he posted the letter on his personal website."

Response:

AGREE.

See response to Complaint #2, Finding #26, at pages 15 of this document, and responses to Complaint #2, Findings #2, 4, 10, 11, 12 and 39, at pages 5-7, 8-9, and 20-21 of this document.

25. Complaint #2, Finding #29, Page 16:

"The BOS member testified upon finding that he had misplaced the first copy of the Mayor's letter, he requested County Counsel to send him an additional copy."

Response:

AGREE.

Sometime shortly before Supervisor Simon placed the two letters on his personal website, he called and asked that I send him copies of the two letters that had previously been placed on his office desk at Tenth Street Place because he had misplaced them. I did fax him the two letters, and he later told me that he had found the two letters.

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26. Complaint #2, Finding #30, Page 16:

"County Counsel testified he faxed a copy of the Mayor's letters as well as the CGJ's reply to the BOS member."

Response:

AGREE.

See response to Complaint #2, Findings #25 and 26, at pages 14-15 of this document.

27. Complaint #2, Finding #31, Page 16:

"The 2000-2001 Grand Jury Foreperson testified that the Mayor's letter was a privileged document and should not have been released."

Response:

DISAGREE.

I respectfully disagree with the 2000-2001 Grand Jury Foreperson's belief as reported in Finding #31. The two letters were public documents for reasons previously set forth in this response (see response to Grand Jury Complaint #2, Findings #4 and 39, at pages 5-7 and 21 of this document, and Exhibit 1). It was my opinion at the time, and it is still my opinion, that the two letters are public documents (see responses to Complaint #2, Findings #2, 4, 10, 11 and 39, at pages 5-9 and 21 of this document).

28. Complaint #2, Finding #32, Page 16:

"County Counsel testified to requesting and receiving a copy of Mayor's letter as well as the Foreperson's response from GJ staff person."

Response:

AGREE.

I requested Mayor's Sabatino's May 16, 2001, letter and the May 18, 2001, response by Foreperson Compton for the reasons previously stated (see response to Complaint #2, Findings #10, 11, and 12, at pages 8-9 of this document).

29. Complaint #2, Finding #33, page 16:

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"County Counsel testified he should have asked the Foreperson rather than the GJ staff person for a copy of the Mayor's letter."

Response:

DISAGREE, in part.

I recall my testimony to be that I should have told the Grand Jury Foreperson that I requested a copy of the two letters from Grand Jury staff person, Marnie Ardis.

My purpose for requesting the two letters was to understand the nature of the threats to sue the Grand Jury and its members, and to evaluate the Grand Jury's and the County's exposure to potential liability (see response to Complaint #2, Findings #10 and 11, at pages 8-9 of this document).

I have previously stated, and I still believe, that it was appropriate, in my position as legal advisor to the County and to the 2000-2001 Civil Grand Jury, to request a copy of the two letters.

32. Complaint #2, Finding #34, Page 16:

"County Counsel testified he agreed with the following statements in a *Modesto Bee* article dated November 20, 2001 in which he was quoted:

- a. The Mayor's letter to the Grand Jury was not confidential and was subject to the Public Records Act because:
 - (1) The Mayor's letter was on City of Modesto letterhead.
 - (2) The letter had been discussed in numerous public conversations and on the radio.
- b. He had not released a copy of the letter to a current BOS member."

Response:

DISAGREE, in part.

I told the Committee that for the most part, my statements in the Modesto Bee article of November 20, 2001, were correct. However, I also recall testifying that the article did not contain all of the discussions I had with the Modesto Bee reporter and that there were additional statements that I made to the reporter that were not included in the article. I also recall telling the Committee that certain words may have been left out of the quotes in the article.

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31. Complaint #2, Finding #35, Page 16:

"The Mayor testified that his letter was already printed in the *Modesto Bee* prior to his discussing it on a radio program."

Response:

DISAGREE in part.

I do not know what the Mayor testified to, but I believe that if he testified as alleged in the finding, his testimony is not correct. The Mayor discussed the two letters on the Morning Express radio program on June 4, 2001, before his May 16, 2001, letter was ever referenced in the Modesto Bee. I believe that the Modesto Bee first referenced Mayor Sabatino's May 16, 2001, letter in a July 10, 2001, article. A letter to the editor published July 16, 2001, also referenced Mayor Sabatino's May 16, 2001, letter (see Exhibit 3).

32. Complaint #2, Finding #37, Page 17:

"County Counsel testified he called the BOS member suggesting the letter be removed from his website due to public controversy."

Response:

DISAGREE, in part.

I did have a conversation with Supervisor Simon after Mayor Sabatino claimed that the two letters were not public documents. Supervisor Simon indicated to me that he had already decided to remove the two letters from his website because he was about ready to change the materials on his website.

33. Complaint #2, Finding #38, Page 17:

"County Counsel testified in retrospect he wished he had not advised the Supervisor to place the letter on the website."

Response:

DISAGREE.

I never advised Supervisor Simon to place the letters on his web page. It was not my decision to place the two letters on Supervisor Simon's website. Supervisor Simon

requested my legal opinion as to whether or not I thought the documents were public documents. I told Supervisor Simon that after reviewing the matter, I believed that the two letters were public documents.

34. Complaint #2, Finding #39, Pages 17 and 18:

"County Counsel testified to the following eight (8) points as the basis he used to declare the Modesto Mayor's letter to the 2000-2001 Civil Grand Jury and response to the Modesto Mayor by 2000-2001 Foreperson of the Civil Grand Jury as public information '...under the Public Records Act':

- a. "First and foremost, California Law is very clear under the public records law that release of documents should be released to the public." [sic]
- b. "Second, these two letters were discussed publicly by the Mayor...on a public news radio station."
- c. "Third, by Mayor...publically discussing the letters and their contents in public on at least two occasions, any claim of confidentiality was eliminated in my opinion." "...there's a Government Code Section 6254.5 that talks about if the documents are made public, they lose their confidentiality."
- d. "Fourth, Mayor...further discussed these two letters in the public forum on July 9th during the Civil Grand Jury orientation, once again placing these letters in the public domain."
- e. "Five, to the best of my knowledge, no laws in the State of California that apply...or clearly state that these two letters were confidential. The letters were not a part of a Civil Grand Jury investigation."
- f. "Six, the fact that Mayor...used city of Modesto letterhead and that the document was signed as Mayor makes the May 16, 2001 letter to the Grand Jury foreperson a public document which is subject to release under the Public Records Act. The response that was sent back from the Grand Jury foreperson to Mayor...at the city address at City Hall then became part of the public record and those documents were subject to disclosure under the public records law."

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- g. "Seven, Mayor...letter of May 16th, as indicated earlier, did not rise to the level of a Grand Jury complaint or Grand Jury matter where confidentiality attaches."
- h. "Number eight, and last, I applied the appropriate balancing test also that is prescribed under California law in favor of not having secret communication and having all documents that are not specifically exempted under the Public Records Act or other applicable laws made available to the public."

Response:

AGREE, in part.

The statement in the finding substantially represents the eight points I testified to before the Committee as the legal basis for my determination that the Mayor's May 16, 2001, letter to the Grand Jury and the May 18, 2001, response by the Foreperson of the Grand Jury were public documents. However, the Grand Jury statement set forth in Complaint #2, Finding #39, page 17, **does not represent my complete statement** to the members of the Committee. I have also attached the notes I referred to during my testimony before the Committee on the eight reasons supporting my opinion the two letters were public documents (see Exhibit 1).

35. Complaint #2, Conclusion #1, Page 18:

"The CGJ is the 'Custodian of Records' for all documents in its possession."

Response:

AGREE, in part.

While the Grand Jury is the custodian of records for some documents it receives during a Grand Jury investigation, there may be other entities and persons in possession of the same documents, which also serve as custodian of the same records.

36. Complaint #2, Conclusion #2, Page 18:

"After the Mayor's letter was received, discussed, deliberated and voted upon by the full panel of the CGJ, it became and still remains a confidential

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document. For the same reasons the CGJ response letter is also a confidential document."

Response:

DISAGREE.

The legal conclusion that the documents are confidential is incorrect. I do not agree with the statement contained in Conclusion #2 that the letters were confidential (see Grand Jury Complaint #2, Finding #39, and my response to Complaint #2, Findings #2, 4, 10, 11 and 12, at page 21 and pages 5-9 of this document).

37. Complaint #2, Conclusion #3, Page 18:

"Release of these letters was in violation of Penal Code Section 929 which requires the approval of the Presiding Judge to "...make available to the public part or all of the evidentiary material, findings, and other information relied upon by, or presented to, a Grand Jury for its final report in any Civil Grand Jury investigation."

Response:

DISAGREE.

Penal Code section 929 is misinterpreted by the Grand Jury. Penal Code section 929 has absolutely no relevance to the statement contained in Conclusion #3 at page 18 of the Report. Penal Code section 929 allows a judge to make available to the public part or all of the evidentiary material finding and other information relied on and presented to a Grand Jury for a final report. Mayor Sabatino's demand to testify and the Grand Jury response that it would call him if needed is not evidentiary material considered by the Grand Jury in its investigation and, therefore, could not have been relied upon or presented to the Grand Jury for "its final report" in the investigation. Penal Code section 929 does not apply to Mayor Sabatino's May 16, 2001, letter or the Foreperson's May 18, 2001, response to it.

38. Complaint #2, Conclusion #4, Page 18:

"As this letter became a confidential Grand Jury document, it is not a public document as described by the Public Records Act."

Response:

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DISAGREE.

I disagree with the conclusion that the Mayor's May 16, 2001, letter and the Grand Jury Foreperson's response dated May 18, 2001, were not public documents. I stated the eight reasons to the members of the Committee as to why I believed the two letters are public records. My analysis, which was provided to the Committee is partially set forth in Finding #39. My reasons for concluding that the two letters are public documents are set forth in my response to Findings #2, 4, 10, 11, 12 and 39, at pages 5-9, and 21 of this document and Exhibit 1. In contrast, the Report fails to state a legal basis for the finding that the letters were not public records.

39. Complaint #2, Conclusion #5, Page 18:

"Neither the Mayor's letter nor the Grand Jury response should have been released to County Counsel by the GJ staff person."

Response:

DISAGREE.

The release of the Mayor's May 16, 2001, letter and the Grand Jury Foreperson's response dated May 18, 2001, were appropriately and properly released to me by Grand Jury staff person Marnie Ardis in my capacity as County Counsel. I have addressed this matter previously in my response to Complaint #2, Findings #10, 11, 12, 13 and 18, at pages 8-10, and 12 of this document.

Complaint #2, Finding #10, states the Mayor threatened two grand jurors about a civil lawsuit. It was appropriate and proper as legal advisor to the County and to the Grand Jury pursuant to Penal Code section 934 that County Counsel review these two letters. I reviewed the two letters and determined that the exposure to litigation was not substantial based upon the contents of the two letters. I concluded that Grand Jury Foreperson Compton, in his letter of May 18, 2001, had responded appropriately to Mayor Sabatino's May 16, 2001, letter.

40. Complaint #2, Conclusion #6, Page 18:

"County Counsel should not have released copies of the letters to the BOS member."

Response:

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DISAGREE.

As stated previously in response to Complaint #2, Findings #4 and 10, and Conclusion #7, at pages 5-9 and 24-25 of this document, the two letters were public documents already referred to by the Mayor in public. Supervisor Simon called me, I believe sometime in August, 2001, stating that he had found copies of the two letters on his office desk at Tenth Street Place as I previously stated in response to Complaint #2, Finding #26, at page 15 of this document. I told him the next day that my legal opinion was that they were public documents. Some weeks and possibly a month later, Supervisor Simon indicated he was going to place the two letters on his website but that he had misplaced his copy of the two letters that he had found on his desk at Tenth Street Place. I did fax the two letters to Supervisor Simon, who later advised me that he had found the two letters prior to or at the time he received the fax copies of the letters from me. It was appropriate to forward copies of these two public documents to Supervisor Simon.

41. Complaint #2, Conclusion #7, Page 18:

"The BOS member should not have posted the letters on his personal website."

Response:

DISAGREE.

Supervisor Simon had a right to post the two letters on his personal website. These two letters were public documents. The letters were in the public interest and were the best evidence of their content. The public had a right to know their content to evaluate the Mayor's statements about the letters made on June 4, 2001, and during the July 9, 2001, 2001-2002 Grand Jury orientation.

The law in California is clear that the public has a right to view public documents that concern the actions of public officials in which the public may have an interest. The Mayor placed these two letters before the public by discussing them on the radio on June 4, 2001, and before the Civil Grand Jury in a public meeting on July 9, 2001, which was reported in the Modesto Bee on July 10, 2001 (see Exhibit 3). By publicly discussing the content of the two letters, the Mayor clearly gave up any claim of confidentiality. The public had a right to the actual content of the letters and were not required to rely on the Mayor's verbal representation of their content.

As indicated in my response to Complaint #2, Finding #6, at pages 7-8 of this document, the statements by the Mayor on June 4, 2001, and on July 9, 2001, in my opinion,

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mischaracterized their content. Supervisor Simon had every right to post the letters on his website so that members of the public could view the Mayor's May 16, 2001, letter and the Foreperson's response dated May 18, 2001, in light of the public controversy initiated by the Mayor regarding his own correspondence.

Mayor Sabatino stated on the radio on Monday, June 4, 2001, "I volunteered to be a grand jury witness; they sent a letter saying its not necessary, they turned me down. I suggested I had info about a case and they refused to let me testify...." That statement by Mayor Sabatino mischaracterizes, in my opinion, Foreperson Compton's response dated May 18, 2001. Foreperson Compton **did not** refuse to allow Mayor Sabatino to testify before a Grand Jury. In fact he stated the opposite, that the Mayor would be called to testify, if needed. The public had a right to know about the Mayor's apparent mischaracterizations and it is unfair to the public for the Mayor to discuss the letters in public and then assert that the letters are confidential documents.

42. Complaint #2, Conclusion #8, Page 18:

"GJ staff deemed herself obligated to comply with request for release of letters by County Counsel, because it came from her 'legal advisor'".

Response:

AGREE.

It was appropriate for Ms. Ardis to forward the letters to the County Counsel's Office as one of the Grand Jury legal advisors and in my capacity as County Counsel for the County of Stanislaus. Based upon my request to her, she provided the two letters to me (see responses to Complaint #2, Findings #4, 10, 11, 12, and 14, at pages 5-10 of this document).

43. Complaint #2, Conclusion #10, Page 19:

"County Counsel is not the 'legal advisor' to the GJ staff person. County Counsel's only obligation to the CGJ is to simply provide 'legal advice' if requested by the Grand Jury pursuant to Penal code Section 934(a)."

Response:

DISAGREE.

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Penal Code section 934 authorizes the Grand Jury to request the advice of County Counsel and other legal advisors. In that capacity, County Counsel is a legal advisor to the Civil Grand Jury. In addition, County Counsel is the County's legal advisor for the Board of Supervisors and all County staff, which included at the time the Grand Jury staff person. (Gov. Code §§27642, 26520, 26526.)

44. Complaint #2, Conclusion #11, Page 19:

"The GJ staff person released confidential CGJ documents without required authority."

Response:

DISAGREE.

As previously explained, the two letters are not confidential. It was appropriate for Ms. Ardis to provide them to the County Counsel to evaluate potential liability to the Grand Jury and its members related to threats of litigation (see responses to Complaint #2, Findings #4, 10, 11, and 12, at pages 5-9 of this document).

47. Complaint #2, Conclusion #12, Page 19:

"The 2000-2001 Grand Jury's vote to exclude County Counsel as an advisor and from reviewing case 01-10-C was appropriate due to County Counsel's recusal in the case."

Response:

DISAGREE, in part.

As indicated in response to Complaint #2, Finding #25, at pages 14-15 of this document, I did not "recuse" myself. I decided, consistent with my past practice, that because I was called to testify before the Civil Grand Jury regarding its investigation of abuse and misconduct of office by the former Clerk-Recorder, set forth in 2000-2001 Civil Grand Jury Report 01-10-C, I decided not to review Grand Jury Report 01-10-C for liability.

46. Complaint #2, Conclusion #13, page 19:

"County Counsel continued to act as legal advisor after recusing himself from the investigation."

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Response:

DISAGREE, in part.

First, I did not "recuse" myself (see responses to Complaint #2, Finding #25, at pages 14-15 of this document, and Complaint #2, Conclusion #12, at page 26 of this document). This conclusion infers that my review of Mayor Sabatino's May 16, 2001, letter and Foreperson Compton's May 18, 2001, response was improper. It was appropriate to review the letters to evaluate the potential liability of the Grand Jury.

47. Complaint #2, Recommendation #2, Page 19:

"According to Penal Code Section 934(a), County Counsel **may** be an advisor to the CGJ and should only respond with a legal opinion(s) if requested from the CGJ Foreperson."

Response:

AGREE.

It should be noted, as indicated above in response to Complaint #2, Finding #15, at pages 10-11 of this document, the Office of County Counsel will only provide written legal opinions to the Civil Grand Jury if requested to do so in writing from the existing Civil Grand Jury Foreperson. It should also be noted that this practice was included in previous Grand Jury handbooks as pointed out to Complaint #2, Finding #15, at pages 10-11 of this document. This practice will eliminate the ability of committee chairperson's and other individual Grand Jury members from having any informal contact with members of the County Counsel's Office.

COMPLAINT #3:

48. Complaint #3, Finding #1, Page 20:

"DA testified that Grand Jury case 01-10-C was filed as a result of information discovered by County Counsel in a deposition taken from the Clerk-Recorder in a civil matter."

Response:

DISAGREE, in part.

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Chief Executive Officer Reagan Wilson advised me that he has decided to publicly state that he was the complaining party to the 2000-2001 Civil Grand Jury which resulted in the Grand Jury investigation of former Clerk-Recorder Karen Mathews and the issuance of Grand Jury Report 01-10-C. Reagan Wilson sent a letter dated August 22, 2000, to William D. Compton, Foreperson of the Stanislaus County Grand Jury, requesting that the 2000-2001 Civil Grand Jury conduct an investigation of former Clerk-Recorder Karen Mathews for possible violations of County policy, state and federal law.

On the same date, August 22, 2000, a letter was sent by Chief Executive Officer, Reagan Wilson, to District Attorney Jim Brazelton with a copy of the material provided to the Civil Grand Jury for action as deemed appropriate by the District Attorney.

Mr. Wilson stated in his August 22, 2000, letter to the 2000-2001 Civil Grand Jury Foreperson William D. Compton, that the Grand Jury was the appropriate body to investigate the allegations of misconduct in office of an elected public official. Penal Code section 919 provides that the Grand Jury **shall** inquire into any possible willful or corrupt misconduct by an elected official. The Grand Jury has the authority to file an accusation calling for removal of an elected official for misconduct in office.

The 2000 Grand Jury Handbook contained a section on the "Investigation of Public Officials." It states:

"Another of your principal duties will be to inquire into any possible willful or corrupt misconduct in the office of public officials within this county.

If you have information sufficient to cause reasonable belief of willful or corrupt misconduct in the office of a public official, you should investigate the matter fairly and fearlessly and without favor, but you should not undertake a general investigation of public officials indiscriminately, without sufficient reason to believe that the commission of corruption or malfeasance in office would be revealed. Such a procedure would be unfair and would be destructive of public confidence.

You should not attempt to act as a supervising agency over the discretionary activities of public officials. No public official is accountable to you for anything except corrupt or willful misconduct. You have nothing to do with questions of discretion, judgment, or ways and means of kindred matters."

A summary of nine allegations of possible improper misconduct by former Clerk-Recorder in possible violation of County policy, state and federal law was provided by Chief

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Executive Officer Reagan Wilson to the 2000-2001 Civil Grand Jury along with a list of exhibits and relevant documents for them to review. A list of suggested witnesses that the Grand Jury may want to interview relating to each of the nine allegations was included in the materials supplied to the 2000-2001 Civil Grand Jury by the Chief Executive Officer.

Around the time the civil complaint was filed by former Clerk-Recorder against the County for alleged pay discrimination, and sometime prior to the time the former Clerk-Recorder's deposition was taken, employees of the Clerk-Recorder's Office, contacted both the Chief Executive's Office and the Office of County Counsel to complain about issues of misconduct by the former Clerk-Recorder Karen Mathews.

The misconduct complained about by Clerk-Recorder employees formed a substantial part of the basis of the nine allegations that were sent over to the Civil Grand Jury for investigation.

It was clear during the first half of the first day of the July 6, 2000, deposition of the former Clerk-Recorder that her lawsuit had absolutely no merit. The first half of the day of her deposition, for the most part, focused upon all of the allegations set forth in the former Clerk-Recorder's lawsuit against the County. During the afternoon portion of the first day of her deposition, additional questions were asked of former Clerk-Recorder to obtain relevant information for defense of the County in the lawsuit brought by the former Clerk-Recorder.

Information provided to the County by Clerk-Recorder employees also served as a source for questions to Ms. Mathews in her deposition. Certain portions of the information obtained in the deposition were subsequently utilized in the information that was provided to the 2000-2001 Grand Jury. The Grand Jury committee conducting the investigation into the allegations of improper conduct by former Clerk-Recorder requested the entire deposition in the lawsuit filed by Karen Mathews. That request by the Grand Jury was honored by the County.

It should be noted there were certain allegations contained in the request by Chief Executive Officer Reagan Wilson to the 2000-2001 Grand Jury for possible investigation that were not brought up during the Karen Mathews lawsuit or included in the deposition of former Clerk-Recorder.

49. Complaint #3, Finding #2, Page 20:

"Prior to the formation of the 2000-2001 Grand Jury, County Counsel alerted GJ staff person regarding an impending case being brought by the County against the Clerk-Recorder."

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Response:

DISAGREE.

I do recall advising Grand Jury staff person Marnie Ardis that Chief Executive Officer Reagan Wilson would be delivering a request for an investigation to the Grand Jury regarding former the Clerk-Recorder. I believe that my contact with Ms. Ardis was just prior to the request for investigation by Chief Executive Officer Reagan Wilson dated August 22, 2000, being delivered to the 2000-2001 Civil Grand Jury, which occurred on August 22, 2000.

50. Complaint #3, Finding #4, Page 20:

"County Counsel testified that he was a witness in CGJ case 01-10-C."

Response:

AGREE.

I was called to testify before a committee of the 2000-2001 Grand Jury that was investigating allegations of misconduct by former Clerk-Recorder Karen Mathews.

51. Complaint #3, Finding #5, Page 20:

"County Counsel testified that he recused himself from case 01-10-C due to a conflict of interest."

Response:

DISAGREE.

As indicated in responses to Complaint #2, Findings #25 and Conclusion #12, at pages 14-15, and 26 of this document, it has been my practice that once I testify in a Grand Jury investigation, I will not review a Grand Jury report for liability. I did not review the 2000-2001 Grand Jury Report 01-10-C, regarding former Clerk-Recorder for liability. I did not recuse myself, nor do I believe an actual conflict of interest existed. The District Attorney's Office was asked to review Grand Jury Report 01-10-C for liability. The report was reviewed for liability by Deputy District Attorney Dave Harris and District Attorney Jim Brazelton.

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I obtained a copy of Grand Jury Report 01-10-C from Chief Executive Officer Reagan Wilson after the report was delivered to former Clerk-Recorder Karen Mathews by Lt. Jane Irwin of the Sheriff's Office on May 25, 2001, two "business days" before Grand Jury Report 01-10-C was made public by the 2000-2001 Civil Grand Jury on May 30, 2001.

52. Complaint #3, Finding #6, Page 20:

"Deputy DA testified that County Counsel questioned him about the investigation of CGJ case 01-10-C."

Response:

DISAGREE.

I deny that I ever talked to a Deputy District Attorney about the contents of Grand Jury Report 01-10-C regarding former Clerk-Recorder Karen Mathews. I did have a conversation with Deputy District Attorney Dave Harris a couple of weeks prior to the public release of Grand Jury Report 01-10-C. My phone discussions with Deputy District Attorney Dave Harris related to two issues.

First, I asked Mr. Harris who was assigned the task of reviewing Grand Jury Report 01-10-C for liability when the District Attorney's Office would complete a review of that report for liability. It was important to determine when the report would be released because the County intended to have Lt. Irwin of the Sheriff's Office personally deliver a copy of the Grand Jury's report to former Clerk-Recorder Karen Mathews. The County was trying to coordinate Lt. Irwin's schedule with the release of the report.

Second, I discussed with Mr. Harris an issue regarding his interpretation of Penal Code section 933.05, which states that:

"A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to the person or entity two working days prior to its public release and after the approval of the presiding judge...."

Mr. Harris advised me of his opinion that when the District Attorney's Office completed their review of Grand Jury Report 01-10-C for liability, only former Clerk-Recorder Karen Mathews would be served a copy of the report and that the County would not receive a copy of Grand Jury Report 01-10-C until the report was made "public" two working days after being served on former Clerk-Recorder Karen Mathews.

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I told Mr. Harris that I disagreed with his interpretation of Penal Code section 933.05, and stated that in my opinion that Penal Code section 933.05 required that the report be given to former Clerk-Recorder Karen Mathews and to the County as the affected agency two business days before its release to the public.

Mr. Harris told me that I would have to discuss his interpretation of Penal Code section 933.05 with District Attorney Jim Brazelton. I then contacted District Attorney Jim Brazelton and discussed both the anticipated release date of Grand Jury Report 01-10-C of former Clerk-Recorder Karen Mathews and Deputy District Attorney Dave Harris' interpretation of section 933.05. Mr. Brazelton advised me he was taking a trip to Washington D.C. and was taking the Grand Jury Report on the former Clerk-Recorder with him to complete his review for liability.

I made contact with the District Attorney when he was in Washington D.C. during the last part of May, 2001. I recall that I had left messages on his cell phone to call me. I told the District Attorney that Chief Executive Officer Reagan Wilson had instructed me to call him to find out when his office was going to complete the review for liability so the County could have Lt. Jane Irwin of the Sheriff's Office personally deliver the final Grand Jury report to Ms. Mathews. It was explained to the District Attorney that the County had received information that the former Clerk-Recorder may react adversely to the release of Grand Jury Report 01-10-C, which is why the County intended for Lt. Irwin, a person who had a close relationship with Ms. Mathews, to personally deliver the Grand Jury Report on Ms. Mathews. Lt. Irwin had made arrangements to have other professionals available in the event Ms. Mathews became emotionally upset in reaction to the Grand Jury report.

53. Complaint #3, Finding #7, Page 20:

"County Counsel testified that recusing himself from Grand Jury case 01-10-C did not prevent him from requesting and receiving documents pertaining to the case."

Response:

DISAGREE.

As previously explained in response to Complaint #2, Finding #25 and Complaint #2, Conclusion #12, at pages 14-15, and 26 of this document, I did not "recuse" myself. As already stated, because I was called by the Grand Jury to testify in the investigation of Ms. Mathews, I would not review the report for liability. My decision not to review the 2000-2001 Grand Jury Report 01-10-C for liability, did not prevent me from reviewing the

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Mayor's May 16, 2001, letter and the Grand Jury Foreperson's reply. Those documents did not pertain to that investigation as alleged in Complaint #3, Finding #7.

54. Complaint #3, Finding #8, page 20:

"Case 01-10-C committee chairperson testified County Counsel brought unsolicited analysis and information to the committee."

Response:

DISAGREE.

I did not provide "unsolicited" analysis and information to any member on the committee or any member of the 2000-2001 Grand Jury case regarding Case 01-10-C. I believe that the "committee chairperson" referenced in Finding #8, was the initial committee chairperson for the 2000-2001 Grand Jury committee that was assigned to review allegations of improper conduct by former Clerk-Recorder Karen Mathews. My belief is based upon my knowledge that the only "committee chairperson" I had any contact with regarding the Karen Mathews investigation resigned months before the Grand Jury Report 01-10-C was issued by the 2000-2001 Grand Jury on May 30, 2001. Because I had no contact with the subsequent committee chairperson for that investigation, I could not have brought unsolicited analysis and information to the committee that actually wrote and issued Grand Jury Report 01-10-C. Therefore, if my belief is true, the "committee chairperson" quoted in Complaint #3, Findings #8, 14, 15 and 17, **did not** deliberate or vote on Grand Jury Report 01-10-C.

The failure of the 2001-2002 Grand Jury to state in the Report that the "committee chairperson" whom I believe is quoted in Complaint #3, Findings #8, 14, 15 and 17, resigned from the 2000-2001 Grand Jury is, in my opinion, misleading and demonstrates a clear disregard by this Grand Jury for objective reporting of relevant information and facts received during the Grand Jury investigation. Such misreporting and omission of pertinent information undermines the credibility of the findings and conclusions contained in the Report.

55. Complaint #3, Finding #9, page 20:

"County Counsel responded via e-mail to GJ staff person, that the CGJ should continue with investigation of 01-10-C; even if the employment status of the individual, who was the focus of the investigation, changes."

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Response:

AGREE, in part.

Grand Jury staff person Marnie Ardis asked me to address the question as to whether or not a Grand Jury investigation should continue if an individual under investigation resigns. I responded, and stated that, in my opinion, the fact that an individual under investigation by a Civil Grand Jury resigns is not, in and of itself, sufficient grounds for a Civil Grand Jury to make a determination to discontinue its investigation of that individual.

56. Complaint #3, Finding #10, page 20:

"GJ staff person testified that County Counsel specified the witnesses and the order in which they should be called regarding case 01-10-C."

Response:

DISAGREE, in part.

I do not recall ever advising Grand Jury staff person Marnie Ardis the order in which witnesses should be called in relation to Case 01-10-C. As indicated earlier in response to Complaint #3, Finding #1, at pages 27-29 of this document, the materials that were sent over by Chief Executive Officer Reagan Wilson did contain names of suggested witnesses to be called as to each allegation of misconduct by the former Clerk-Recorder.

57. Complaint #3, Finding #11, Page 21:

"An Executive Assistant in Clerk-Recorder office testified she was told by County Counsel that she would be called as a witness in the case 01-10-C."

Response:

AGREE, in part.

Some employees of the Clerk-Recorder's Office that complained about possible abuse and misconduct in the office by former Clerk-Recorder Karen Mathews asked whether there was a possibility that they may be called to testify in court or before a Grand Jury. County employees who asked me that question were told that there was a possibility they could be called to testify in court or be called as Grand Jury witnesses if the Grand Jury determined that an investigation of the Clerk-Recorder was appropriate. I told them they

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would be contacted by the Civil Grand Jury, if the Grand Jury determined that they could offer relevant testimony in a Grand Jury investigation.

58. Complaint #3, Finding #12, Page 21:

"GJ staff person testified that County Counsel requested updates on the status of case 01-10-C and whether particular witnesses had been called to testify. County Counsel also complained the case was proceeding too slowly."

Response:

DISAGREE, in part.

I recall contacting Grand Jury staff person Marnie Ardis to determine when she thought Grand Jury Report 01-10-C would be completed and forwarded to the District Attorney's Office to review for liability. As previously stated, the inquiry was for the purpose of coordinating delivery of the report to Ms. Mathews. I do not recall ever complaining to the Grand Jury staff person that the case was proceeding too slowly.

59. Complaint #3, Finding #13, Page 21:

"Deputy DA testified that in his conversations with the chairperson of case 01-10-C, the chairperson deemed the investigation a 'witch hunt'".

Response:

AGREE, in part.

As pointed out in response to Complaint #3, Finding #8, at page 33 of this document, there is a question as to whether or not the person who is identified as the "chairperson of case 01-10-C" in Complaint #3, Finding #13, was the initial chairperson who served on the committee investigating former Clerk-Recorder Karen Mathews and who resigned months before Grand Jury Report 01-10-C was issued.

As indicated earlier, this fact is important because the initial chairperson of case 01-10-C resigned months before the investigation of former Clerk-Recorder Karen Mathews in case 01-10-C was completed and, therefore, did not review the completed investigation report and did not participate in the deliberations and vote by the 2000-2001 Grand Jury to certify case 01-10-C and make it public. It is my belief that the "chairperson" referenced in

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Complaint #3, Finding #13, is the initial committee chairperson **who resigned** from the 2000-2001 Grand Jury months before Grand Jury Report 01-10-C was issued on May 30, 2001. If I am correct in this assumption, this is another example of relevant information that has been omitted from the Report.

60. Complaint #3, Finding #14, Page 21:

"The committee chairperson of case 01-10-C testified being 'fed' only certain information by the County, and felt the complaint was initiated to eliminate the Clerk-Recorder."

Response:

DISAGREE.

Again, I believe that the "committee chairperson" quoted in Complaint #3, Finding #3, is the same "committee chairperson" **who resigned** months before Grand Jury Report 01-10-C was deliberated and voted upon by the 2000-2001 Grand Jury. As noted in my response to Complaint #3, Finding #8, at page 33 of this document, if this "committee chairperson" being quoted is the same one that resigned, then the Grand Jury has failed to include relevant and material information in this report by not stating that the "committee chairperson" quoted in Complaint #3, Findings #8, 13, 14, 15 and 17 resigned from the 2000-2001 Grand Jury months before the Karen Mathews' investigation was completed and Grand Jury Report 01-10-C was released to the public. Failure to disclose this important and relevant fact undermines the credibility of the findings and conclusions in the Report.

61. Complaint #3, Finding #15, page 21:

"GJ staff person testified she left phone messages for the committee chairperson on case 01-10-C from County Counsel."

Response:

AGREE.

The initial "committee chairperson" on case 01-10-C, who served as a hold over from the previous 1999-2000 Grand Jury, made numerous phone calls to me over the year the chairperson served on the 1999-2000 Grand Jury. The chairperson also made several phone calls to me before she resigned from the 2000-2001 Grand Jury. This committee

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chairperson sometimes called me at the office and left messages for me to return the chairperson's calls.

Again, it is important to note that this Grand Jury "committee chairperson" that served on the initial investigation in Case 01-10-C **resigned** some months prior to the investigation of former Clerk-Recorder Karen Mathews being completed and Grand Jury Report 01-10-C being issued by the 2000-2001 Grand Jury.

Therefore, the reference in Complaint #3, Findings #8, 13, 14, 15, and 17 to the testimony of the "committee chairperson" is, I believe, incorrect. I do not believe this was "the" committee chairperson that wrote, deliberated and voted on the 2000-2001 Grand Jury Report 01-10-C. It should be noted that throughout the Report, where this "committee chairperson" is mentioned, if this was not the "committee chairperson" that held the position of "committee chairperson" when Grand Jury Report 01-10-C was made public on May 30, 2001, **this fact should have been prominently noted in the Report. Failure to note this important fact in the Report is improper.** It taints the credibility of the findings and conclusions in the Report and does a disservice to the actual committee chair and committee members that authored Grand Jury Report 01-10-C.

62. Complaint #3, Finding #17, page 21:

"Committee chairperson testified that County Counsel applied pressure to expedite the investigation on Grand Jury case 01-10-C by making repeated calls to the CGJ office and to her home."

Response:

DISAGREE.

I deny that I "pressured" anyone regarding investigation of Grand Jury Report 01-10-C. As indicated in my response to Complaint #3, Findings #13, 14, and 15, at pages 35-37 of this document, if this "committee chairperson" quoted in Finding #17, is the "committee chairperson" that resigned from the 2000-2001 Grand Jury, this fact should have been clearly stated in the the Report. To imply that this was the "committee chairperson" that was the author of 2000-2001 Grand Jury Report 01-10-C and served as the "committee chairperson" when Grand Jury Report 01-10-C was deliberated and voted on by the entire 2000-2001 Grand Jury, is misleading and represents a material omission that calls into question the credibility of the findings and conclusions in the Report.

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I reported that I did return some calls to the initial committee chairperson's home as this person would call me late in the afternoon. If I was out of the office or unable to return her call, I would return the calls to her after 5:00 p.m. My calls to this initial committee chairperson were always in response to messages she left requesting me to call her. It is wrong to imply that there was something improper about returning calls to the number I was asked to call. This is another example of where the Report has strained to support improper conclusions.

63. Complaint #3, Finding #18, Page 21:

"2000-2001 Grand Jury Foreperson testified he was aware that Grand Jury chairperson had talked with County Counsel regarding Grand Jury case 01-10-C."

Response:

DISAGREE, in part.

Without further information, I am unable to provide a response to this finding. I am unsure of the identify of the "Grand Jury chairperson" referenced in Finding #18 that I am alleged to have talked with regarding case number 01-10-C. Further, I am unaware of what information the Grand Jury Foreperson either received or testified about.

64. Complaint #3, Finding #19, Page 21:

"County Counsel testified he 'has no recollection, no direct recollection, and/or does not recall' the following facts regarding Grand Jury case 01-10-C:

- a. Calling Grand Jury committee members inquiring why an investigation was not proceeding expeditiously.
- b. Calling Grand Jury committee chairperson at home regarding the slow progress of calling witnesses, and listing particular witnesses that needed to be called in and in what order.
- c. Calling GJ staff person regarding the pace of the investigation."

Response:

AGREE, in part.

I do not recall having any discussion with any Grand Jury committee members about whether or not the investigation of Karen Mathews was proceeding expeditiously. I called

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the initial Grand Jury committee chairperson involved in the investigation of the former Clerk-Recorder as she requested at home in order to return calls she made to me at the office, as indicated in response to Complaint #3, Finding #15, at pages 36-37 of this document. I have no recollection of talking about the slow progress of calling witnesses and do not recall talking about listing witnesses that needed to be called or in what order they should be called. I do not believe I ever discussed the pace of the investigation with Ms. Ardis.

65. Complaint #3, Finding #20, Page 21:

"DA testified, while out of state, he received an estimated twelve (12) to fourteen (14) phone calls from County Counsel about the urgency of making Grand Jury case 01-10-C public."

Response:

DISAGREE.

I deny calling District Attorney Jim Brazelton between 12 and 14 times while he was at a conference in Washington D.C., regarding the urgency of making Grand Jury Report 01-10-C public. I have been advised by District Attorney Jim Brazelton that he provided a one-page billing statement to the Committee (see Exhibit 4). That billing statement shows **three** calls from the District Attorney to the County Counsel's Office during the month of May, 2001, in response to the messages that I left on Mr. Brazelton's cell phone.

As previously stated, my conversations with the District Attorney when he was in Washington D.C. related to two issues. I discussed with him when he anticipated his review of the Grand Jury report regarding former Clerk-Recorder Karen Mathews for liability would be completed. Mr. Brazelton indicated he was reviewing the report for liability and would complete his review soon. I advised Mr. Brazelton during our phone call that the County needed to know when the report on Case 01-10-C was going to be released because the County, through Chief Executive Officer Reagan Wilson, had made arrangements to have the Grand Jury report delivered to former Clerk-Recorder Karen Mathews by Lt. Jane Irwin of the Sheriff's Office.

The reason Chief Executive Officer Reagan Wilson made arrangements with Lt. Irwin to deliver the Grand Jury report to Ms. Mathews was that she had developed a personal relationship with Ms. Mathews. It had been reported to Chief Executive Officer Reagan Wilson that Karen Mathews may react in a way that could be detrimental to her health, and

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he wanted Lt. Irwin to personally deliver the Grand Jury report and monitor Ms. Mathews reaction to the report. Lt. Irwin had professional staff available to assist Ms. Mathews.

In another phone conversation with the District Attorney, I explained that the Chief Executive Officer wanted me to advise him that Lt. Irwin was preparing to go out of town at the end of May and that if the District Attorney did not complete his review of the report for liability prior to the end of May, that Lt. Irwin would not be available to deliver the report to Ms. Mathews.

I believe it is important to note that the Grand Jury failed to include as an exhibit and comment on Mr. Brazelton's phone billing statement (see Exhibit 4), which Mr. Brazelton told me he provided to the Committee. This is another example where the 2001-2002 Grand Jury makes a finding, in this case Finding #20, without the support of factual documentation that had been provided to them. The Committee had a copy of the phone bill which does not support Finding #20 and failed to mention the billing statement in the Report. This finding is contradicted by the evidence made available to but ignored by the Grand Jury.

66. Complaint #3, Finding #21, Page 21:

"County Counsel testified he made out of state telephone calls to the DA regarding Grand Jury case file 01-10-C."

Response:

AGREE, in part.

See response to Complaint #3, Findings #6, 12 and 20, at pages 31-32, 35, and 39-40 of this document.

One matter I discussed with District Attorney Jim Brazelton, as reported in my response to Complaint #3, Findings #6 and 20, at pages 31-32 and 39-40 of this document, related to Deputy District Attorney Harris' interpretation of Penal Code section 933.05 regarding whether or not Grand Jury Report 01-10-C should only be provided to former Clerk-Recorder Karen Mathews and not the County two days prior to the public release of that report. Deputy District Attorney Dave Harris stated that I should discuss this issue with Mr. Brazelton.

I disagreed with Deputy District Attorney Dave Harris and the District Attorney on their interpretation of Penal Code section 933.05 and ultimately requested a determination by Presiding Judge Mayhew shortly before Grand Jury Report 01-10-C was ready to be

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delivered to the former Clerk-Recorder. Judge Mayhew decided that Penal Code section 933.05 required that the County and the former Clerk-Recorder both receive a copy of Grand Jury Report 01-10-C two business days prior to the report being made public. Judge Mayhew's opinion was accepted by the District Attorney.

67. Complaint #3, Finding #22, Page 22:

"The DA testified that County Counsel attempted to persuade his office to approve and release CGJ report 01-10-C prior to his (DA's) return because the content of the report might exacerbate health problems of the party involved."

Response:

DISAGREE.

I do not know what was the District Attorney's testimony. I disagree that I attempted to persuade the District Attorney to release Grand Jury Report 01-10-C for any improper reason. I did not attempt to persuade the District Attorney to release Grand Jury Report 01-10-C prematurely for any reason. As previously stated, the Chief Executive Officer asked me to contact the District Attorney to determine exactly when his office would be completed with their review of Grand Jury Report 01-10-C for liability so that the County could make arrangements to have Lt. Irwin personally deliver Grand Jury Report 01-10-C to the former Clerk-Recorder. The Chief Executive Officer wanted Lt. Irwin to be present to monitor Ms. Mathews' response when she received Grand Jury Report 01-10-C. Either the witness or the Grand Jury misunderstood these efforts. There never was any discussion with the District Attorney's Office regarding the content of the report.

68. Complaint #3, Finding #23, Page 22:

"The DA testified this event raised the question in his mind: 'How did County Counsel know that the report would be critical of the Clerk-Recorder?'"

Response:

DISAGREE.

Grand Jury Finding #23 falsely implies that I had knowledge about the content of Grand Jury Report 01-10-C before it was released by the Grand Jury. I did not see a copy of Grand Jury Report 01-10-C until after a copy of the report was provided to the Chief Executive Officer. Lt. Irwin received Grand Jury Report 01-10-C from the Grand Jury

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Office and delivered a copy first to Ms. Mathews on the afternoon of Friday, May 25, 2001, and next to the Chief Executive Officer for the County as an affected agency. The Chief Executive Officer provided me with a copy of Grand Jury Report 01-10-C and I read the report for the first time.

I did not know what the report would say, nor did I know if it would be critical of Ms. Mathews. However, I did have information regarding allegations of misconduct by the former Clerk-Recorder. Based on the information I had, it was reasonable to assume that a Grand Jury might issue a report critical of Ms. Mathews' conduct in office.

69. Complaint #3, Finding #24, Page 22:

"GJ staff person testified she was aware of pressure and issues going back and forth from County Counsel to the DA, specifically the release of report 01-10-C."

Response:

AGREE, in part.

Because Ms. Ardis was in charge of coordinating the release of Grand Jury reports, I did share with her the legal issue about the release of Grand Jury Report 01-10-C to the County per Penal Code section 933.05 and the need to coordinate the delivery of the report to Ms. Mathews by Lt. Irwin.

70. Complaint #3, Finding #25, Page 22:

"GJ staff person testified County Counsel requested the status of the final report on case 01-10-C because he was anxious to have the report released. GJ staff told him the report would be heard before the full panel on May 17, 2001."

Response:

AGREE, in part.

I did share with Grand Jury staff person Marnie Ardis that the Chief Executive Officer needed to know when the final Grand Jury report regarding the former Clerk-Recorder was going to be issued because he was concerned about the possible affect that the Grand Jury report would have on the former Clerk-Recorder. I did share with Marnie Ardis the fact

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that Mr. Wilson suggested that Lt. Irwin of the Sheriff's Office could deliver the Grand Jury report to Ms. Mathews since Ms. Mathews was absent from the Clerk Recorder's Office.

71. Complaint #3, Finding #26, Page 22:

"Deputy DA testified that while the DA was out of state, County Counsel repeatedly contacted the Assistant DA for the release of the report."

Response:

DISAGREE, in part.

I did contact Deputy District Attorney Dave Harris while District Attorney Jim Brazelton was out of state as stated in response to Complaint #3, Finding #20, at pages 39-40 of this document. I also contacted Assistant District Attorney Carol Shipley. The calls did not request the premature release of Grand Jury Report 01-10-C. The purpose of my calls to the District Attorney's Office was to determine when the District Attorney's Office anticipated completion of its review of Grand Jury Report 01-10-C for liability. I was asked by Chief Executive Officer Reagan Wilson to contact members of the District Attorney's Office because further delay in the review of the report would jeopardize the County's plan to have Lt. Irwin deliver Grand Jury Report 01-10-C to Ms. Mathews because Lt. Irwin was scheduled to leave town (see response to Complaint #3, Findings #6, 20, and 24, at pages 31-32, 39-40 and 42 of this document).

72. Complaint #3, Finding #27, Page 22:

"DA testified he believed County Counsel reviewed Grand Jury case 01-10-C prior to release."

Response:

DISAGREE.

I have not seen or heard the District Attorney's testimony. However, if Finding #27 accurately reflects his testimony, the finding is false. As indicated in response to Complaint #3, Findings #20, 21, and 23, at pages 39-42 of this document, I did not receive a copy of, nor did I see, Grand Jury Report 01-10-C, until it was delivered to the former Clerk-Recorder by Lt. Irwin on May 25, 2001, after a copy was delivered to the Chief Executive Officer.

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When and to whom the report was served is factual information available to the Grand Jury. Had it responsibly investigated the allegations, it would not have relied upon the District Attorney's speculation.

This finding is false and could have been avoided if the Grand Jury had followed the long-standing practice of corroborating statements to ensure accuracy.

73. Complaint #3, Finding #28, Page 22:

"In testimony, County Counsel made the following statements in regards to Grand Jury case 01-10-C final report:

- a. He knew nothing about the investigation until he received a copy of the report the day before it was released to the public.
- b. He might have seen it the day before its release to the public, when the CEO received a copy.
- c. He did not see a copy of the report until after it had been released to the public."

Response:

AGREE, in part.

I **did not** state to the Committee that I knew nothing about the Karen Mathews' investigation until I received a copy of the report and the report was released to the public. I did have knowledge of the Karen Mathews' investigation because I was called to testify in Case 01-10-C. Furthermore, I had knowledge of the complaint materials that were sent to the Grand Jury and to the District Attorney by the Chief Executive Officer.

I was aware of the allegations and the documents and exhibits that the Chief Executive Officer forwarded to the 2000-2001 Civil Grand Jury and the District Attorney's Office for review on August 22, 2000. The first time I received a copy of Grand Jury Report 01-10-C was after the Chief Executive Officer received his copy, which was after Lt. Irwin personally delivered a copy to the former Clerk-Recorder on May 25, 2001.

74. Complaint #3, Finding #29, Page 22:

"DA testified the CEO and County Counsel continued to pressure his office to file criminal charges in reference to Grand Jury case 01-10-C."

Response:

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DISAGREE.

I disagree with Complaint #3, Finding #29. I never requested nor pressured the District Attorney in any way to file criminal charges against former Clerk-Recorder Karen Mathews. As indicated in response to Complaint #3, Finding #1, at pages 27-29 of this document, the Chief Executive Officer provided the District Attorney's Office the same documents that he provided to the 2000-2001 Grand Jury on August 22, 2000.

Over the past year and a half, the District Attorney's Office has requested from the County additional documents concerning former Clerk-Recorder Karen Mathews.

County external auditors, Bartig, Basler and Ray, conducted an audit and issued a report (see Exhibit 5) which indicated that former Clerk-Recorder Karen Mathews improperly expended \$1,201.00. Ms. Mathews paid the sum of \$1,201.00 to the County in September, 2000, for charges she placed on her County credit card. The former Clerk-Recorder also paid back to the County the sum of \$186.14 in October 2000 for credit card purchases for flowers.

County Auditor Larry Haugh conducted a second audit on former Clerk-Recorder Karen Mathews and determined that additional monies were improperly expended and that she needed to pay additional funds back to the County in the amount of \$912.27. Ms. Mathews has since paid back \$812.27, to the County and returned a \$100.00 lecture fee she improperly accepted from the Associated Chaplains in California State Service on November 10, 2000 (see Exhibit 5).

As a result of those two audits, Ms. Mathews paid back to the County the total sum of \$2,199.41.

75. Complaint #3, Finding #30, Page 22:

"DA testified the County never requested his office review CGJ case 01-02-C [sic] for criminal violations."

Response:

DISAGREE, in part.

I do not know what the District Attorney testified to, but I believe that if he testified as alleged in the finding, his testimony is not accurate. Although the County did not request the District Attorney to review the Grand Jury's case for criminal violations, the Chief Executive Officer Reagan Wilson separately sent the District Attorney a letter dated

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August 22, 2000, which included the same documentation that was provided the Grand Jury. As indicated in my response to Complaint #3, Finding #1 at page 27-29 of this document, the County requested the District Attorney to take action as he deemed appropriate; i.e., review the materials for potential criminal violations.

It should be noted that there is an inconsistency between Finding #29 and Finding #30. On one hand, Finding #29 alleges that the District Attorney testified that County Counsel pressured his office to file criminal charges related to the former Clerk-Recorder, but on the other hand, Finding #30 reports that the District Attorney claims that the County never requested his office to review that matter for criminal violations. As stated above, the truth is that the County forwarded the same materials that were included in the complaint to the Grand Jury to the District Attorney for his consideration and that County Counsel never pressured the District Attorney to file criminal charges against the former Clerk-Recorder. The inconsistent testimony attributed to the District Attorney causes the Report's conclusions based upon that testimony to be suspect.

76. Complaint #3, Finding #31, Page 22:

"County Counsel denies interfering with any CGJ investigation at any time."

Response:

AGREE.

I have never interfered with this, nor any other Civil Grand Jury investigation.

77. Complaint #3, Finding #32, Page 22:

"GJ staff person testified that County Counsel directed her to write a statement pertaining to case 01-10-C to present to the BOS in a public hearing."

Response:

DISAGREE.

Grand Jury staff person Marnie Ardis told me during the Spring of 2001 that a citizen met with her and identified himself as a close friend of former Clerk-Recorder Karen Mathews and stated to her that if the 2000-2001 Grand Jury issued a report critical of Karen Mathews that Karen Mathews would commit suicide. It is my understanding that Ms. Ardis

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was concerned that this contact was an improper attempt to influence the Grand Jury's investigation of Case 01-10-C and referred this matter to the District Attorney's Office.

Grand Jury staff person Marnie Ardis provided this information to me sometime after the contact with the citizen. Marnie Ardis also told me that she advised the District Attorney's Office about the citizen's contact when it occurred. Ms. Ardis told me of the contact sometime later and I suggested that she should memorialize the contact by the citizen. She prepared a statement and later sent a copy to me. I informed Chief Executive Officer Reagan Wilson about the citizen's contact and the statement by Ms. Ardis, and he decided to have Lt. Irwin deliver the report in case there was any truth to the citizen's allegations.

78. Complaint #3, Finding #33, Page 22:

"The GJ staff person testified she drafted said document and forwarded it to County Counsel for review. County Counsel made changes to the document and returned it to the GJ staff person."

Response:

AGREE, in part.

I reviewed a draft statement prepared by Grand Jury staff person Marnie Ardis regarding the citizen's contact. I suggested she remove confidential Grand Jury information from her draft statement.

79. Complaint #3, Finding #35, Page 23:

"In testimony, County Counsel admits requesting GJ staff person to write down some 'concerns' regarding case 01-10-C in a document, but denied the document was ever intended to be presented to the BOS."

Response:

AGREE, in part.

As indicated in response to Complaint #3, Finding #32, at pages 46-47 of this document, I suggested to Grand Jury staff person Marnie Ardis that she memorialize her concerns. I did **not** say that the draft statement prepared by Grand Jury staff person Marnie Ardis and the information contained in the draft statement would never be presented to the Board of

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Supervisors. I believe that my suggestion to Marnie Ardis that she memorialize her contact with the citizen was appropriate.

80. Complaint #3, Finding #36, Page 23:

"County Counsel testified he has the authority to solicit information from the GJ staff person as a County employee."

Response:

AGREE.

I told the Committee that Marnie Ardis was a "County" employee. As such, she is entitled to certain rights enjoyed by other County employees, including the right to be free of a "hostile working environment." In my position as attorney for the County, after talking with Grand Jury staff person, it is my opinion that the citizen's contact with Ms. Ardis, as reported to me, was inappropriate and improper. Ms. Ardis was agitated and expressed concern regarding the contact by the citizen when she advised me of the contact in the Spring of 2001.

81. Complaint #3, Finding #39, Page 23:

"On October 4, 2001 CGJ Foreperson (2001-2002) became aware the GJ staff person was going to make a verbal presentation to the BOS and he specifically told her not to make the presentation."

Response:

DISAGREE.

As indicated in response to Complaint #3, Findings #32, 33 and 35, at pages 46-48 of this document, Grand Jury staff person Marnie Ardis discussed with me her intent to make a presentation to the Board of Supervisors regarding the contact by the citizen and other concerns. It is my understanding that Ms. Ardis decided not to make a public presentation to the Board of Supervisors at that time.

82. Complaint #3, Finding #40, Page 23:

"County Counsel directed the GJ staff person to fax a copy of the document to the CGJ Foreperson."

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Response:

AGREE.

The 2001-2002 Grand Jury Foreperson, Robert Johnson, contacted me and told me that he was aware that Ms. Ardis had composed a statement regarding her concerns. I told him that I was aware that a statement had been prepared, and that if he was requesting a copy of her concerns then a copy of her statement would be provided to him. Ms. Ardis provided her draft statement to Mr. Johnson detailing the citizen's contact and other information which was contained in the statement. I thought at the time that the 2001-2002 Grand Jury would possibly investigate the reported contact by the citizen.

83. Complaint #3, Finding #41, Page 23:

"After reviewing this document, CGJ Foreperson expressed concern and annoyance to County Counsel that he (County Counsel) would make such a request of the GJ staff person without his knowledge or that of the Presiding Judge."

Response:

AGREE, in part.

I discussed with 2001-2002 Grand Jury Foreperson Robert Johnson his concern about certain information contained in a statement prepared by Grand Jury staff person Marnie Ardis. I advised Mr. Johnson that I would suggest to Ms. Ardis that she advise the Presiding Judge and Mr. Johnson if she decided to appear before the Board of Supervisors and share her concerns regarding the contact with a citizen and other matters included in her statement.

I explained to Mr. Johnson that it was appropriate for Ms. Ardis to make notes about what she perceived to be an improper contact by a citizen and about other concerns. I also reminded Mr. Johnson that Ms. Ardis was a "County" employee and not an employee of the courts and that a County employee has a right to express concerns and opinions to the Board of Supervisors.

In my opinion, the contact by the citizen, as described by Ms. Ardis, was improper and merited investigation by the Grand Jury and the District Attorney's Office.

84. Complaint #3, Finding #42, Page 23:

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"In testimony, County Counsel denied that he received calls from 2001-2002 CGJ Foreperson voicing concerns regarding the presentation of this statement."

Response:

DISAGREE.

This finding does not accurately reflect my testimony to the Committee. I discussed with Grand Jury Foreperson Robert Johnson his concerns regarding a public presentation of the statement that Grand Jury staff person Marnie Ardis prepared.

85. Complaint #3, Finding #43, Page 23:

"In testimony, County Counsel then recalled the conversation, but could not remember if he told the Foreperson there was or was not going to be a presentation to the BOS."

Response:

AGREE, in part.

As noted above in response to Complaint #3, Finding #42, at page 50 of this document, I recalled discussing with Foreperson Robert Johnson, who also was the chairperson of the Committee, his concerns about Ms. Ardis making a public presentation before the Board of Supervisors. I also told Grand Jury Foreperson Robert Johnson that Ms. Ardis decided not to make a presentation before the Board of Supervisors, but she would retain the written statement.

86. Complaint #3, Finding #44, page 23:

"CGJ Foreperson notified County Counsel that since the document contained confidential grand jury information he was opposed to the presentation."

Response:

AGREE, in part.

I recall Grand Jury Foreperson Robert Johnson advising me during our phone conversations that any statement made by Ms. Ardis should not contain Grand Jury

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confidential information, and I agreed with the Foreperson on that position. The Grand Jury Foreperson advised me that he was opposed to any presentation by Ms. Ardis to the Board of Supervisors on the matters contained in her statement, including the contact by the citizen and other non-confidential matters.

87. Complaint #3, Finding #45, Page 23:

"CGJ Foreperson informed the Presiding Judge who subsequently notified County Counsel of his opposition to said document in writing."

Response:

DISAGREE.

This finding does not accurately reflect the content of the letter from the Presiding Judge to me dated October 5, 2001. Judge Mayhew's letter did not object to Ms. Ardis' statement. Judge Mayhew did express his opposition to Ms. Ardis appearing before the Board of Supervisors. I immediately contacted Judge Mayhew and informed him that Ms. Ardis had already decided not to make a presentation before the Board of Supervisors. This is another example of where a finding is contradicted by the evidence.

88. Complaint #3, Finding #46, Page 23:

"County Counsel later informed CGJ Foreperson (by calling his home that weekend) the presentation had been reconsidered and would not occur."

Response:

AGREE, in part.

I did contact 2001-2002 Grand Jury Foreperson Robert Johnson at his home to advise him that Ms. Ardis had already decided not to make a public presentation to the Board of Supervisors. I told Foreperson Johnson that if a decision was made by Ms. Ardis to make a presentation to the Board of Supervisors that I would suggest that she notify the Grand Jury Foreperson and the Presiding Judge in advance of her intent to do so.

When Complaint #3, Findings #42, 43, 44, 45 and 46, are read in conjunction, these "findings" distort the chronological order. Prior to speaking with Judge Mayhew and Foreperson Johnson about this issue, Ms. Ardis told me that she decided not to make a presentation to the Board of Supervisors. I informed both parties of Ms. Ardis' decision when I spoke with them.

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89. Complaint #3, Finding #47, Page 24:

"County Counsel testified that GJ staff person has the right as a citizen to appear before the BOS during public comment period and make any statements she wants."

Response:

AGREE, in part.

I agree with the statement that a citizen or County employee has a right to appear before the Board of Supervisors in a public comment period and make a statement to the Board. I never said that she could make any statement she wanted. As indicated in response to Complaint #3, Finding #44, at pages 50-51 of this document, I agreed with Foreperson Johnson that Ms. Ardis should not include confidential Grand Jury information in her statement.

90. Complaint #3, Finding #48, Page 24:

"County Counsel then testified GJ staff person has no legal right to make public statements if it would reveal confidential Grand Jury business."

Response:

AGREE, in part.

It would not be appropriate for the Grand Jury staff person to make a public statement which contained confidential Grand Jury information. The use of the words "then testified" is a deliberate mischaracterization of the testimony. To some extent, my testimony evolved based upon the questions posed to me, which are not revealed in the Report. I continue to believe that Ms. Ardis may not reveal confidential Grand Jury business to the Board of Supervisors. I held that belief long before Ms. Ardis informed me she desired to speak to the Board and before I had contact with Judge Mayhew and Foreperson Johnson. I reject any inference that I formulated this opinion in the middle of my testimony to the Grand Jury.

91. Complaint #3, Finding #49, Page 24:

"CEO testified that he was aware that the GJ staff person wanted to make a presentation to the BOS regarding case file 01-10-C."

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Response:

AGREE.

I recall advising the Chief Executive Officer that Ms. Ardis was upset regarding contact she had with the citizen who told her that a critical report on Karen Mathews might cause her to commit suicide.

92. Complaint #3, Finding #60, Page 25:

"Approximately two (2) hours after the request for records, County Counsel called Foreperson to inform him that GJ staff person had filed a hostile work environment complaint due to interference in performing her job."

Response:

DISAGREE, in part.

I am unaware of what "request for records" is referenced in the first section of Complaint #3, Finding #60, page 25. On January 22, 2002, I phoned Foreperson Johnson to request a meeting with me and the Chief Executive Officer to discuss the administrative support position to the Grand Jury. During my conversation with Mr. Johnson, I also discussed a "personnel" matter. I provided this information to Mr. Johnson in his capacity as Foreperson of the Grand Jury and did not expect this "personnel" matter to be made public or included in a Grand Jury report.

On Thursday, January 24, 2002, Mr. Johnson informed me that upon advice of an attorney, he would not attend the meeting with the Chief Executive Officer and would not discuss the personnel matter that I discussed with him in our previous conversation on January 22, 2002.

93. Complaint #3, Finding #61, Page 25:

"County Counsel testified GJ staff person forwarded a written hostile work environment complaint to the CEO."

Response:

AGREE, in part.

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The finding accurately reflects my answers to the Committee's questions. I discussed this matter with Mr. Johnson in his capacity as Foreperson of the Grand Jury. The County considers all complaints of "harassment" or "hostile work environment" serious and investigates all complaints of this nature whether written or verbal. Such personnel matters are private in nature and should not be discussed in a public setting.

94. Complaint #3, Finding #78, Page 26:

"County Counsel testified 'the Court and the Grand Jury made a mistake' in its recommendation to the CEO to reassign the GJ staff person."

Response:

AGREE, in part.

The finding accurately reflects my answers to the Committee's questions. My testimony on this "personnel" matter was given in confidence since the issue related to a "personnel" matter. Such matters are private in nature and should not be discussed in a public setting. If the County took no action regarding a claim of "hostile work environment," the County could be exposed to liability.

95. Complaint #3, Finding #79, Page 26:

"County Counsel testified that had he been present when the CEO was notified of the Grand Jury request for reassignment of the GJ staff person, he would have advised him against taking this action."

Response:

AGREE, in part.

This finding accurately reflects my answers to the Committee's question. I now believe, based on the information Mr. Wilson had at the time, he made an appropriate decision with Ms. Ardis' best interests in mind. My testimony on this "personnel" matter was given to the Committee in confidence. Such matters are private in nature and should not be discussed in a public setting. I regularly advise Grand Juries that "personnel" matters are not an appropriate subject matter for inquiry as such issues invoke "privacy" issues. I discussed this matter in more detail with the Chief Executive Officer upon my return from vacation.

96. Complaint #3, Conclusion #7, Page 27:

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"County Counsel provided unsolicited legal advice to the CGJ."

Response:

DISAGREE.

I am not sure what "unsolicited" advice I am alleged to have provided or to whom it was provided. The "unsolicited" legal advice is not specified. I do not believe I provided "unsolicited advice" to any Civil Grand Jury.

97. Complaint #3, Conclusion #8, Page 27:

"County Counsel requested and received confidential CGJ information from GJ staff without approval of the Presiding Judge."

Response:

DISAGREE.

It is unclear what information is referred to in this conclusion. Assuming the conclusion refers to the letters discussed previously, I did request and receive from Ms. Ardis the letter from the Mayor dated May 16, 2001, and the response of Foreperson Compton dated May 18, 2001. As indicated in my response to Complaint #2, Findings #4, 10, 11, 12, 18, 33 and 39, at pages 5-9, 12, 18, and 21 of this document, and Complaint #2, Conclusions #3, 4 and 5, at pages 22-23 of this document, the two letters are public documents. I requested the two letters to evaluate the threat of potential litigation against the County and the Grand Jury. I requested the two letters from Ms. Ardis for the reasons indicated in my previous responses.

98. Complaint #3, Conclusion #9, Page 27:

"County Counsel directed the GJ staff person to draft a document containing confidential information for a presentation in a public forum."

Response:

DISAGREE.

I did not direct the Grand Jury staff person to draft a document containing confidential Grand Jury information for a presentation to the Board of Supervisors. As discussed previously, in response to Complaint #3, Findings #32, 33, 35, 36, 39, 40, 41, 42, 43, 44,

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45, 46, 48, 49 and 60, at pages 46-53 of this document, I did suggest to Ms. Ardis that she put in writing what she believed to be an improper contact she had received from a citizen as well as other issues of concern she had at the time.

99. Complaint #3, Conclusion #10, page 27:

"County Counsel participated in the taking of a deposition of a witness in a civil case and used this information to formulate a CGJ complaint."

Response:

DISAGREE, in part.

I was present during the deposition of former Clerk-Recorder Karen Mathews in the civil action she had filed against the County and which she subsequently dismissed after the first day of her deposition. It is true that portions of Ms. Mathews' testimony in her deposition were used to support the allegation of misconduct of her office, and information obtained in the deposition was included in the complaint filed with the Grand Jury by Chief Executive Officer Reagan Wilson. There is clear legal authority that disclosing information obtained in a deposition is proper.

100. Complaint #3, Conclusion #11, Page 27:

"After testifying as a witness in CGJ case 01-10-C, County Counsel interfered and attempted to manipulate the CGJ investigation."

Response:

DISAGREE.

I emphatically deny this conclusion. The 2000-2001 Grand Jury made its own decisions. I believe my responses to the findings and conclusions in the Report clearly address and provides sufficient justification for my actions. Based upon what I know and believe, this conclusion is nothing more than an unsupported allegation which has no basis in fact or law. In fact, one member of the 2000-2001 Grand Jury, Kathy A. Hogrefe, has publicly disputed this conclusion in a letter to the Modesto Bee dated August 14, 2002 (see Exhibit 7).

It should be noted that the Grand Jury 2000 Handbook contains a statement that reads:

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"While the Grand Jury is a part of the judicial system, it is an entirely independent body. Whereas the State Attorney General, the Presiding Judge of the Superior Court, the District Attorney, and the County Counsel, may act as its advisors, they cannot control the actions of the Grand Jury except to ensure legality. The Grand Jury is an institution not answerable to any administration, politician, or legislator. It is the overseer of the public interest." (Emphasis added.)

I did not improperly influence or manipulate any committee member or any member of the 2002-2001 Grand Jury that issued Grand Jury Report 01-10-C regarding the former Clerk-Recorder.

II.

GENERAL STATEMENTS AND OBSERVATIONS

- At no time did I ever improperly influence or manipulate the 2000-2001 Civil Grand Jury regarding Grand Jury Report 01-10-C.
- I believe my response accurately and fully addresses each finding and conclusion that has in any way stated or suggested that I acted to improperly influence or manipulate the 2000-2001 Grand Jury regarding Case 01-10-C.
- I believe that the Committee, chaired by Foreperson Robert Johnson, failed to conduct an objective, impartial and complete investigation.
- I believe the Report contains false and inaccurate findings and unsupported conclusions.
- The 2000 Grand Jury Handbook under the section on committees, states that:

"...all investigations, inspections, and reports must be based on valid and truthful observations, and should not reflect the personal bias of any single person.... The primary function of the Grand Jury is to be constructive."
- I believe in the Civil Grand Jury system and in the importance of having Civil Grand Jurors perform a "watch dog function" over the operations of local government activities. Therefore, it is equally important that Civil Grand Juries conduct objective

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and impartial investigations and accurately report on information, documents and testimony provided during an investigation.

- A Civil Grand Jury committee that does not conduct an objective investigation and a Grand Jury that does not sufficiently review a committee's findings and conclusions to insure accuracy and fairness, does a disservice to the community which it serves.
- Under the Civil Grand Jury "watch dog function," witnesses are subpoenaed to testify before Civil Grand Jury committees. Since the entire Grand Jury proceedings are conducted in secrecy, witnesses are **not** provided with a transcript of their testimony; are **not** allowed to present evidence and are limited to only answering questions posed to them; and are **not** allowed access to the testimony of individuals who have testified before the Grand Jury committees. Therefore, witnesses do **not** have the ability to review documents provided by witnesses or to rebut testimony by other witnesses even when such testimony is inaccurate or untruthful. The subject of a Grand Jury investigation is not allowed to confront his or her accusers.
- The foreperson of the 2001-2002 Civil Grand Jury, Robert Johnson, also served as the chair of the Committee that investigated and prepared the Report. This is the first time in Stanislaus County, and perhaps the first time in the State of California, where a Grand Jury "foreperson" has also served simultaneously as a "committee chair."
- Based upon the list of witnesses referenced in the Report, I know the Committee failed to call witnesses that I believe had information relevant to this Grand Jury investigation. For that reason, I reasonably believe the Report is based on an incomplete investigation.
- I believe that the numerous inaccuracies and misstatements contained in the Report partially result from testimony of certain witnesses who have personal vendettas against me and Marnie Ardis.
- Grand Jury members are advised to remove themselves from committees where a possible bias may exist or the committee member knows or has had previous contact with a person involved in the investigation. I believe that one member of the Committee may be biased against Stanislaus County and me in particular. In my opinion, this person should not have served on this Committee.

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- The 2001-2002 Grand Jury, by adopting the recommendations and report submitted to it by the Committee, omitted a number of important and relevant facts which, in my opinion, should have been included in the Committee report and the Report adopted by the 2001-2002 Grand Jury in order to achieve a complete and accurate report. THESE OMISSIONS INCLUDE:
 1. That in six findings, Complaint #3, Findings #8, 13, 14, 15, 16 and 17, in the Report, a "committee chairperson" is quoted but not identified. I believe that the "committee chairperson" who is quoted in the findings resigned months before the 2000-2001 Grand Jury issued its Report 01-10-C regarding former Clerk-Recorder Karen Mathews.
 2. The failure of the 2001-2002 Grand Jury to include the fact that the "committee chairperson" identified in Complaint #3, Findings #8, 13, 14, 15, 16 and 17 resigned from the 2000-2001 Civil Grand Jury, if that is the case, is significant and represents a material omission of an important fact. This omission is material because:
 - a. It leaves a **false impression** that the "committee chair" who is being quoted in those findings was **the** "committee chairperson" that served as the chair of the committee that wrote, deliberated and voted on the 2000-2001 Grand Jury Report 01-10-C.
 - b. It leaves the **false impression** that a person being quoted as a "committee chair" was a member of the 2000-2001 Grand Jury that issued Report 01-10-C.
 3. The Committee and the 2001-2002 Civil Grand Jury failed to include a copy of the District Attorney's one-page May, 2001, phone statement as an exhibit to the Report. The phone record shows that only **three** phone calls were made from the District Attorney to the Office of County Counsel during the month of May, 2001, in response to messages left by me on his cell phone, which undermines the finding that I called the District Attorney twelve to fourteen times. This is another item of information which the 2001-2002 Grand Jury quoted as fact when written documentation fails to support its conclusion (see Exhibit 4).
- There are two issues which were apparently before the Committee that they chose **not** to investigate and report on:

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1. The citizen contact as reported by Grand Jury staff person Ms. Ardis. It should be noted that the Committee chair, Robert Johnson, who also served in the dual capacity as Foreperson of the 2001-2002 Civil Grand Jury, had knowledge of the citizen contact as reported by Ms. Ardis. This raises a question in my mind as to the reason why Foreperson Johnson and the Committee failed to investigate and/or report on this matter?
 2. A Modesto Bee article dated January 19, 2002, quotes from a letter to Mayor Sabatino from 2001-2002 Civil Grand Jury Foreperson Robert Johnson dated December 7, 2001 (see Exhibit 6). Why didn't the Grand Jury also investigate the release of this letter like it did the May 18, 2001, letter from Foreperson Compton to the Mayor in the Report?
- Alleged threats by Mayor Sabatino to two Grand Jurors are reported in Complaint #2, Finding #10, page 15 in the Report. If true, would such threats by a public official merit an investigation by a Grand Jury, the District Attorney or possibly the Attorney General's Office?
 - My opinion is that the 2001-2002 Civil Grand Jury did not complete and release in a timely manner several Grand Jury reports including this Report. The fact that several Grand Jury reports were issued after July 1, 2002, raises the legal question as to whether or not any respondent, agency, or entity which is the subject of a Grand Jury report released after July 1, 2002, was legally required by law to respond to the Grand Jury reports because the reports were issued after July 1, 2002, when the 2001-2002 Grand Jury's term ended.

Civil Grand Juries in Stanislaus County have operated for many years on a fiscal year basis from July to July. The 2001-2002 Civil Grand Jury began on July 1, 2001, and should have concluded its term on July 1, 2002. Section 905.5 of the California Penal Code states, "...the grand jury shall be impaneled and serve during the fiscal year...." There is no **statutory** authority to extend the term of a Civil Grand Jury beyond a year.

The Honorable William A. Mayhew, Presiding Judge of the Superior Court, provided a written note to Chief Executive Officer Reagan Wilson indicating that the 2001-2002 Grand Jury had been extended to July 19, 2002. To my knowledge, Chief Executive Officer Reagan Wilson's office did not receive any additional notices of further extensions of the Civil Grand Jury from Judge Mayhew. Therefore, the 2001-2002 Grand Jury issued its Report after the Grand Jury's regular term expired

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on July 1, 2002, and after the late extension of the term by Judge Mayhew to July 19, 2002.

- A review of the list of witnesses that were interviewed by the Committee shows that several of them have been openly critical of the Board of Supervisors, County staff, and me, in particular. I believe that some of these witnesses have personal animosity or a vendetta against me.
- In order to validly support a conclusion that either myself or Ms. Ardis somehow interfered with or manipulated the 2000-2001 Civil Grand Jury that investigated former Clerk-Recorder Karen Mathews, **the Committee should have interviewed all 2000-2001 Grand Jury members to determine whether or not there was any improper influence or manipulation by either myself or Ms. Ardis** regarding the investigation of the former Clerk-Recorder Karen Mathews. I do not believe the Committee interviewed all members of the 2000-2001 Grand Jury. One 2000-2001 Grand Jury member Kathy A. Hogrefe, has, in her letter to the Modesto Bee published August 14, 2002, publicly called the 2001-2002 Grand Jury Report biased and inaccurate (see Exhibit 7).
- It appears from the list of witnesses interviewed by the Committee in the 2001-2002 Civil Grand Jury that not all of the 2000-2001 Grand Jurors who voted for issuance of Grand Jury Report 01-10-C were interviewed by the Committee. This failure to interview **all** 2000-2001 Grand Jury members calls in question the ability of the 2001-2002 Civil Grand Jury to properly reach its conclusion that I interfered and attempted to manipulate the Grand Jury investigation as set forth in Complaint #3, Conclusion 11.
- On April 30, 2001, I interviewed with the 2001-2002 Civil Grand Jury committee that identified itself as "Ad Hoc Committee No. 4." This committee was chaired by Robert Johnson, who also served as the "Foreperson" of the 2001-2002 Civil Grand Jury. I question what happened to the 2001-2002 Grand Jury Ad Hoc Committees Nos. 1, 2, and 3? Did any of those ad hoc committees ever conduct an investigation? If so, did those committees make any findings or reach any conclusions? If so, were those findings and conclusions ever reduced to writing and voted upon by a committee or shared with the members of the 2001-2002 Grand Jury? Were the committee members of the Ad Hoc Committees Nos. 1, 2, 3, and 4 composed of the same persons? Who selected the members of Ad Hoc Committee No. 4?

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III.

EXHIBITS

1. Notes of County Counsel Michael Krausnick of his reasons supporting his opinion why the two letters were public documents.
2. Article in the Modesto Bee dated July 10, 2001, reporting on the exchange between Mayor Sabatino and 2000-2001 Grand Jury member Frank Clark.
3. Letter to the Editor of the Modest Bee by Sheila Carroll, a member of the 2000-2001 Civil Grand Jury, dated July 16, 2001.
4. One-page Nextel billing statement for District Attorney Jim Brazelton for the billing period from May 8, 2001, to June 7, 2001.
5. County Auditor report to the Board of Supervisors dated November 6, 2001, regarding a report on former Clerk-Recorder Karen Mathews' fiscal management of the Stanislaus County Clerk-Recorder's Office.
6. Article in the Modesto Bee dated January 19, 2002, where a December 7, 2001, letter to Mayor Sabatino from 2000-2001 Grand Jury Foreperson Robert Johnson is quoted by Modesto Bee staff writer, Garth Stapley.
7. Letter to the Editor of the Modesto Bee by Kathy A. Hogrefe, a member of the 2000-2001 Civil Grand Jury, dated August 14, 2002.

**REASONS SUPPORTING MICHAEL KRAUSNICK'S
OPINION, THE LETTERS WERE PUBLIC DOCUMENTS**

1. California law and case decisions regarding public records support release of documents to allow the public to oversee the actions of public officials in areas that the public may have an interest. Access to information concerning public business is fundamental and a right granted to the public under the Public Records Act.

2. Mayor Sabatino's letter to the Grand Jury and the Grand Jury Foreman's response were discussed publically by Mayor Sabatino on a public news radio station on June 1, 2001, and at a public meeting July 9, 2001, some months prior to my advising Supervisor Simon that the matters were, in my legal opinion, public documents subject to release to the public.

3. By Mayor Sabatino publically discussing the letters and their content in public on at least two occasions, any claim of confidentiality was eliminated, in my opinion, by the public discussion of the letters. In my opinion, by misrepresenting the content of the two letters. Mayor Sabatino made these documents public by placing them in the public's domain and made them part of the public interest. Gov. Code Section 6254.5 notes that if documents are made public, they lose their claim of confidentiality.

4. Mayor Sabatino further discussed these two letters in a public forum on July 9, 2001, at the new Grand Jury orientation, once again placing the letters in public domain. As noted earlier, Mayor Sabatino misrepresented the facts relating to the two letters which resulted in another public discussion and a printed article in the Modesto Bee on July 10th.

All of these actions occurred before I had any contact with Supervisor Simon regarding the letters which someone placed on his desk.

5. There are, to my knowledge, no laws in California that apply "confidentiality" rules to the two letters in question. The letters were not part of any Civil Grand Jury investigation. They were not documents that the entire Grand Jury reviewed as part of or related to an on-going investigation. The two letters did not enjoy the "confidentiality" protection applied to Civil Grand Jury documents received during an investigation. Applicable California Code sections regarding a grand jury show that the prohibition against disclosure of grand jury records is very narrowly defined and applies only to sworn testimony, evidence introduced during deliberations, grand jury deliberations, grand jury discussions, and voting particularities of grand juries. The two letters do not fit within any of these areas. Further, California law prohibiting against disclosure of grand jury matters apply only to grand jurors.

6. The fact that Mayor Sabatino used City of Modesto letterhead to send his letter to the Grand Jury, and signed the letters as Mayor, acts to make the May 16, 2001 letter to the Civil Grand Jury foreman a public document, which is subject to release under the Public Records Act. The response that was sent back from Mr. Compton, the then Civil Grand Jury foreman, to Mayor Sabatino was sent to him at the City of Modesto address and, therefore, became a city document subject to disclosure under the Public Records Act.

7. Mayor Sabatino's letter of May 6th did not rise to the level of a Grand Jury complaint

or other Grand Jury matter where Grand Jury confidentiality attaches.

8. I applied the appropriate balancing test that is prescribed under California law in favor of not having secret communications and having all documents that are not specifically exempted under the Public Records Act or other applicable laws made available to the public. In my legal opinion and applying the balancing test, I concluded these two letters met the test to be disclosed and that under the totality of circumstances of this case, a dominating public interest in disclosure of the two letters existed.

Sabatino prompts juror to respond

By JOHN HOLLAND
BEE STAFF WRITER

A grand juror clashed Monday with Modesto Mayor Carmen Sabatino over the recent investigation of the Stanislaus County clerk-recorder's office.

Sabatino, speaking at the orientation for the 2001-02 jury, complained that the previous panel interviewed only a few of the office's employees in looking into actions of Clerk-Recorder Karen Mathews.

The mayor, who has accused other county officials of trying to interfere with the office's running of elections, also said the grand jury rebuffed his offer to be interviewed.

"In my mind, the grand jury, by refusing to call me as a witness in a specific matter, was indeed engaged in politics," Sabatino said.

His remarks prompted a response from Frank Clark of Oakdale, one of two 2000-01 grand jurors serving on the new panel.

"Mr. Mayor, while you're entitled to your opinions, they serve no useful purpose here today," Clark said. "I don't think this is a proper forum for your complaints about last year's grand jury."

Clark, reading from a statement he scribbled while listening to Sabatino, rejected the idea that the jury was caught up in politics.

"I think four words describe last year's grand jury: honesty, dedication, thoroughness and integrity," he said.

The orientation took place in the boardroom at Tenth Street Place right after Judge William Mayhew swore in the new 19-member jury in his courtroom. The speakers included several county and Modesto officials, who mainly spoke about the general procedures for the panel.

The previous jury in May issued a report accusing Mathews of, among other things, making personal use of a county credit card and computer, using her secretary to edit a book manuscript and employing her son in violation of the county's nepotism policy.

Mathews disputed the allegations in a brief statement to the media and said she would go into detail in a response due July 30.

She has been on medical leave since April, largely because of what she

CONTINUED FROM B-1

said are lingering problems from the assault she suffered in 1994 from an associate of an anti-tax group.

Sabatino said the previous grand jury interviewed only five of Mathews' employees, a small fraction of the staff. The report says seven current staffers and one former employee were interviewed, along with Mathews and several officials in other departments.

Sabatino has made an issue of the clerk-recorder's office since shortly after he was elected in 1999.

He claimed that the county counsel's office tried to get Mathews to delay issuing mail ballots for his runoff election until backers of his rival, Dick Lang, could send out a campaign mailer. The secretary of state's office reported that it found no wrongdoing.

More recently, Sabatino has claimed that county officials could use Mathews' leave as a pretext for changing the clerk-recorder's status from elected to appointed. The Board of Supervisors and Reagan Wilson, the county's chief executive officer, have said they have no such plan.

Bee staff writer John Holland can be reached at 578-2385 or jholland@modbee.com.

NEW GRAND JURY

The 2001-02 civil grand jury, sworn in Monday, is composed of:

■ FROM MODESTO — Roy Bruk, Randall W. Clark, Larry W. Erwin, Fred (Dick) Freudenthal, Martha Stalp Martin, Linda McDermott, Richard Melgoza, John Mark Nolen, George C. Pettygrove, Doris Lesta Scanlon, Becky Ward and Susan Lynn Weaver.

■ FROM CERES — Gene Harvey Balentine and Harry Herbert.

■ FROM HUGHSON — George Carr.

■ FROM OAKDALE — Frank B. Clark and Joanne Whipple.

■ FROM TURLOCK — Robert E. Johnson (foreman).

■ FROM PATTERSON — Donald A. Thill.

The alternates are Yvonne Allen, Alan L. Fontes, Thomas Alan Nipper and Richard Provost, all from Modesto.



The Modesto Bee

The Modesto Bee's opinion is expressed in the editorials on this page. The opinions expressed in columns, letters and cartoons are those of the authors and artists.

Monday, JULY 16, 2001

Keeping politics out

I was privileged to serve on the civil grand jury during 1999-2000 and 2000-01 and can attest to the fact that the jury panel is impartial, objective, unbiased and ethical.

When citizens or employees have observed or been subjected to an injustice, they are often apprehensive to take action for fear of harassment, demotion or job loss. The civil grand jury provides a safe haven for people to anonymously register a complaint without fear of reprisal.

The grand jury seeks testimony from witnesses who can contribute information relating to a complaint. It does not honor requests from politicians who do not possess information germane to the investigation and do not have knowledge of the specific allegations presented in the complaint. The fact that last year's civil grand jury did not allow Mayor Sabatino to speak only validates the integrity of the system by not allowing a politician to influence, pressure or tarnish the purity of the investigative process.

The civil grand jury provides an honorable service to the

community. It should be praised, not defamed for political purposes.

SHEILA CARROLL
Modesto



Account name
 Account numt
 Statement dat
 Billing period

JAMES B DA (209) 652-1287 continued...

Item #	Date	Time	Call To	Number Called	Footnote	Min:Sec	Usage	Long Distance	Total Usage and Long Distance
85	May 16	08:26 PM		INCOMING	PP/NN	1:17	0.15	0.19	0.34
85	May 18	08:36 PM		INCOMING	PP/NN	1:00	0.12	0.15	0.27
87	May 21	04:35 PM	WASHINGTON, DC	202-277-2065	PP/NN	3:32	0.42		0.42
88	May 21	05:04 PM	TOLL FREE, CL	877-451-4602	PP/NN	1:57	0.23		0.23
89	May 21	05:38 PM	MODESTO, CA	209-525-5524	PP/NN	1:07	0.13	0.17	0.30
90	May 21	05:39 PM	MODESTO, CA	209-525-5558	PP/NN	1:12	0.14	0.18	0.32
91	May 21	06:07 PM	MODESTO, CA	209-527-1914	PP/NN	4:54	0.59	0.74	1.33
92	May 21	07:14 PM		INCOMING	PP/NN	1:25	0.17	0.21	0.38
93	May 22	11:32 AM	MODESTO, CA	Voice Mail	PP/NN	2:05	0.25	0.31	0.56
94	May 22	11:58 AM	MODESTO, CA	209-525-5557	PP/NN	1:00	0.12	0.15	0.27
95	May 22	12:00 PM	MODESTO, CA	209-652-1272	PP/NN	22:35	2.71	3.35	6.10
96	May 22	12:44 PM	MODESTO, CA	209-652-1272	PP/NN	2:42	0.32	0.41	0.73
97	May 22	12:54 PM		INCOMING	PP/NN	2:35	0.31	0.39	0.70
98	May 22	12:57 PM	MODESTO, CA	209-525-6376	PP/NN	1:00	0.12	0.15	0.27
99	May 22	02:23 PM		INCOMING	PP/NN	3:07	0.37	0.47	0.84
100	May 22	02:27 PM	MODESTO, CA	Voice Mail	PP/NN	1:00	0.12	0.15	0.27
101	May 22	03:05 PM	MODESTO, CA	Voice Mail	PP/NN	1:07	0.13	0.17	0.30
102	May 22	06:13 PM	MODESTO, CA	209-652-1272	PP/NN	2:33	0.31	0.38	0.69
103	May 22	06:52 PM	MODESTO, CA	209-525-6376	PP/NN	5:19	0.64	0.80	1.44
104	May 22	08:52 PM	MODESTO, CA	209-652-1272	PP/NN	3:41	0.44	0.55	0.99
105	May 23	02:48 PM	MODESTO, CA	Voice Mail	PP/NN	1:00	0.12	0.15	0.27
106	May 23	06:23 PM	MODESTO, CA	209-525-5557	PP/NN	1:33	0.19	0.23	0.42
107	May 23	06:25 PM	MODESTO, CA	209-525-5558	PP/NN	1:06	0.13	0.17	0.30
108	May 23	08:34 PM		INCOMING	PP/NN	12:24	1.49	1.86	3.35
109	May 24	12:47 PM	MODESTO, CA	209-525-5524	PP/NN	12:16	1.47	1.84	3.31
110	May 24	03:10 PM		INCOMING	PP/NN	6:42	0.80	1.01	1.81
111	May 24	05:05 PM		INCOMING	PP/NN	5:00	0.60	0.75	1.35
112	May 24	05:22 PM		INCOMING -	PP/NN	2:53	0.35	0.43	0.78
113	May 24	05:30 PM		INCOMING	PP/NN	1:25	0.17	0.21	0.38
114	May 24	05:36 PM	MODESTO, CA	209-525-6376	PP/NN	2:44	0.33	0.41	0.74
115	May 24	05:50 PM		INCOMING	PP/NN	18:34	2.23	2.79	5.02
116	May 24	06:35 PM		INCOMING	PP/NN	17:21	2.08	2.60	4.68
117	May 25	10:53 AM	MODESTO, CA	209-652-1272	PP/NN	2:23	0.29	0.36	0.65
118	May 25	01:14 PM	MODESTO, CA	209-525-5558	PP/NN	1:00	0.12	0.15	0.27
119	May 26	12:38 PM	RIVERBANK, CA	209-869-2738	OP/NN	5:30	0.68	0.85	1.45
120	May 29	02:37 PM	SACRAMENTO, CA	916-564-6600	PP	2:42	0.32		0.32
121	May 29	03:48 PM	MODESTO, CA	209-525-5558	PP	4:14	0.51		0.51
122	May 30	08:17 AM	MODESTO, CA	209-525-5558	PP	1:00	0.12		0.12
123	May 30	09:38 AM		INCOMING	PP	1:00	0.12		0.12
124	May 30	09:42 AM		INCOMING	PP	1:00	0.12		0.12
125	May 30	11:26 AM	MOBILE, CL	209-652-1272	PP	2:02	0.24		0.24
126	May 30	05:09 PM		INCOMING	PP	2:51	0.34		0.34
127	May 31	12:00 PM		INCOMING	PP	1:10	0.14		0.14
128	May 31	01:47 PM	MODESTO, CA	209-529-8713	PP	1:32	0.18		0.18
129	May 31	04:43 PM		INCOMING	PP	3:23	0.41		0.41
130	Jun 01	10:32 AM	MODESTO, CA	209-541-5605	PP	1:49	0.22		0.22
131	Jun 01	05:45 PM	MODESTO, CA	Voice Mail	PP	1:00	0.12		0.12
132	Jun 02	12:12 PM	MODESTO, CA	209-529-8713	OP	1:00	0.12		0.12
133	Jun 02	12:29 PM		INCOMING	OP	4:02	0.48		0.48
134	Jun 02	01:06 PM		INCOMING	OP	1:49	0.22		0.22
135	Jun 02	01:41 PM		INCOMING	OP	2:21	0.28		0.28

Footnote	Features	Networks	Services	Time Period
	CW-Call Waiting	NN-National Network	AL-Alternate Line	PP-Peak Period
	CF-Call Forwarding	CN-Canadian Network	PU-Plan/Promotional Usage	OP-Off Peak Period
	3W-Three Way Call	WW-NexTel Worldwide	PF-Partial Free	MP-Multiple Period
	DS-Dialup Service		PC-Partial Call	

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: AUDITOR-CONTROLLER

BOARD AGENDA # *B-1

Urgent Routine

AGENDA DATE November 6, 2001

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT: ACCEPT THE AUDITOR-CONTROLLER'S REPORT ON FORMER CLERK-RECORDER
KAREN MATHEWS' FISCAL MANAGEMENT OF THE STANISLAUS COUNTY CLERK-
RECORDERS OFFICE

STAFF
RECOMMEN-
DATIONS:

1. ACCEPT THE AUDITOR-CONTROLLER'S REPORT ON FORMER CLERK-
RECORDER KAREN MATHEWS' FISCAL MANAGEMENT OF THE STANISLAUS
COUNTY CLERK-RECORDERS OFFICE.
2. APPROVE THE REPORT RECOMMENDATIONS CONTAINED HEREIN.
3. AUTHORIZE THE DISTRIBUTION OF THIS REPORT AND EXHIBITS TO THE
DISTRICT ATTORNEY FOR REVIEW AND APPROPRIATE ACTION.

FISCAL IMPACT: Based upon our review, Karen Mathews should reimburse the County for all of her personal expenses incurred by the County, or provide the Auditor-Controller's Office with a detailed explanation and reason why all personal expenses described in this report should not be immediately repaid to the County. Following an audit performed by Bartig, Basler & Ray, our external auditors, Karen Mathews paid to the County the sum of \$1,201.00 in September 2000, for charges she placed on her County credit card. She also paid the County the sum of \$186.14 in October 2000 for credit card purchases for flowers. The current audit has identified the sum of \$912.27, which the Auditor's office has determined must be paid back to the County. These monies are in addition to the \$1,387.14 which she has previously paid back to the County.

BOARD ACTION AS FOLLOWS:

REVIEW OF FINANCIAL CONDUCT OF FORMER
CLERK-RECORDER KAREN MATHEWS

October 31, 2001

Employment of Relatives

Finding

Per Section 3.08.250 of the Stanislaus County Ordinance "..... No person related to a full-time elected or appointed county officer.... by blood..... shall be appointed or transferred into a department employing such relative in a direct conflict of interest position." Karen Mathews, a full-time elected county officer, employed her son, Michael Mathews, for a total compensation of \$10,636.80 between April 1, 1998 and November 3, 1998. During this period, the former Clerk-Recorder Karen Mathews signed eleven of her son's timecards. A direct conflict of interest is defined as a situation in which the employee of the relative would be in a position to affect the terms and conditions of employment. Karen Mathews, as the department head, had the ability to affect the terms and conditions of her son in the Clerk-Recorder's Office. A violation of the County's nepotism policy occurred by the employment of Michael Mathews by the then Clerk-Recorder Karen Mathews.

Recommendations

All prospective employees should be required to complete Section 8 of the Application for Employment, County of Stanislaus. Section 8 requires the applicant to list any relatives employed by the County of Stanislaus. The employing County department and the Personnel Department should review this section for all prospective employees and reject all applications that could potentially violate Section 3.08.250 of the County Ordinance.

Personal Phone Calls

Finding

Pursuant to the Stanislaus County Personal Telephone Call Policy, abuse of the telephone constitutes grounds for discipline under the county code. Abuse includes unauthorized, non-business use of equipment and includes misuse of county-paid time. It includes, for example, unauthorized long distance calls or loss of employee productivity because of ongoing, repeated personal telephone calls, even locally. For the period July 1996 to June 2000, the county cell phones assigned to Karen Mathews incurred charges totaling \$5,686.36. A study undertaken by the Telecommunications Division of Management Information Services concluded that of the total 6,189 minutes, 4,069 were to non-county numbers. A proration of the minutes between county and non-county numbers to the charges by period incurred results in \$3,593.31 in charges for non-county numbers. A violation of the Stanislaus County Personal Telephone Calls Policy appears to have occurred by the then Clerk-Recorder Karen Mathews, in utilizing a county phone for non-county business.

REVIEW OF FINANCIAL CONDUCT OF FORMER
CLERK-RECORDER KAREN MATHEWS

Page 3

Meals Charged on County Credit Card

Finding

We found that the Clerk-Recorder's credit card activity included meals at a total cost of \$488.54 for the period April 11, 1997 to November 14, 1997. We were unable to verify that the meal expenses had been authorized as allowable meal expenses for the Clerk-Recorder. There are no written Trip Authorizations to support these charges and therefore they must be treated as personal expenses. A violation of the Stanislaus County Purchasing Card Policy occurred when the then Clerk-Recorder Karen Mathews improperly used the County credit card for the purchase of personal meals.

Recommendation

We recommend reimbursement by the former Clerk-Recorder to the County of half of the meals charged, which represents the former Clerk-Recorder's share when being guarded by a deputy sheriff. This computes to \$244.27. The Deputy Sheriff's meals related to the guarding of Ms. Mathews appear to be appropriate charges to the County. Written Trip Authorizations should be prepared prior to all out of town travel. In-town meals should be documented on the receipt as to the County purpose of the meeting and the names of the employees attending.

Cash Receipts Procedures

Finding

We reviewed evidence that a check was received by the Clerk-Recorder's Office that was not deposited into the Treasury. The Associated Chaplains in California State Service sent a check for \$139 on November 10, 2000 to Karen Mathews, Stanislaus County Clerk for \$39.00 in mileage reimbursement and \$100.00 in honorarium. The check was received on November 15, 2000, and rather than being deposited, was given to Karen Mathews. We have been able to confirm from Karen Mathews that this check was cashed by her and that she is in the process of reimbursing the Associated Chaplains. A copy of the cashed check has been requested from the Associated Chaplains so that the endorsement can be examined. A violation of the County's Gift Policy and state law appears to have occurred when Clerk-Recorder Karen Mathews cashed the check for the honorarium from the Associated Chaplains.

Recommendation

All checks received by the Clerk-Recorder's Office should be receipted and immediately deposited into the County Treasury. Karen Mathews should reimburse the County the \$100 honorarium that should have been deposited into the County Treasury.

Bartig, Basler & Ray

A Professional Corporation

Certified Public Accountants and Management Consultants

Frank V. Trythall
Kenneth E. Pope
Brad W. Constantine
Theril H. Lund
Bruce W. Stephenson

Curtis A. Orgill

REPORT OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS

Byron E. Bystrom, Auditor-Controller
Stanislaus County

We have performed the procedures enumerated in the Procedures and Findings Section of this report, which were agreed to by the Auditor-Controller of Stanislaus County, to the employee credit card program of the County of Stanislaus, solely to assist you in evaluating the maintenance of the program in accordance with established policies, as of March 31, 1999 and 1998 and the years then ended. This agreed-upon procedures engagement was performed in accordance with standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of the Auditor-Controller of Stanislaus County (the specified user of this report). Consequently, we make no representations regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

The procedures we performed and our findings are included in the Procedures and Findings Section of this report.

These agreed-upon procedures do not constitute an audit or review of financial statements or any part thereof, the objective of which is the expression of an opinion or limited assurance on the financial statements or a part thereof. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the use of the specified user listed above and should not be used by those who have not agreed to the procedures and taken responsibility for the sufficiency of the procedures for their purposes.

BARTIG, BASLER & RAY, CPAs, INC.

Bartig, Basler & Ray, CPAs, Inc.

June 21, 2000

STANISLAUS COUNTY
CREDIT CARD PROGRAM

Procedures and Findings
March 31, 1999 and 1998

CLERK RECORDER

Finding

We noted that the Clerk-Recorder's credit card activity included workday meals during the first four months of 1997 that lacked appropriate documentation regarding the business purpose of the meals. Total meal expenses during the period totaled \$2,402 and were for the Clerk Recorder and an assigned deputy sheriff. We were unable to verify that the meal expenses had been authorized as allowable meal expenses for the Clerk-Recorder. We were informed that due to the unusual circumstances leading to the assignment of a deputy sheriff to provide protection for the Clerk-Recorder, the Clerk-Recorder felt that it was appropriate to charge the meals as County expenses. There was no written authorization for this action.

Recommendation

We recommend that the Clerk-Recorder provide reimbursement to the County for 50 percent of the total meal expenses (\$1,201). We also recommend that written authorization be obtained for any expenses that are outside the normal course of business.

For all County departments, we recommend that a signed accountability report be prepared for all expenses and submitted to the Auditor-Controller's Office for review on a monthly basis. The timely review of the accountability report will minimize the risk that unallowable expenses will continue for a prolonged period.

Department Response

The Clerk-Recorder reimbursed the County for 50 percent of the total meal expenses as recommended (\$1,201).

COUNTY OF STANISLAUS
CREDIT CARD MEAL CHARGES
CLERK RECORDER

		B	L	D	Total	Limit for 1	Limit for 2	50% of Actual	Amt Over Limit for 1
Mon	1/10/97			20.77	20.77	21.00	42.00		
Tue	1/14/97		19.45		19.45	11.00	22.00	10.53	(0.23)
Wed	1/16/97		14.24	15.21	29.45	32.00	64.00	7.23	3.45
Thu	1/18/97			18.93	18.93	21.00	42.00	14.73	(2.55)
Fri	1/17/97		8.15	23.72	35.60	32.00	64.00	8.48	(4.05)
Sa	1/18/97			20.85	20.85	21.00	42.00	17.95	3.90
Sun	1/19/97	13.60	21.65	10.73	45.98	42.00	84.00	10.43	(0.15)
Mon	1/20/97	10.73			10.73	10.00	20.00	22.99	3.63
Tue	1/21/97			21.01	21.01	21.00	42.00	5.40	0.79
Wed	1/22/97		9.52	20.33	29.85	32.00	64.00	10.51	0.01
Thu	1/23/97			19.14	19.14	21.00	42.00	14.95	(2.10)
Fri	1/24/97			21.35	21.35	21.00	42.00	9.57	(1.88)
Sa	1/25/97	8.64	11.84	25.84	47.12	42.00	84.00	10.63	0.35
Sun	1/25/97		27.73					23.53	5.12
Mon	1/26/97	9.84		11.77	21.61	31.00	62.00	10.51	(9.33)
Tue	1/27/97			22.31	22.31	21.00	42.00	13.19	3.31
Wed	1/29/97		15.83	14.33	30.01	32.00	64.00	15.01	(1.99)
Thu	1/30/97			20.33	20.33	21.00	42.00	10.18	(0.85)
Fri	1/31/97		11.24	17.83	29.12	32.00	64.00	14.53	(2.53)
Sa	2/1/97		14.48		14.48	11.00	22.00	7.23	3.42
Sun	2/2/97			15.01	15.01	21.00	42.00	7.51	(5.99)
Mon	2/3/97			8.57	8.57	21.00	42.00	4.29	(12.43)
Tue	2/4/97			23.63	23.63	21.00	42.00	11.97	2.53
Wed	2/5/97		6.94	18.05	22.03	32.00	64.00	11.02	(9.97)
Thu	2/6/97								
Fri	2/7/97			31.35	31.35	21.00	42.00	15.53	10.35
Sa	2/8/97	10.36	7.70	25.72	43.80	42.00	84.00	21.30	1.80
Sun	2/9/97		30.92	17.62	48.52	32.00	64.00	24.29	18.58
Mon	2/10/97		2.25	16.14	24.39	32.00	64.00	12.20	(7.61)
Tue	2/11/97	7.48	23.78		38.23	21.00	42.00	18.12	15.23
Wed	2/12/97			24.93	24.93	21.00	42.00	12.43	3.53
Thu	2/13/97		17.23	17.78	35.01	32.00	64.00	17.51	3.01
Fri	2/14/97			35.23	35.23	21.00	42.00	17.54	14.23
Sa	2/15/97			23.42	23.42	21.00	42.00	13.21	5.42
Sun	2/16/97		11.92	21.66	33.53	32.00	64.00	16.77	1.53
Mon	2/17/97		21.99	20.03	42.07	32.00	64.00	21.04	10.07
Tue	2/18/97		18.00	25.73	44.73	32.00	64.00	22.40	12.73
Wed	2/19/97		25.83	35.13	61.99	32.00	64.00	31.00	29.99
Thu	2/20/97								
Fri	2/21/97			25.12					
Sa	2/22/97		10.53	23.67	34.45	32.00	64.00	17.23	2.45
Sun	2/23/97		20.74	23.13	43.91	32.00	64.00	24.43	16.91
Mon	2/24/97		18.30	25.02	42.32	32.00	64.00	21.16	10.32
Tue	2/25/97	7.57		21.23	28.45	31.00	62.00	14.33	(2.35)
Wed	2/23/97		11.77	15.51	27.28	32.00	64.00	13.54	(4.72)
Thu	2/27/97								
Fri	2/28/97		13.85	4.07	19.52	32.00	64.00	9.93	(12.06)

B = breakfast
L = lunch
D = dinner

COUNTY OF STANISLAUS
 CREDIT CARD MEAL CHARGES
 CLERK RECORDER

		B	L	D	Total	Limit for 1	Limit for 2	50% of Actual	Amt Over Limit for 1
Sa	3/1/97		21.35	21.59	42.94	32.00	64.00	21.47	10.94
Sun	3/2/97		12.49	26.18	38.65	22.00	64.00	19.24	8.65
Mon	3/3/97								
Tue	3/4/97		5.38		5.38	11.00	22.00	2.69	(5.92)
Wed	3/5/97								
Thu	3/8/97								
Fri	3/7/97		34.43	13.37	47.83	32.00	64.00	23.91	15.85
Sa	3/8/97			35.03	35.03	21.00	42.00	17.52	14.03
Sun	3/8/97	11.53		22.45	34.00	31.00	62.00	17.00	5.00
Mon	3/10/97			13.05	13.05	21.00	42.00	6.53	(7.55)
Tue	3/11/97			9.09	9.09	21.00	42.00	4.55	(11.91)
Wed	3/12/97			18.05	18.05	21.00	42.00	9.03	(2.94)
Thu	3/13/97		8.93	21.59	29.56	22.00	64.00	14.29	(3.45)
Fri	3/14/97			18.07	18.07	21.00	42.00	9.04	(2.95)
Sa	3/15/97		14.60		14.60	11.00	22.00	7.30	5.60
Sun	3/15/97	7.30			7.30	10.00	20.00	3.65	(2.70)
Mon	3/17/97			19.12	19.12	21.00	42.00	9.56	(1.88)
Tue	3/18/97			23.23	23.23	21.00	42.00	11.63	2.23
Wed	3/19/97			23.93	23.93	21.00	42.00	16.93	12.94
Thu	3/20/97		12.21	12.27	31.03	32.00	64.00	15.51	(0.92)
Fri	3/21/97			14.02	14.02	21.00	42.00	7.01	(8.95)
Sa	3/22/97								
Sun	3/23/97	10.36			10.36	10.00	20.00	5.18	0.36
Mon	3/24/97		5.35	24.93	30.33	32.00	64.00	15.17	(1.97)
Tue	3/25/97		20.72		20.72	11.00	22.00	10.36	9.72
Wed	3/26/97		11.54	17.03	28.57	32.00	64.00	14.29	(3.43)
Thu	3/27/97								
Fri	3/28/97			30.23	30.23	21.00	42.00	15.11	9.25
Sa	3/29/97			6.93	6.93	21.00	42.00	3.46	(14.04)
Sun	3/30/97		27.32	18.70	46.02	32.00	64.00	23.01	11.02
Mon	3/31/97	11.53	22.00	23.92	60.41	42.00	84.00	30.21	18.41
Tue	4/1/97								
Wed	4/2/97		14.85	18.27	31.10	32.00	64.00	15.55	(0.93)
Thu	4/3/97		8.41	13.91	25.22	32.00	64.00	12.61	(6.76)
Fri	4/4/97		12.69		12.69	11.00	22.00	6.35	1.62
Sa	4/5/97		16.61		16.61	11.00	22.00	8.31	5.61
Sun	4/6/97	10.74	22.00		32.74	21.00	42.00	16.37	11.74
Mon	4/7/97			18.23	18.23	21.00	42.00	9.12	(2.77)
Tue	4/8/97		15.63	9.09	24.72	32.00	64.00	12.36	(7.25)
Wed	4/9/97			14.83	14.83	21.00	42.00	7.42	(6.57)
Thu	4/10/97		16.13	13.61	35.74	32.00	64.00	17.87	9.74

B = breakfast
 L = lunch
 D = dinner

COUNTY OF STANISLAUS
 CREDIT CARD MEAL CHARGES
 CLERK RECORDER

	B	L	D	Total	Limit for 1	Limit for 2	50% of Actual	Am't Over Limit for 1
Fri 4/11/97			14.33	14.33	21.00	42.00	7.17	(5.67)
Sa 4/12/97			11.49	11.49	21.00	42.00	5.75	(9.51)
Sun 4/13/97		15.72		15.72	11.00	22.00	7.86	4.72
Mon 4/14/97			15.69	15.69	21.00	42.00	7.85	(5.31)
Tue 4/15/97		15.48		15.48	21.00	42.00	7.74	(3.52)
Wed 4/16/97	8.54		19.73	35.24	32.00	64.00	17.62	3.24
Thu 4/17/97		11.79	17.17	28.96	32.00	64.00	14.48	(3.04)
Fri 4/18/97								
Sa 4/19/97	16.79	17.20	18.05	52.04	42.00	84.00	26.02	8.84
Sun 4/20/97								
Mon 4/21/97		12.69	19.12	32.01	32.00	64.00	16.01	0.01
Tue 4/22/97			18.34	18.34	21.00	42.00	9.17	(2.66)
Wed 4/23/97		8.41		8.41	11.00	22.00	4.21	(4.59)
Thu 4/24/97								
Fri 4/25/97		13.03		13.03	11.00	22.00	6.52	4.03
Sa 4/26/97								
Sun 4/27/97		14.55		14.55	11.00	22.00	7.28	3.55
Mon 4/28/97								
Tue 4/29/97								
Wed 4/30/97			23.75	23.75	21.00	42.00	11.88	2.75
	145.97	810.65	1,459.21	2,401.83	2,255.00	4,510.00	1,200.99	145.84

B = breakfast
 L = lunch
 D = dinner

Probe of grand jury begins

County supervisor, Modesto mayor invited to participate

By GARTH STAPLEY
BEE STAFF WRITER

Stanislaus County civil grand jurors are investigating the grand jury itself.

The unusual probe stems from Modesto Mayor Carmen Sabatino's complaint of a leak from the 2000-01 grand jury.

Two elected officials tied to the issue — Sabatino and his political rival, county Supervisor Ray Simon — said they have been invited to testify before the 2001-02 grand jury. Sabatino said he will not appear.

Superior Court Presiding Judge William Mayhew in November

urged that grand jurors take a look at the accusation.

County Counsel Mick Krausnick, who advises the grand jury, said Wednesday that he was unaware of the investigation. But he continued to assert that nothing illegal happened.

At issue is Sabatino's May 16 letter to then-grand jury foreman William Compton. Although Sabatino talked publicly about the letter, he assumed that it was confidential and did not expect a copy to appear on Simon's personal site on the Internet.

How Simon got the letter is a mystery. He said he found it on his desk at Tenth Street Place and assumed Sabatino had left it.

In the letter, Sabatino urged grand jurors to interview him about an investigation into the county elections office. The grand jury declined. The jury later is-

sued a report critical of the elections office, then presided over by Clerk-Recorder Karen Mathews. She has since retired.

Krausnick maintained Wednesday that the Sabatino letter was never confidential because it fell outside the scope of the grand jury's "actual investigation." He also said that Sabatino wrote it on city letterhead, and most government correspondence is a matter of public record.

Third, Sabatino discussed the letter in numerous conversations, including on the radio, Krausnick noted.

"Anyone who requested it would have been provided a copy," he said. Krausnick added that he did not give the letter to Simon.

Sabatino noted that the grand

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The Modesto Bee

LOCAL NEWS

PROBE: Mayor declined chance to be heard

CONTINUED FROM B-1

jury handbook reads, in part, "All communications to the grand jury are confidential."

Compton said in November that the thought of someone giving the letter to Simon was "unsettling." At the same time, Mayhew released a statement calling any release of confidential documents "disturbing," and calling for an investigation.

In a Dec. 7 letter to Sabatino, 2001-02 grand jury foreman Robert Johnson wrote that Sabatino's complaint had been referred to a grand jury committee, which would make a recommendation to the full grand jury on whether to investigate.

"If the full panel votes to ac-

cept the case," Johnson wrote, "you will be contacted for an interview." That was just what happened, Sabatino said.

He declined the invitation. That is because Johnson's Dec. 7 letter said results of the probe would be sent "to the presiding judge and county counsel" for approval, Sabatino said.

"They certainly shouldn't turn it over to Mr. Krausnick," Sabatino said. "He should be the subject of their investigation."

Johnson declined to comment.

In his written refusal, Sabatino said that if a judge were to appoint an independent lawyer to help grand jurors, "it would give me more confidence in the system."

If a grand jury decides to inves-

tigate the county counsel's office, the counsel's advisory role to the grand jury is transferred to the district attorney's office.

Simon said he accepted the invitation to testify.

He said he put Sabatino's letter on his Web page in an effort to shed light on the elections office inquiry, because Sabatino had discussed the matter on the radio and elsewhere.

"He'll never give up," Simon said of Sabatino. "Even if the grand jury comes back and says (the letter) was a matter of public information, he'll continue to talk about some subterfuge. He's dedicated to get his enemies."

Bee staff writer Garth Stapley can be reached at 578-2390 or gstapley@modbee.com.

Jury report is biased

As a member of the 2000-01 civil grand jury, I would like to comment on this year's grand jury report involving the alleged misconduct of Marnie Ardis and Mick Krausnick.

Not only is the final report biased, but information obtained by the committee is also inaccurate and written out of context.

I am quite capable of making up my own mind, and I resent the fact that the committee members on this case insinuate otherwise.

KATHY A. HOGREFE
Modesto

EXECUTIVE SUMMARY
RE
RESPONSE OF COUNTY COUNSEL TO GRAND JURY REPORT 02-24-GJ

The 2001-2002 Civil Grand Jury issued its Final Report Part Nine regarding Grand Jury Case No. 02-24-GJ (the "Report"), which alleges that the Stanislaus County Counsel and others may have subjected the 2000-2001 Grand Jury to undue influence and attempted to manipulate the Grand Jury investigation of the former Clerk-Recorder. The County Counsel has issued a detailed response refuting all allegations of misconduct ("Counsel's Response"). The Counsel's Response makes apparent that the Report is based upon a biased and incomplete investigation into unsupported allegations that are being promoted by a small group of individuals with ulterior motives who want to discredit the 2000-2001 Grand Jury report concerning former Clerk-Recorder Karen Mathews and to attack County Counsel and Marnie Ardis.

The Report is focused on three general allegations, namely, (1) the Grand Jury staff person compromised the integrity of the Grand Jury by performing administrative functions for the Grand Jury, (2) a breach of Grand Jury confidentiality occurred by release of two letters, and (3) the County Counsel, in particular, unduly influenced the Grand Jury in an attempt to manipulate the Grand Jury by providing legal advice to the Grand Jury and by asking when a final Grand Jury report would be issued. Counsel's Response explains that these allegations are unfounded for the following reasons:

1. Integrity of Grand Jury.

Complaint No. 1 alleges that the Grand Jury staff person unduly influenced and compromised the Grand Jury's integrity by writing the Grand Jury Handbook and by being present during Grand Jury deliberations, and that the County Counsel acted improperly by advising the Grand Jury regarding report preparation.

The Handbook, which was reviewed and approved by the Office of County Counsel, the District Attorney and the Superior Court Judges, makes clear that each Grand Jury determines its own rules of proceedings and that the

procedures and policies in the Handbook may need revision and should be updated to reflect the changing philosophies of succeeding Grand Juries. This process is made clear in the Report which found that the 2000-2001 Grand Jury voted to keep the Handbook "as is." (Complaint #1, Finding 8.)

The Report unfairly implies that the Grand Jury staff person improperly assumed responsibility for writing, editing and formatting the Handbook when the Report recommends that the staff person "no longer edits handbook without direction from the Grand Jury." (Complaint #1, Recommendation 1.c.) There is no basis to assert or imply the staff person took charge of preparing the Handbook without direction from the Grand Jury. In fact, the Report does not make any finding that the staff person revised the Handbook without the direction and input of the Grand Jury.

The Office of County Counsel has had only minimal involvement in reviewing the Handbook, and had no more influence on the content of the Grand Jury Handbook than did the District Attorney or the Superior Court Judges who also approved the Handbook. Ms. Ardis is to be commended, not chastised, for taking charge of maintaining a Grand Jury Handbook and updating it to reflect the policies and procedures adopted by the Grand Jury itself.

The Report improperly implies that the Office of County Counsel approved of the Grand Jury staff person attending Grand Jury meetings during deliberations and voting by incorrectly finding (1) that the office approved the Grand Jury Handbook which provided that the staff person "attends the full panel meetings and prepares minutes" (Complaint #1, Finding 6), and (2) that the office sent a letter recommending this section be stricken from the Handbook (Complaint #1, Finding 21). The Office of County Counsel interprets the provision quoted above to mean that the Grand Jury staff person could attend full panel meetings and prepare minutes on matters such as committee assignments, scheduling training of grand jurors, and other routine Grand Jury organizational matters. The provision does not state that the staff person may be present during Grand Jury deliberations and voting regarding investigations. We do not know what interpretation the District Attorney

and Presiding Judge gave to this provision when they reviewed and approved the Handbook. Further, the finding that the Office of County Counsel recommended this section be stricken from the Handbook is false. The Grand Jury is requested to release the cited document, which is the best evidence of what it says.

Finally, the Grand Jury's conclusion that County Counsel insisted on a particular method of report writing is false (Complaint #1, Conclusion 11). The Office of County Counsel never insisted that the correct method of report writing is to assume that a finding is a fact. Further, by recommending in its Report that there be a continued investigation regarding the correct method of report writing (Complaint #1, Recommendation 6), the Grand Jury unfairly implies that County Counsel unduly influenced the Grand Jury. As one of several legal advisors to the Grand Jury, County Counsel properly may provide advice when requested by the Grand Jury, and the Report erroneously states what advice was actually given to the Grand Jury. Regardless of how County Counsel may or may not have advised the Grand Jury about the issue of a finding being a fact, the County Counsel consistently has stated that changes in the format of Grand Jury reports should be reviewed carefully and that any proposed changes should be reviewed by the Presiding Judge. It was not improper for the Office of County Counsel to advise the Grand Jury about writing reports, especially when requested to do so.

2. Breach of Confidentiality.

Complaint No. 2 alleges that it was improper for County Counsel to request and receive copies of Mayor Sabatino's May 16, 2001, letter to the Grand Jury requesting to testify regarding the Stanislaus County Elections Office and the Grand Jury Foreman's May 18, 2001, response that the Grand Jury would call Mayor Sabatino if needed. It was proper for County Counsel to request the letters because the Office of County Counsel is responsible for defending the County and the Grand Jury against liability claims. Therefore, the County Counsel has a duty to investigate threats of litigation to determine whether there is a significant exposure to liability. County Counsel requested to see the Mayor's May 16 letter and the Grand Jury's

May 18 reply to determine if the threats of litigation made to members of the Grand Jury had any merit.

County Counsel requested to see the letters after making an initial determination that the letters were public records since the letters had been discussed by the Mayor in two public settings. Inspection of the letters confirmed that they were public documents. First, the Mayor's May 16 letter was an official City of Modesto document, prepared on City letterhead and signed by the Mayor, and the reply was addressed to the Mayor and sent to the Mayor's office. Second, the letters do not contain any information of a confidential nature. They do not reference the names of any witnesses or acknowledge an ongoing investigation of Case 01-10-C. Third, the Mayor himself placed the documents in the public domain by discussing the documents in public settings and mis-characterizing their contents by stating that he had relevant information regarding a Grand Jury investigation regarding former Clerk-Recorder Karen Mathews and that the Grand Jury refused to allow him to testify. By doing so, he waived any confidentiality that might have attached to the letters. The Mayor cannot claim a perceived right to testify in a secret Grand Jury investigation regarding the former Clerk-Recorder, then publicly misrepresent what the letters said by saying the Grand Jury refused to allow him to testify, and then assert that the letters are confidential to hide the true content of the letters. The public's interest in the letters clearly outweighed the Mayor's interest and effort to keep them confidential.

Finally, the Mayor's May 16 letter and the Grand Jury Foreman's May 18 response did not become confidential after being discussed and considered by the full Grand Jury as the Report concludes (Complaint #2, Conclusions 2, 3 and 4). The letters were never part of the evidentiary material considered by the Grand Jury in its investigation of Case 01-10-C and, therefore, could not have been relied upon or presented to the Grand Jury for its final report regarding the former Clerk-Recorder. The findings and conclusions in the Report regarding the confidentiality of the letters misstate the true facts in order to bolster its conclusion that the two letters were confidential Grand Jury documents.

3. Interference and Manipulation of Grand Jury.

Complaint No. 3 alleges that the 2000-2001 Grand Jury may have been subjected to undue influence by non-jury members in an attempt to manipulate the Grand Jury process. In particular, the Report wrongly concludes that the County Counsel interfered with and attempted to manipulate the Grand Jury investigation of the former Clerk-Recorder (Complaint #3, Conclusion 11). The Report's conclusions are based upon a few semi-related incidents strung out over an undocumented period of time. Counsel's Response establishes that many of the conclusions mischaracterize the truth and that some are unsupported by fact.

For example, based only upon the testimony of a person identified as the "chairperson" of the Clerk-Recorder investigation, the Report falsely concludes that County Counsel provided unsolicited legal advice to the Grand Jury (Complaint #3, Conclusion 7). However, the Report fails to mention that the initial chairperson of that committee resigned from service before the Grand Jury completed its investigation, deliberated and voted on its final report in Case 01-10-C. Even then, there is no fact to support the allegation other than the conclusion of one person.

Another example of an unsubstantiated conclusion occurs when the Report concludes that County Counsel interfered with the Clerk-Recorder investigation (Complaint #3, Conclusion 11). This conclusion is based upon erroneous and uncorroborated findings.

- Several findings incorrectly imply that discussions between County Counsel and the District Attorney's Office were improper and either had or could have had an effect on the Grand Jury investigation of the former Clerk-Recorder. (Complaint #3, Findings 6, 22, 24, 25, 26.) The discussions occurred after the Grand Jury report was prepared and while it was being reviewed for liability by the District Attorney's Office—the Grand Jury investigation was over. More importantly, the Report incorrectly states that the conversations were about the investigation itself, when in fact they concerned when the report

the former Clerk-Recorder (Complaint #3, Finding 29), but on the other hand, it reports that the District Attorney claims that the County never requested his office to review that matter for criminal violations (Complaint #3, Finding 30). Counsel's Response states that the truth is that the County forwarded the same materials that were included in the complaint to the Grand Jury to the District Attorney for his consideration and that County Counsel never requested or pressured the District Attorney to file criminal charges against the former Clerk-Recorder. The Report's conclusions are suspect because they are based, in part, on the inconsistent testimony of and speculation attributed to the District Attorney by the Report, which may or may not be accurate.

Counsel's Response observes that the Report contains false and inaccurate findings and unsupported conclusions, and states that the committee investigating this matter failed to conduct an objective, impartial and complete investigation. Another observation is made that many of the numerous inaccuracies and misstatements contained in the Report result from testimony of certain witnesses who have a personal vendetta against the County Counsel. In particular, Counsel's Response questions whether one committee member should have remained on the investigating committee because of a belief that the committee member may be biased against the County and the County Counsel in particular because of a prior contact. Counsel's Response also notes legal concerns about whether the term of the Grand Jury expired before the Report was issued.

The concluding observation made in Counsel's Response states his firm belief that the best evidence of whether he contacted the 2000-2001 Grand Jury or otherwise influenced or manipulated its investigations is the testimony of those Grand Jurors. Direct testimony by the 2000-2001 Grand Jurors would have eliminated the dependance of the Grand Jury Report on uncorroborated testimony and speculation in an attempt to bolster the Report's findings and conclusions.

**Response of Grand Jury Staff Person
to
Grand Jury Case Number 02-24-GJ
Final Report Part Nine**

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Attorneys for Grand Jury Staff Person**

**Response of Grand Jury Staff Person
to
Grand Jury Case Number 02-24-GJ
Final Report - Part Nine**

The following is the response of the person referred to as "GJ Staff Person" in the above-referenced GJ Case Number and Report. In accordance with Penal Code §933.05, and based on the fact that this responding party is neither a public agency or public officer, this response is directed only at the GJ's Finding, so the failure to address other statements in the Report should not be deemed as an admission regarding the accuracy of those other statements. Furthermore, many of the Findings have no relationship to actions or activities of this responding person, so the GJ Staff Person's response to those extraneous Findings and Recommendations will simply be: "Not applicable to GJ Staff Person".

PRELIMINARY STATEMENT

The GJ Staff Person's record of outstanding service to the GJ for over ten (10) years has been recognized at virtually every level of government in Stanislaus County. The Presiding Judges who have overseen her work have all praised her accomplishments; as recently as December 19, 2001, the County's Chief Executive Officer has recognized her "knowledge, skills, dedication and loyalty to the Grand Jury"; and virtually every Grand Jury Foreperson and Grand Juror who has worked with the GJ Staff Person has enthusiastically endorsed her as an extraordinary hard worker and invaluable asset to the GJ.

This Report was precipitated by political infighting between small but powerful elements in local government, and it is a manifest injustice that such an exemplary and valuable employee should be caught up in the crossfire of this partisan feud.

COMPLAINT #1:

A letter of complaint from a former Grand Jury member alleging that the Grand Jury Staff Person has usurped the independence and compromised the integrity of the Stanislaus County Civil Grand Jury.

RESPONSE - As a general proposition, this is a false, unfounded and potentially libelous statement by this disgruntled former Grand Jury member.

FINDINGS

1. The screening process for Grand Jury applicants is based on random selection, independent applications and recommendations by public officials in Stanislaus County. All persons interested in serving on the Grand Jury may return an application form. The Presiding Judge interviews all applicants who meet the minimum statutory requirements.

The Presiding Judge then chooses thirty (30) applicants from these interviews who participate in the final step; a random lottery where nineteen (19) names are drawn as the new jurors and four (4) additional names are drawn to serve as alternates. Penal Code Section 912 allows the Presiding Judge to select the Foreperson.

RESPONSE - Agree/with clarification.

GJ Staff Person coordinated this process for ten (10) years. This process was repeated annually, beginning in February and continuing until the final selection on July 1st. GJ Staff prepared a detailed statistical report on the selection process which was used by the Court Administrator to make presentations before the State Legislature. GJ Staff analyzed the statistics from the selection process and noticed the diminishing number of potential grand jurors coming from the random and submitted name methods. She developed an application process, with the approval of Judge Whiteside. GJ Staff initiated putting press releases in eight local newspapers to heighten public awareness of the application process. The application process had a positive impact by increasing the number of qualified and interested citizens applying to serve. The number of interviews increased from 77 to 90 in 1999-2000 and 14 of the 19 grand jurors came through the application process that year. The application process ensured that the Grand Jury accurately represented a cross section of the county by allowing all citizens to apply.

Coordinating this process involved the following steps:

- A. Preparing the statistical report each year.**
- B. Preparing press releases.**
- C. Acting as a public relations representative to explain the process to the public and the press.**
- D. Obtaining a list of 400 names randomly selected from the master jury pool of 248,000 names.**
- E. Contacting 125 community and union leaders, and requesting recommendations for potential jurors.**
- F. Accepting requests from persons, who were interested in serving on the Grand Jury and explaining the process.**
- G. Sending letters and application forms to randomly selected names, submitted names and persons requesting applications. Maintaining accurate records of each method and those candidates, who were disqualified for not meeting the minimum penal code requirements.**
- H. Scheduling interviews with all citizens who responded they were interested.**
- I. Assisting the Presiding Judge by taking notes during the interview process.**
- J. Presenting the Presiding Judge with a list of individuals who stated they wanted to be Foreperson.**

- K. Presenting the Presiding Judge with names of current jurors who expressed an interest in being a holdover.
- L. Contacting the final 30 candidates and scheduling and planning the lottery drawing and swearing in for the final panel.
- M. Developing and planning the Grand Jury Orientation Program.
- N. Developing and planning the Incoming/Outgoing Workshop for new grand jurors to meet the outgoing members and share their experiences.

The GJ Staff coordinated this process. The Presiding Judge interviewed and made all the final selections.

- 2. The Grand Jury's nineteen (19) member panel changes significantly every year. The Staff Person is the only constant in the office.

RESPONSE - Agree/with clarification.

There is constant change from year to year, panel to panel and judge to judge. Each jury had vastly different personalities. Each panel implemented changes and in that way the existing Grand Jury processes evolved.

- 3. A. The Grand Jury Staff Person has written and subsequently updated the Stanislaus County Grand Jury Handbook.

RESPONSE - Agree/with clarification.

This is a process that has always occurred with the advice and consent of the GJ.

- B. The original 2000-01 Grand Jury Handbook gave the Staff Person the title of Grand Jury Administrator . . .

RESPONSE - Disagree.

When Ralph Moore rewrote the handbook in 1995, he said that the GJ Staff Person was more than a secretary. Ralph Moore came up with the working title of Office Administrator. The 2000-01 Grand Jury Handbook continued to use the title of Office Administrator.

- C.whose role is described as an advisor.

RESPONSE - Disagree.

GJ Staff provided historical perspective and acted as a resource on past Grand Jury practices and office procedures over the past 11 years. Each Grand Jury had the opportunity to develop their own methods of operation. Two anonymous surveys were conducted each year to assure that panel members' suggestions for

improvement were implemented. GJ Staff did not act as a legal advisor. GJ Foreperson's requested legal opinions from either the Presiding Judge, County Counsel or District Attorney.

4. The GJ Staff Person prepared and refined the Grand Jury Handbook over the years based on personal experience with the Grand Jury and researching other Grand Jury Handbooks throughout the state.

RESPONSE - Agree/with clarification.

When the GJ Staff Person started her employment in 1991, the GJ Handbook was ten years old. In June 1991, the Court Administrator directed GJ Staff Person to reprint this ten-year-old handbook to distribute to the new panel that was going to be sworn in on July 1, 1991.

The 1991-92 panel never discussed the handbook or voted to accept it. However, several jurors complained to Staff that the handbook was outdated. The GJ Handbook at that time was in a spiral binding and was reprinted every year without revision.

GJ Staff Person contacted the American Grand Jury Foundation and asked the owner to recommend counties that had good handbooks. GJ Staff Person requested and reviewed approximately six different handbooks.

GJ Staff Person prepared a draft handbook which was presented in notebook form so it would be easy to update and revise. The bottom of the page contained a footer with the date each page was revised. The handbook was a compilation of what the jury was doing in Stanislaus County plus information obtained from other handbooks.

The GJ Staff Person asked Judge Girolami, the Presiding Judge, to review the handbook for legal content. GJ Staff wanted the handbook to be an officially approved and adopted handbook so she took it to be signed off by the County Counsel and District Attorney.

GJ Staff then took the handbook to the Court Administrator and suggested that all the Judges review it. The Judges wrote the Holdover Policy, Attendance Policy and Removal Policy.

At no time was the GJ Staff Person told by any of the Judges, the Court Administrator, the District Attorney, or the County Counsel that the full panel was supposed to write the handbook and vote to accept it.

The 1992 handbook was released to the 1992-1993 Grand Jury. The handbook said in 1992 under the Staff Person's responsibilities, "Keep Grand Jury Handbook revised and up to date." The handbook was praised by Judge Girolami, County Counsel, panel members and requested by other counties to use as a model.

Exhibit #1:

Duties and Responsibilities of Grand Jury Staff Secretary. Revised 5/92.

Exhibit #2:

Judge Girolami letter.

Ralph Moore joined the panel in 1994-1995. He was the Chairman of the Editorial Committee and wanted to update the handbook. Mr. Moore took the existing handbook computer disks and made minor changes in grammar and content. Mr. Moore did not take the Grand Jury handbook to any of the three legal advisors to review or approve, nor did the full panel ever vote to adopt it.

Both the 1992 and 1995 handbooks list under the GJ Staff Person's duties and responsibilities: "Keep Grand Jury Handbook revised and up to date." Mr. Moore's 1995 handbook did not mention that the full panel should be writing, or approving the handbook. Both the 1992 and 1995 GJ handbooks had the Staff Person's duties and responsibilities under Chapter 3--Officers. Neither say the Staff Person was an officer. The job duties were merely placed in that chapter.

Exhibit #3:

Duties and Responsibilities of Grand Jury Office Administrator. Revised 6/95.

The 2001-2002 GJ asked the Staff Person to rewrite the handbook. Again, she obtained several handbooks from other counties. Draft copies of this new handbook, revised in August 2001, were read and approved by two attorneys in the District Attorney's office and two attorneys in the County Counsel's office. The 2001-2002 Foreperson directed Staff not to forward a copy of the draft handbook to the Presiding Judge and Court Administrator. The 2001-2002 panel voted to accept this handbook, but never distributed it.

5. The 2000-2001 Grand Jury Foreperson testified that the full panel did not "review the handbook. We accepted it for what it was and used it the best we could."

RESPONSE - Disagree.

GJ Staff arranged a meeting where the outgoing 1999-2000 Foreperson trained the incoming 2000-2001 Foreperson on the responsibilities of being a Foreperson. The outgoing Foreperson discussed with the incoming Foreperson procedures that had

been used during his fiscal year. The outgoing 1999-2000 Foreperson gave his personal copy of the GJ Handbook to the incoming 2000-2001 Foreperson and suggested the new 2000-2001 Foreperson study it prior to being sworn in.

The handbook was also given to every newly sworn 2000-2001 grand juror by GJ Staff at the Orientation Program the day they were sworn in. At the Orientation Program, panel members were asked to read the handbook, review it and be prepared to discuss it at the upcoming training sessions held during the month of July. Any juror wishing to rewrite, change or modify the handbook could have voiced their opinion at anytime during the year.

6. Not applicable to GJ Staff Person.
7. Not applicable to GJ Staff Person.
8. A 2000-2001 former grand juror testified, that while in a full panel meeting, he remarked it was inappropriate for the GJ Staff Person to write the handbook. Full panel disagreed and voted to keep the handbook "as is."

RESPONSE - Agree/with clarification.

GJ Staff was present when the handbook was again discussed on January 4, 2001. Ralph Moore addressed the full panel. The 2000-2001 full panel voted to accept the handbook the way it was, which is their prerogative under §916. The Grand Jury Handbook was considered a living document that was changed and modified based on the recommendations of each panel.

When all the Judges signed off on the draft handbook in 1992, Staff was never told by any of the Judges that she was acting inappropriately by compiling the handbook. In fact, she was praised by Judge Girolami.

See Exhibit #2.

9. The GJ Staff Person's duties are to assist the Grand Jury in its day to day business including: retrieving and opening correspondence, scheduling appointments at the direction of the committees, transcribing testimony, and compiling the agenda and minutes of the meetings as directed by the Foreperson and/or the grand juror designated as the recording secretary.

RESPONSE - Agree with clarification.

In the 11 years GJ Staff worked in the position there were five different handbooks. Each handbook had varied job duties depending on the changes each panel had implemented during that particular fiscal year.

10. The GJ Staff Person testified her formal training in Grand Jury secretarial duties was non-existent.

RESPONSE - Agree.

11. A 2000-2001 grand juror testified the Foreperson had no active role in distributing cases to her as a committee chair, nor did he interact with her at any time as a member or a chair. All interaction was with the GJ Staff Person.

RESPONSE - Disagree.

As requested by the panel, the GJ Staff would open the mail, and give GJ complaints to the Foreperson. The 2000-2001 Foreperson received, reviewed and selected a committee for all incoming complaints as had all prior Foreperson's. The Staff Person then distributed the cases to the appropriate committee. On occasion, the Foreperson would ask the Staff Person for feedback on which committee to assign a case. The Foreperson made the final decision on all committee selections.

The 2000-2001 Foreperson attended virtually all committee interviews because he said he did not like reading transcripts. The 2000-2001 Foreperson was retired and consequently was physically present and available more than previous Forepersons.

The 2000-2001 Foreperson was in the office on a daily basis and available for interaction. If this juror chose to interact with Staff that was her choice. The 2000-2001 Foreperson had a private office and separate phone and was available anytime this juror sought him out. Each Foreperson had a different style of leadership. Some were more effective and involved than others.

12. The GJ Staff Person was involved in the holdover process.

RESPONSE - Agree with clarification.

GJ Staff facilitated the holdover process as follows: During the selection process, an item would be placed on the full panel agenda asking jurors wanting to holdover to contact either the Foreperson or the Staff Person. The Foreperson and Staff Person would discuss the skills of those interested and make a recommendation to the judge. The judge made the final decision on how many holdovers that there would

be and who they would be. The Presiding Judge then had the opportunity to interview the candidates to make his selection.

In 2000-2001, GJ Staff developed a sign-up sheet which was distributed at a full panel meeting. There was a column with the jurors name, a signature column, and a column saying: "Yes, I want to be a holdover"; or "No, I am not interested in being a holdover." Everyone was asked to check off "yes" or "no" if they were interested in being a holdover. The names of those members indicating "yes" were then given to the Presiding Judge who made the final determination on all holdovers.

On occasion the outgoing Foreperson would write a letter to the Presiding Judge expressing his or her opinion on holdovers and how many he or she thought there should be. Some years the panel had strong opinions on the benefits of having holdovers. Some panels liked having holdovers and found it helpful, other panels did not. The merits of holdovers was a much discussed and debated topic. Some years it was successful, other years not particularly. In the 11 years Staff worked for the GJ, there were years with no holdovers and as many as four. Each Presiding Judge made that determination. During the 11-year period that Staff worked for the GJ, she was never instructed by the panel, Court Administrator, or Presiding Judge to change this process.

13. GJ Staff Person asked a 1999-2000 grand juror to hold over.

RESPONSE - Disagree.

GJ Staff may have suggested to a current member that they had desirable skills and would make a good candidate for being a holdover. It is each member's choice and/or decision whether they want to be considered to be a holdover. Being a civil grand juror or a holdover is a totally voluntary decision. It is not mandatory. If a panel member expressed an interest in being a holdover, Staff would inform the Judge during the selection process. Each Presiding Judge decided who was selected to be a holdover and how many holdovers there would be.

14. A 1999-2000 holdover juror testified to being asked by the GJ Staff Person to become committee chairman of a new case prior to the empaneling of the next jury. The Grand Jury Staff Person denied this.

RESPONSE - As indicated in the Finding, GJ Staff Person categorically denied the testimony of the holdover juror.

15. The 2000-2001 Foreperson testified the GJ Staff Person participated and gave input during committee and committee chair selections.

RESPONSE - Agree in part and disagree in part.

At the Incoming/Outgoing Workshop, which was developed and conducted by Staff, all jurors were given a Biographical Sketch Form and Committee Preference Sheet. These forms did not exist when Staff was hired, but were developed by Staff. The Court Administrator never trained Staff on what process to use or questioned the process that had been developed to aid the Foreperson.

Jurors were asked to fill out the two forms and return them to the Foreperson. Staff would set up an office file on each juror. The Foreperson would take those files home and study them.

***Exhibit #4:
Biographical Sketch Form.***

***Exhibit #5:
Committee Preference Sheet.***

Prior to 1997, the Foreperson would review the files and make committee selections based on the Biographical Sketch Form and Committee Preference Sheets without ever talking to the jury member.

In 1997-1998, the Foreperson thought it would be helpful to talk to each candidate who had expressed an interest in being a committee chairperson. The 1997-1998 Foreperson scheduled personal interviews with all those members indicating a willingness to be a committee chair. The 1997-1998 Foreperson asked the GJ Staff Person to take notes and answer any questions candidates might have regarding time commitment or extra work involved in becoming a committee chair.

GJ Staff later developed a training sheet regarding the responsibilities of a committee chair to hand out at these interviews to help candidates understand the role of a chair. Occasionally a Foreperson would ask Staff which committees received the most complaints. Some Foremen would ask for input on how many members should be on a given committee.

***Exhibit #6:
Attributes of a Committee Chairperson developed by GJ Staff and given to the Foreperson.***

Exhibit #7:

Committee Chair training sheet developed by GJ Staff. Training sheet was handed out to jurors interested in being a Committee Chairperson.

During eleven (11) years, GJ Staff Person worked with thirteen (13) different Foremen. Each year the Foreperson independently made all final decisions for chairs and members based on an analysis of the two written forms and/or personal interviews.

Each Foreperson made his or her own decision on what process to use to select chairs. Foremen that conducted personal interviews used his or her own style. Some Foremen would ask formal classic interview questions regarding skills and others would be more conversational. The Foreperson set the tone and made all decisions. Staff merely provided the Foreperson with a historical perspective on the various selection methods used in the past. If a Foreperson asked for input on a candidate, Staff would provide it. Some Foreperson's asked for input, some did not. Each Foreperson made all final committee selections.

Every year the GJ Staff Person would conduct two anonymous surveys in October and March. Several questions were asked one of which was: "Are you satisfied with the selection process of Committee Chairs?" The GJ Staff Person made a point to solicit feedback, comments and suggestions from panel members regarding procedures and processes and shared input with the Foreperson and panel. GJ Staff developed and implemented the surveys as recommended.

Exhibit #8:

Grand Jury Survey.

During the 11-year period Staff worked for the GJ, GJ Staff Person was never instructed by the panel, Court Administrator or Presiding Judge to change this process.

16. Five (5) 2000-2001 grand jurors recall GJ Staff Person having participated in the choosing of committees and chairs.

RESPONSE - Disagree in part.

As was the procedure in past years, the Biographical Sketch Form and Committee Preference Sheets were filled out and analyzed by the Foreperson. The 2000-2001 Foreperson asked Staff to sit in on the committee chair personal interviews, take notes and answer questions if asked. The 2000-2001 Foreperson did ask for input from Staff. All final decisions regarding chairs and committees were made by the 2000-2001 Foreperson.

17. The GJ Staff Person was responsible for in-service Grand Jury training.

RESPONSE - Agree/with clarification.

When Staff started in 1991, the Grand Jury attended training in Santa Clara put on by the American Grand Jury Foundation. According to GJ records, sixteen members attended training and it cost the county \$8,226.54. Three members received no training at all.

In 1992-93, twelve members attended training in Sacramento according to archival records. One of the twelve was a no show. The other members received no training. The cost was \$3,806.25. This figure does not include meals, mileage reimbursement to Sacramento or hotel lodging in Sacramento for 12 members. The Foreperson expressed displeasure with the training on behalf of the panel to the American Grand Jury Foundation.

Exhibit # 9:

Letter dated September 24, 1992 from Foreperson Tom Wright to Bruce Olson.

Exhibit #10:

Al Kaufman letter dated August 18, 2001.

In 1992-93, the GJ Staff Person was asked to train at the Foremen's Forum on how computers can support the Foreperson and the Grand Jury. The GJ Staff Person had created a data base of all open and closed complaints. Other counties were interested in the process Staff had developed. GJ Staff also developed a system for paying grand jurors using Lotus. When Staff started the GJ position, there were no processes in place to track past or present complaints or pay jurors. The Auditor's Office told Staff that there were numerous mistakes on the GJ payroll submitted prior to GJ Staff starting her employment. Accounts payable had to keep returning the payroll to the Grand Jury office to correct. GJ Staff developed a simple process where Lotus computed the stipend and calculated the mileage reimbursement.

Exhibit #11:

Foremen's Forum/Thirteenth Annual Grand Jury Exchange Seminar.

GJ records show that in 1994, nine members attended training put on by the American Grand Jury Foundation. Other members received no training. The jurors complained to Staff and the Foreperson about how much they disliked this training. Jurors thought the training was too expensive in comparison to the value received.

In 1995, only the Foreperson and Foreperson ProTempore attended training put on by the American Grand Jury Foundation. As in past years, the training was poorly received. The outgoing panel recommended to the incoming Foreperson that training by the American Grand Jury Foundation be discontinued due to poor response.

In 1996-1997, the Foreperson and panel determined that the American Grand Jury Foundation training was ineffective and did not participate. The Staff Person was asked to train the Foreperson, who in turn trained the panel. The outgoing Foreperson recommended to the incoming 1997-1998 Foreperson that GJ Staff conduct the training.

In 1998, GJ Staff started training the panel. The training offered was based on past experience supplemented with training materials and videos purchased and obtained from the California Grand Jurors Association. Purchases were approved by the Foreperson. The GJ Staff Person started a research library which contained copies of training materials. Other counties, including Orange County and Amador County, have also found it convenient to conduct in-house training.

In-house training allowed the sessions to be broken down into several three hour training days. The month of July was devoted to training and studying the handbook. The Foreperson would make committee selections. By the first of August, the panel was ready to begin their investigations. The training offered by the American Grand Jury Foundation occurred in the later part of August, causing the panel to lose important time because of late training.

Each year the Foreperson would be given registration materials by GJ Staff to attend training conducted by the California Grand Jurors Association. Some Foremen wanted to participate, some did not. It was their choice. Some years the District Attorney or Deputy District Attorney (Stahl, Quinlan) provided supplemental training and some years they did not.

The 2000-2001 Foreperson told GJ Staff he did not want to attend training offered by the California Grand Jurors Association. The 2000-2001 Foreperson also told Staff that he would not participate in the survey conducted by this organization of Grand Jury Practices.

After GJ Staff trained the 2001-2002 Civil Grand Jury, the Foreperson remarked to the GJ Staff Person that she had saved them a tremendous amount of time by training the panel. The 2001-2002 Foreperson told Staff that she had gotten the panel organized and ready to go. The 2001-2002 Foreperson told Staff the panel really appreciated the training. GJ Staff did not receive any negative feedback from the panel members regarding training.

GJ Staff suggested to the 2001-2002 Foreperson that if he wanted additional training any of the three legal advisors could be asked to provide training. GJ Staff also recommended, as she did every year, that the Foreperson attend the training provided by the California Grand Jurors Association. It cost \$757.00 for the 2001-2002 Foreperson to attend training in Costa Mesa from the California Grand Jurors Association. To send all 19 panel members to training provided by the California Grand Jurors Association would have cost the county \$14,383.00.

During fiscal year 1995-1996, former grand juror Ralph Moore was invited by GJ Staff to present a training session on writing final reports. GJ Staff did not hear Mr. Moore's presentation. However, the panel was very upset at Staff for inviting him. Several panel members came into the GJ office and told Staff that Ralph Moore was arrogant, pompous, and obnoxious. Panel members complained that they did not like Mr. Moore's training methods. Staff was asked by the panel to never invite Ralph Moore back again.

For the past three years, Staff supplemented the GJ training by bringing in a panel of former grand jurors to train on writing final reports. They each shared their personal experiences, answered questions, provided support and gave tips on how they wrote their reports. Various methods and styles of writing reports were discussed. The Editorial Chair from 2000-2001 read final reports from most of the counties in California via the Internet and shared her research with the panel.

Training was also supplemented throughout the year by Staff providing the panel with copies of information regarding proposed GJ legislation, newspaper articles mentioning the accomplishments of other grand juries and copies of articles from the California Grand Jurors Association newsletters. GJ Staff was in frequent contact with the person in charge of training for the California Grand Jurors Association and benchmarked with other counties.

Every year the GJ Staff Person would conduct two anonymous surveys in October and March. Several questions were asked about the quality of the training and if the juror felt they were properly trained regarding office procedures, investigation techniques, conducting interviews, and writing final reports. The feedback was extremely positive.

*Exhibit #12:
Eight Completed Grand Jury Surveys.*

*Exhibit #13:
E-Mail from the Honorable John Whiteside to Marnie Ardis dated 6/15/00 regarding her performance.*

During the 11 years Staff worked for the GJ, the Court Administrator never once requested copies of her training materials. None of the six Judges Staff worked under nor the Court Administrator ever told GJ Staff she should not train or that she was training improperly. In fact, during fiscal year 1999-2000 Michael A. Tozzi, Assistant Executive Officer of Superior Court, is quoted under oath as saying to a Stanislaus County Civil Grand Jury: "I think in this county you have learned that you probably get the best training or one of the best trainings of any of the 58 counties in the State of California." "I think Stanislaus County is a leader in the way we have trained the Civil Grand Jury and selected the Civil Grand Jury." "Marnie Ardis has been wonderful. Without Marnie 30% of my time was being spent on Civil Grand Jury issues. Now, less than 1%. It is wonderful."

Bruce Olson owns and operates the American Grand Jury Foundation. Some presenters at Mr. Olson's seminars decided to form their own organization, the California Grand Jurors Association. The CGJA is composed of former grand jurors. Mr. Olson has never been a grand juror. The CGJA now conducts training seminars which Staff encouraged each Foreperson to attend. There was ample money in the budget each fiscal year for the Foreperson to attend training. It was their choice whether they attended or not. Mr. Olson appears to resent Staff because Stanislaus County does not use his services and his business is based in Stanislaus County.

Past grand jurors indicated to Staff that it was convenient and cost effective to have training in-house. Many grand jurors, who were volunteers and had full time jobs and children, did not like traveling and being away from home and work.

18. The Court Administrator testified he was asked by the GJ Staff Person if she could sit in during Grand Jury full panel meetings and was told "No."

RESPONSE - Disagree.

On October 21, 1999, Staff sent an E-mail to Judge Whiteside regarding attending full panel meetings. It said: "The question has been raised again this year by several panel members who think it would be helpful for me to attend the Full Panel meetings. They feel with my historical perspective of past cases that I could provide needed insight, answer questions and consequently save them time. They counter that since I am a confidential employee and "know everything anyway" they can't understand why a staff person isn't in the meetings. I know I have asked this before and as I recall, I am not supposed to attend the meetings because I am not a Grand Jury member. Just checking so I can answer their question accurately."

Exhibit #14:

E-mail dated 10/21/99/ Re: Attending Full Panel Meetings.

The Court Administrator replied back. "I answered John. He may send my response to you. If not and you want it, let me know."

Judge Whiteside answered back: "You can, as a resource. You shouldn't offer direction or advice except when asked, and should not guide them as to what to do in their investigations. Other than that, ok."

Exhibit #15:

E-mail dated 10/21/99 attend full panel meetings.

Judge Whiteside never forwarded the Court Administrator's response to the GJ Staff. The Court Administrator also never forwarded his response to the GJ Staff Person. Staff does not know what it said. GJ Staff Person followed the directions of the Presiding Judge.

Nowhere in the E-mail does Judge Whiteside say Staff should not be in the Grand Jury meetings during the expression of opinions, deliberations or voting. Nor does Judge Whiteside tell Staff she should not act as the Recording Secretary.

The Court Administrator had full knowledge in October of 1999, (because he received a copy of the E-mail noted above), that Staff had been told by the Presiding Judge she could attend meetings. The Court Administrator never contradicted the Presiding Judge's instructions.

On July 25, 2000, GJ Staff wrote the following E-mail to succeeding Presiding Judge, William A. Mayhew: "As you know, last year Judge Whiteside ruled that I could attend full panel meetings as a resource. I understand that I am not allowed to offer advice except when asked. My role is to provide a historical perspective if needed and clarify questions on procedures. I received a lot of positive feedback from Foreperson George Betker and the members that it saved them time and was helpful. I wanted to verify that I have your permission to attend the full panel meetings this year."

Judge Mayhew responded: "Yes."

Exhibit #16:

E-mail from William Mayhew to Marnie Ardis dated 7/25/00.

Nowhere in the E-mail does Judge Mayhew say Staff should not be in the meetings during the expression of opinions, deliberations or voting. Nor does Judge Mayhew tell the GJ Staff not to act as the Recording Secretary.

On July 25, 2001, Judge Mayhew sought a legal opinion from the County Counsel's Office. At that time Deputy County Counsel offered the following guidance on the topic: "Persons Who May Be Present at Grand Jury Sessions." "If individuals other than members of the Grand Jury have been present in the past, it appears that this would be a procedural problem rather than a violation of California law if such persons were present with the knowledge and consent of the Grand Jury."

Exhibit #17:

Memo dated July 25, 2001 to the Honorable William Mayhew from Dean Wright, Deputy County Counsel.

On August 1, 2001, the Court Administrator shared this legal opinion with the GJ Staff and the 2001-2002 panel. The Court Administrator then told the GJ Staff Person she should not be present during voting and deliberations. The Court Administrator did not tell the GJ Staff Person she should not act as the recording secretary.

The GJ Staff told the 2001-2002 Foreperson that since her attendance at full panel meetings was causing problems she would like to stop attending the meetings. The 2001-2002 Foreperson instructed Staff to just leave the room during deliberations and voting.

On September 19, 2001, the full panel wrote a letter to Judge Mayhew regarding the attendance of GJ Staff Person at full panel meetings. The panel asked Judge Mayhew to approve the following: "We, the 2001-02 Stanislaus County Civil Grand Jury propose to the Presiding Judge of the Superior Court that the Grand Jury Manager II may be present at full panel meetings at the request of the Civil Grand Jury Foreperson and, when present, shall serve solely in a resource capacity to answer questions posed to her by the panel . . ."

Exhibit #18:

Letter dated September 19, 2001 to the Honorable William Mayhew from Robert E. Johnson. Copied to Michael Tozzi.

On September 21, 2001, Judge Mayhew wrote back: "I hereby approve the procedure set forth in your letter of 9/19/01 regarding attending of the Grand Jury Manager II at full panel meetings."

Exhibit #19:

Letter dated September 21, 2001 from William Mayhew to Robert E. Johnson. Copied to Michael Tozzi.

Nowhere in this newly adopted procedure of September 21, 2001 does the full panel or Judge Mayhew say GJ Staff should not act as the Recording Secretary.

Exhibit #20:

California Grand Jurors' Association Conference Proceedings dated September 22-23, 2000. (During the conference, it was confirmed that in San Mateo County, the Judge and County Counsel sit in on every Grand Jury meeting.)

Staff properly relied upon the instructions she received from the Presiding Judges and County Counsel regarding her attendance at GJ meetings, and the Court Administrator was clearly aware of these activities.

19. At the request of the 1999-2000 Grand Jury, GJ Staff Person asked and received permission from the then Presiding Judge to attend full panel meetings as a resource person only.

RESPONSE - Agree/with clarification.

At a full panel meeting during fiscal year 1999-2000 a vote was taken and recorded. Panel members told Staff that the vote was recorded incorrectly in the minutes and therefore acted upon contrary to how the panel had voted. Panel members were upset. Jurors said they wanted a neutral person in the meetings who could accurately take minutes and have a recollection of what a vote had been. Panel members argued that "Even the President of the United States has a staff person present during meetings." Jurors could not understand why the Staff Person was not allowed to be present. GJ Staff told jurors that she had been asked this question numerous times and she did not think Staff was allowed to attend meetings. Jurors asked GJ Staff to check with the Presiding Judge.

See Exhibit #14.

As a result of the direction provided by Judge Whiteside and at the request of the panel, GJ Staff attended the meetings in a resource capacity. GJ Staff did not approach the panel to make this request and never lobbied to attend the meetings. The panel members made the request of Staff. GJ Staff has never participated in deliberations at any time.

20. Eight (8) prior grand jurors testified the GJ Staff Person was present during deliberations and voting in full panel meetings, functioned as the recording secretary, and prepared and distributed the agenda and minutes.

RESPONSE - Agree/with clarification.

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- 20.** Eight (8) prior grand jurors testified the GJ Staff Person was present during deliberations and voting in full panel meetings, functioned as the recording secretary, and prepared and distributed the agenda and minutes.

RESPONSE - Agree/with clarification.

See explanation above. In 1999-2000, as in all prior years, there was a recording secretary elected by the panel. She functioned in that capacity for several months. When GJ Staff was asked by the panel to attend full meetings, it was suggested that the Staff Person take the minutes to free up the juror to participate in deliberations and discussions. The 1999-2000 panel voted to have Staff take the minutes. Nowhere in the October 21, 1999 E-mail from Judge Whiteside does it say Staff should not be in the meetings during the expression of deliberations, opinions, or votes, nor does Judge Whiteside tell the GJ Staff Person that she should not act as the Recording Secretary. All duties that were performed were in accordance with job duties as directed by the Foreperson and panel. The Foreperson approved the agenda and its contents. The panel voted to approve all minutes. Any member could request of the Foreperson to have an item put on the agenda and did so frequently. GJ Staff would contact the Foreperson to ask what he or she wanted on the Agenda. The Foreperson alone would approve what was on the agenda, Staff helped prepare the agenda.

Exhibit #21:

Letter dated August 8, 2001 from Sandra Bishop to Foreperson Robert E. Johnson.

21. GJ Staff Person attendance in full body meetings was later brought to County Counsel's attention. His office sent a letter recommending this section be stricken from the Handbook.

RESPONSE - Agree with clarification.

See Exhibit #17.

Staff is not an attorney and was merely relying on the legal advice given to her by Judges of the Stanislaus County Superior Court. Even after receiving the legal opinion from the County Counsel on July 25, 2001, the 2001-2002 Foreperson and panel wrote the Presiding Judge requesting GJ Staff Person's presence in full panel meetings, and Judge Mayhew approved this request. Staff had already told the 2001-2002 Foreperson she did not want to attend meetings anymore since it was causing problems.

22. A 2000-2001 grand juror testified the GJ Staff Person delayed him in making a presentation before the full panel regarding report writing procedures.

RESPONSE - Disagree.

Ralph Moore was scheduled to speak at the December 21, 2000 full panel meeting. Due to the holidays the panel voted on December 7, 2000 to cancel the December 21, 2000 meeting. The next regularly scheduled meeting was Thursday, January 4, 2001. Ralph Moore was placed on the January 4, 2001 agenda to speak on writing final reports.

23. The 2000-2001 Foreperson testified the GJ Staff Person tried to dissuade him from allowing a juror to address the full panel regarding Grand Jury procedures.

RESPONSE - Disagree.

The Editorial Committee Chairperson and a committee member approached the 2000-2001 Foreperson and tried to dissuade him from allowing a juror to address the full panel. The GJ Staff Person asked the 2000-2001 Foreperson what she should put on the Agenda. Mr. Moore had refused to share his presentation plans with the Foreperson or provide him with copies of the handouts he intended to discuss.

Exhibit #22:

Statement of Virginia Andleman written to the 2001-2002 Civil Grand Jury, dated October 23, 2001. Omitted by 2001-2002 Grand Jury in documents reviewed.

Committee Chairperson Virginia Andleman prepared a written historical account dated 10/23/01. Her statement reads as follows:

“On Monday, November 27, 2000 the Editorial Committee met with Mr. Moore. Those present at the meeting were Mr. Moore, Foreperson Bill Compton, Editorial Committee Chair Virginia Andleman and committee members Kandi Schmidt and Martha Martin.”

(GJ Staff was not present at this meeting.)

“Mr. Moore was given one hour to make a presentation to the Editorial Committee and Foreperson about the way final reports should be written. Mr. Moore said that he used our format when he served on the Editorial Committee during his last stint on the Grand Jury, but that now he knew the correct way to write reports. After his one hour presentation, in which we often made comments and voiced disagreement with his “correct way,” the Foreperson told him that he could make a presentation to the entire panel. After Mr. Moore left the room, we all agreed, including the Foreperson, that we couldn’t figure out what he was talking about.”

“Mr. Compton went into his office (we were still in the facilities on 13th Street). Kandi Schmidt and I (Virginia Andleman) entered his office and told him that we thought it was wrong in allowing Mr. Moore to make a presentation to the entire panel since he had made one to the committee and we rejected his ideas. We felt that Mr. Compton (Foreperson) was taking away our power as a committee to make decisions, but he insisted that Mr. Moore be allowed to speak to the entire panel.”

(GJ Staff was not present during this conversation.)

December

“I (Editorial Chairperson Virginia Andleman) read Civil Grand Jury final reports for most of the counties in California via the Internet. Many use our format. Some do not. Some write in narrative form, some in outline. I concluded that there is no one correct way to write a report.”

“I (Editorial Chairperson Virginia Andleman) called Mr. Krausnick, County Counsel, to ask his opinion about changing our report format. He said that we do a fine job and that if we incorporated Mr. Moore’s ideas we could be leaving ourselves open to problems, including lawsuits. I asked him to write a letter to the Grand Jury stating this, which he did on December 19, 2000.”

Exhibit #23:

*Letter dated December 19, 2000 to William Compton from County Counsel.
Copied to: Marnie Ardis*

“If our report writing is as poor as Mr. Moore and Mr. Olson have told us, we would certainly have heard about it from the Board of Supervisors, the CEO, the Modesto Bee, other Grand Juries, and all those attorneys out there.”

Thursday, January 4, 2001.

“Mr. Moore was placed on the agenda to speak to the entire panel about report format. He would not share his presentation plans with the Foreperson. Before he was called, I gave a short training session on how we write reports. This would enable the panel to understand what he wanted changed. Mr. Moore passed out a paper with his “message” and lectured on our unacceptable (to him) format. The panel members rejected his ideas. After this he gave us another paper that attacked Marnie and her role as administrator of the Grand Jury. I did not expect this as he told us that he was going to talk about report writing. After his remarks were met with disapproval, Mr. Moore got up and walked out of the meeting, leaving behind all his materials.”

24. The GJ Staff Person was not questioned regarding the issues in #23 and #24 [sic - actually #22 and #23] above.

RESPONSE - Agree.

25. GJ Staff Person prompted County Counsel to write a letter to the Grand Jury Foreperson insisting that the current methodology viewing a finding as a fact was to be kept intact.

RESPONSE - Disagree.

GJ Staff provided historical records from the past 10 years of writing final reports to the 2000-2001 Editorial Committee Chair. Included in this file was a tape of Ralph Moore's presentation to the panel in 1995-1996 and all his original handouts.

In December 2000, GJ Staff sent the current Final Report Training documents to the County Counsel and Presiding Judge for approval. County Counsel responded with his letter dated December 19, 2000. Neither Presiding Judge Mayhew nor the Court Administrator ever responded to the training materials to say if they approved of them or not.

GJ Staff wanted to make sure she had been training correctly prior to the scheduled full panel meeting on January 4, 2001 where the topic of writing final reports was going to be discussed.

The 2000-2001 Editorial Committee Chair revised the existing training sheet to reflect how their committee had chosen to write final reports. Each year the Editorial Committee researches and decides how they want to write their reports. Staff merely acts to provide historical data.

On January 4, 2001, the Editorial Committee Chair made a presentation to the full panel on writing final reports. Ralph Moore followed this with a presentation to the full panel that lasted for approximately one hour. Ralph Moore passed out his own training sheet on writing final reports. Mr. Moore said in his presentation that everything the Editorial Committee was proposing was wrong.

Exhibit #24:

Comments on findings from Ralph Moore presented to the 2000-01 Full Panel on January 4, 2001.

Prior to the full panel meeting on January 4, 2001, the 2000-2001 Editorial Committee Chair and GJ Staff Person both contacted County Counsel for clarification of a finding. Staff was not insisting on any methodology but merely trying to confirm that she was training accurately. It is up to each Editorial Committee to decide how they want to write reports. GJ Staff was not present and

never had been present at any committee meetings when jurors determined how they were going to write reports. Staff provided a historical file on writing final reports to the Editorial Committee chair each year. Each year the committee came up with their own procedures. Some years the committee came up with lists of rules on writing reports, others make minor variations, and some kept it status quo. Report writing is a committee decision that is then voted on by the full panel.

During training, Staff purposely brought in a panel of past grand jurors from several different years to present a wide range of ideas. Staff did not force any particular style of report writing on jury panels.

When the 2001-2002 panel asked Staff to rewrite the GJ handbook, Staff again relied on the California Grand Juror's Association training manual and their definition of a finding.

Exhibit #25:

Chapter 9--Preparing Grand Jury Final Report, pages 2 and 3. Revised 8/01.

The California Grand Juror's Association stresses triangulation to make sure a fact is proved. According to the CGJA, a fact is not hearsay, rumor or innuendo. Findings must be verified by multiple sources. Staff trained jurors that they needed three sources, either two testimonies and a document or two documents and a testimony to confirm facts.

Ralph Moore kept insisting that the panel was doing everything wrong. Ralph Moore tried to explain "the right way" of writing final reports first for an hour to the Editorial Committee on November 27, 2000 and then for approximately 30 minutes to the full panel on January 4, 2001. GJ Staff made no comment on either occasion. No one, including Staff, seemed to understand what Mr. Moore was saying and why the current method was "wrong" and we should "do it his way."

After Ralph Moore explained his way of writing final reports on January 4, 2001, several members posed questions because they still did not understand what he meant. Two members, both of whom had Master's Degrees, stated they felt they were fairly intelligent but could not grasp what Ralph Moore was saying.

Ralph Moore told Staff prior to January 4, 2001, that he alone knew the correct way to write final reports and said the Staff Person, Editorial Committee, County Counsel and Presiding Judge were wrong. Ralph Moore told GJ Staff that he could not deal with people who were intellectually inferior to him and said if the panel did not do things "his way" he would quit. True to his word, when he did not get his way, Moore stormed out of the office leaving his papers behind in a grocery bag.

GJ Staff did not say anything during Mr. Moore's presentation.

After Mr. Moore left, GJ Staff was still concerned that the panel was not writing reports correctly. GJ Staff E-mailed Judge Mayhew and asked for his comments and to provide guidance. GJ Staff sent Judge Mayhew and County Counsel via interoffice mail copies of the two documents Mr. Moore had passed out to the panel. One document was Mr. Moore's definition and comments on a finding. The other document attacked the GJ Staff Person. GJ Staff also included a copy of the training sheet the Editorial Chairperson had developed. The Presiding Judge did not specifically respond to Staff's request for guidance. Judge Mayhew instructed Staff to prepare a letter accepting Ralph Moore's resignation. Neither the Presiding Judge nor the Court Administrator ever contacted GJ Staff regarding this issue. Neither the Presiding Judge nor the Court Administrator ever told Staff that she was doing anything wrong.

Exhibit #26:

E-mail from Marnie Ardis to William Mayhew dated 1/5/01.

Exhibit #27:

Letter dated January 5, 2001 from William Compton to Ralph Moore.

26. Berkeley graduate student interviewed GJ Staff Person and testified that GJ Staff Person told him she:
- a. attended full panel meetings
 - b. controlled agendas for upcoming meetings
 - c. wrote the Grand Jury Handbook

RESPONSE - Disagree.

This alleged Berkeley student arrived without an appointment and Staff had a brief conversation with him regarding the selection process. He asked Staff for a copy of the Karen Mathews final report. Staff went into the conference room to retrieve a bound copy of the 2000-2001 final report from the GJ library.

During the interview of GJ Staff on April 9, 2002, a committee member stated to GJ Staff that the Berkeley graduate had "misrepresented himself" and was really a lawyer working for Karen Mathews posing as a graduate student. This same 2001-2002 committee member told Staff during the interview that several former Grand Jury members had testified that Staff was being "set up."

GJ Staff has never used the word "control" to describe her job duties. Staff did not "control" the agenda or anything else regarding the GJ. The Foreperson and panel made all final decisions. Staff was a resource.

27. Berkeley graduate student testified GJ Staff Person showed him a confidential document from case file 01-10-C.

RESPONSE - Disagree.

Final Report Part Six was released to the public on May 30, 2001. This part dealt with Karen Mathews. Staff officially released bound copies of the 2000-2001 Final Report on June 26, 2001 which contained all the cases investigated that year. Staff handed this "student" a bound copy of the 2000-2001 Final Report which is a public document. The case file for 01-10-C would have already been boxed and locked in the basement by the time this alleged student came into the GJ office.

28. In testimony, GJ Staff Person denied sharing a confidential document, and remembers only discussing the selection process and the final report with the Berkeley graduate student.

RESPONSE - Agree.

29. GJ Staff Person then testified the confidential document might have been on her desk, and the student could have looked at it when she left the room.

RESPONSE - Agree.

GJ Staff did not show a confidential document from case 01-10-C to this "student."

30. Court Administrator testified the Assistant DA gave the GJ Staff Person permission to use the title of Grand Jury Administrator.

RESPONSE - Agree/with clarification.

In a letter dated April 19, 2001 from District Attorney James Brazelton to CEO Reagan Wilson he states: "I write to request that you consider the reclassification of the position of Grand Jury Confidential Assistant to Manager II--Grand Jury Administrator. This position has been held for the past ten years by Marnie Hall Ardis, an extremely talented and qualified individual. I am also requesting that you consider the reassignment of the position for administrative and supervision purposes." The Assistant DA also reviewed this letter and supported its contents.

Exhibit #28:

Letter to Reagan Wilson from James Brazelton, dated April 19, 2001.

GJ Staff personally handed the District Attorney's letter to the 2001-2002 Foreperson, who was also chairperson of the investigating committee. This document was given to the Foreperson on two separate occasions, at his request, because he said he lost it the first time. This letter was not listed in the documents reviewed by the investigating committee.

CONCLUSION

When GJ Staff Person started her employment in 1991, there were no procedures or processes in place. Staff is a UCLA graduate who is highly motivated, organized and utilizes her initiative. Staff identified and implemented processes and procedures to facilitate the smooth operation of each Grand Jury with their consent and knowledge. Staff has never attempted to manipulate the panel and has always been open and receptive to seeking ways to improve the process.

When Staff was employed by the GJ, each panel operated independently. Staff worked closely with each Foreperson and took direction from them.

Ralph Moore told the GJ Staff and Presiding Judge that he wanted to be appointed Foreperson. The Presiding Judge selects the Foreperson. Mr. Moore appeared to have a private agenda in attacking the Staff Person. Mr. Moore appeared unable to accept the wishes of his fellow jurors and insisted things be done his way.

Exhibit #29:

E-mail from Ralph Moore to Marnie Ardis 7/31/00 entitled Aggressive Behavior.

PRELIMINARY STATEMENT

The letter at issue, written by the Mayor on City of Modesto letterhead, without any indication on it that it contained confidential material, was simply a request by the Mayor to testify before the GJ. There was absolutely no content in the letter that could reasonably be construed as being of a confidential nature, and more to the point, the Mayor stated on numerous occasions that he had asked the Grand Jury to allow him to come before it to offer testimony. Clearly, the Mayor himself never intended that his desire to come before the Grand Jury be confidential, so the letter itself was not intended to be confidential.

Furthermore, since the letter was on City of Modesto letterhead, it was at least arguably a public record under the Public Records Act [Government Code §6250 et seq.].

COMPLAINT #2:

A Letter of Complaint from a local elected official asking:

1. Which grand juror or other person(s) authorized the release of the Mayor's letter to a member of the BOS?
2. Has such a release violated any section of the California Penal Code and/or the Oath of grand jurors pertaining to Grand Jury proceedings?
3. What will be done to make certain that the Stanislaus County Grand Jury functions according to the spirit and intent of the statute.

FINDINGS

1. The Mayor's letter regarding case 01-10-C was faxed to the CGJ office.

RESPONSE - Agree.

2. A fax of the Mayor's letter was received on May 16, 2001 addressed to the Grand Jury Foreperson regarding case 01-10-C.

RESPONSE - Agree.

3. The 2000-2001 CGJ had a regularly scheduled full panel meeting on May 17, 2001 in which they were reviewing CGJ case 01-10-C.

RESPONSE - Agree.

4. A. In the full panel meeting of May 17, 2001, the Mayor's letter was discussed, deliberated and voted on.

RESPONSE - Disagree.

The full panel meeting agenda for May 17, 2001 lists the Mayor's letter as a distribution. All Grand Jury members received a copy of the letter in their agenda packets. The Mayor's letter was not listed as an action item and was not voted on by the panel. The minutes for the May 17, 2001 meeting reflect that, "The Foreperson read a draft of the letter he will send to Mayor Sabatino in response to his letter of 5/16/01." There were four action items voted and deliberated on. The Mayor's letter was not one of them.

- B. For this reason it became, and remains a confidential document.

RESPONSE - Disagree.

That statement is not a finding. That statement is a conclusion reached by the 2001-2002 Grand Jury, not by the 2000-2001 Grand Jury. The 2000-2001 Grand Jury never discussed whether the Mayor's letter was considered confidential or not. It is also an inaccurate legal conclusion.

- C. A consensus was reached that the Mayor had no information germane to the investigation.

RESPONSE - Agree.

5. Two (2) prior jurors and the GJ Staff Person testified that the CGJ tried to keep politics out of the 01-10-C investigation.

RESPONSE - Agree with clarification.

The Mayor complained about not being called as a Grand Jury witness on a local radio show, on TV, to Grand Jury members he saw around town, and later attacked the 2000-2001 panel at the Orientation Program for refusing to call him as a witness. No one has an absolute right to appear before the Civil Grand Jury. It is entirely up to each panel to determine those persons they wish to interview.

6. The GJ Foreperson drafted a reply to the Mayor declining his request to appear as a witness. The contents of this letter were also approved and voted on by the full panel.

RESPONSE - Disagree. See Response to 4A above.

7. The Foreperson's reply letter was mailed to the Mayor on May 18, 2001 by the GJ Staff Person.

RESPONSE - Agree.

The letter was mailed to the Mayor at the request of the panel and with their consent and knowledge.

8. Not applicable to GJ Staff Person.
9. The report on Grand Jury case 01-10-C was released on May 30, 2001.

RESPONSE - Agree.

10. Not applicable to GJ Staff Person.
11. GJ Staff Person testified that she spoke to County Counsel about a rumored civil law suit against the CGJ.

RESPONSE - Agree with clarification.

A 2000-2001 civil grand juror ran into Mayor Sabatino and Karen Mathews's attorney at the Stanislaus County Fair in August of 2001. Mayor Sabatino again expressed his displeasure at not being called as a witness in the Karen Mathews investigation. Karen Mathews's attorney then informed this grand juror that he was planning on suing the Civil Grand Jury over the Karen Mathews investigation. This grand juror informed GJ Staff of this conversation and the potential lawsuit and suggested she might want to mention this to the County Counsel since he would represent the Civil Grand Jury if they were sued.

12. GJ Staff Person testified County Counsel informed her the Mayor's letter was a public document and asked Staff to fax him a copy.

RESPONSE - Agree with clarification.

County Counsel told Staff that Mayor Sabatino's letter was a public document because it was written on city letterhead and because he had talked about it openly in public. Based upon this information, GJ Staff faxed a copy of the Mayor's letter to the County Counsel at his request. The County Counsel never informed Staff that he intended to give a copy of this letter to anyone else.

13. GJ Staff Person testified she faxed a copy of the Mayor's letter and the Foreperson's reply to County Counsel.

RESPONSE - Agree.

14. GJ Staff Person testified she released the letters to County Counsel on the basis that he was her legal advisor.

RESPONSE - Agree/with clarification.

Staff is not an attorney and as such must rely on the legal advice she is given. County Counsel was a trusted legal advisor who signed off on final reports and provided legal opinions for the Grand Jury at the request of the Foreperson.

15. Not application to GJ Staff Person.

16. GJ Staff Person testified the Court Administrator reviewed final reports for legal content and liability in previous years.

RESPONSE - Agree with clarification.

When the GJ Staff Person first started her position in 1991, the Court Administrator read the final reports and made changes in their content. In 1991, the Presiding Judge would forward a copy of each final report to the Court Administrator before returning them to the GJ. The Court Administrator would make changes in the content of the reports.

In 1993, GJ Staff asked the new Presiding Judge why the Court Administrator was reading and reviewing final reports since he was not an attorney and was not a GJ legal advisor. This new Presiding Judge said the Court Administrator should not be reading final reports and discontinued the practice. The Court Administrator often asked Staff to reveal what the Grand Jury was investigating. The Court Administrator would say to Staff, "You can trust me."

On August 1, 2001, the Court Administrator told GJ Staff that he would be happy to start reading the final reports again. He said, "remember when I used to do that?" The Court Administrator then told GJ Staff that he had read the reports as a "courtesy" to the judges. It was unclear to GJ Staff, why the Court Administrator was having this conversation with her and not the Presiding Judge.

17. GJ Staff Person testified she did not consult with the Presiding Judge, the Foreperson, or the Grand Jury prior to the release of the letters to County Counsel.

RESPONSE - Agree with clarification.

On August 1, 2001, the Court Administrator told GJ Staff she was not allowed to communicate with the judges. The Court Administrator told Staff all communication had to go through him. At the time in question, the 2000-2001 Foreperson had already left office. During the 11 years Staff worked in the office there had never been a policy in place for releasing documents. Staff never divulged a complainant's name, never released signed complaints or transcripts to any agency or person, but believed County Counsel when he told her the Sabatino letter was a public document and could be released to him. After this situation arose, GJ Staff suggested to the 2001-2002 GJ that they should determine a formal process for releasing documents.

18. GJ Staff Person testified she felt her job possibly could be in jeopardy if she refused a request from County Counsel.

RESPONSE - Agree.

GJ Staff Person had no reason not to trust the County Counsel and believed him when he said the letter was a public document. County Counsel is an attorney and Staff perceives him as her superior.

19. A 2000-2001 grand juror testified that County Counsel and the GJ Staff Person had a close working relationship.

RESPONSE Agree with clarification.

GJ Staff also had a close working relationship with judges, the District Attorney, Sheriff, various department heads and county and court staff.

20. Not applicable to GJ Staff Person.
21. Not applicable to GJ Staff Person.
22. Not applicable to GJ Staff Person.
23. Not applicable to GJ Staff Person.
24. Not applicable to GJ Staff Person.

25. Not applicable to GJ Staff Person.
26. Not applicable to GJ Staff Person.
27. Not applicable to GJ Staff Person.
28. Not applicable to GJ Staff Person.
29. Not applicable to GJ Staff Person.
30. Not applicable to GJ Staff Person.
31. The 2000-2001 Grand Jury Foreperson testified that the Mayor's letter was a privileged document and should not have been released.

RESPONSE - Clarification.

The 2000-2001 Foreperson told the GJ Staff Person in a phone conversation that he did not think she had done anything wrong by releasing the Mayor's letter to the County Counsel. Both the 2000-2001 Foreperson and GJ Staff agreed that they did not think the Mayor's letter should have been given to a member of the Board of Supervisors, but neither had direct knowledge as to how that letter ended up in the Supervisor's hands.

32. Not applicable to GJ Staff Person.
33. Not applicable to GJ Staff Person.
34. Not applicable to GJ Staff Person.
35. Not applicable to GJ Staff Person.
36. Not applicable to GJ Staff Person.
37. Not applicable to GJ Staff Person.
38. Not applicable to GJ Staff Person.
39. Not applicable to GJ Staff Person.
40. Not applicable to GJ Staff Person.

CONCLUSION

The Karen Mathews investigation had nothing to do with the GJ Staff Person. Attempts have been made by certain parties to discredit the Staff Person with the hope that it would cast doubt on the Karen Mathews investigation. The Final Report on Karen Mathews was released on May 30, 2001, long before Staff gave the Mayor's letter to the County Counsel in August of 2001.

PRELIMINARY STATEMENT

It is patently inappropriate for one Civil Grand Jury to pass judgment on the decision making ability of a prior Civil Grand Jury.

COMPLAINT #3:

The CGJ may have been subjected to undue influence by non-CGJ members in an attempt to manipulate the CGJ process.

FINDINGS

1. Not applicable to GJ Staff Person.
2. Not applicable to GJ Staff Person.
3. Not applicable to GJ Staff Person.
4. Not applicable to GJ Staff Person.
5. Not applicable to GJ Staff Person.
6. Not applicable to GJ Staff Person.
7. Not applicable to GJ Staff Person.
8. Not applicable to GJ Staff Person.
9. County Counsel responded via E-mail to GJ Staff Person, that the CGJ should continue with investigation of 01-10-C; even if the employment status of the individual, who was the focus of the investigation, changes.

RESPONSE - Agree with clarification.

A 2000-2001 grand juror told the full panel that she had heard Karen Mathews was going to retire on a medical disability. The GJ panel asked Staff to inquire of the County Counsel if it would be appropriate to continue with the investigation if Karen Mathews retired. The Foreperson and full panel asked Staff to make this inquiry of the County Counsel. County Counsel responded to a question from the Foreperson submitted by Staff.

10. GJ Staff Person testified that County Counsel specified the witnesses and the order in which they should be called regarding case 01-10-C.

RESPONSE - Disagree.

GJ Staff remembers testifying that County Counsel suggested one witness because she had filed a hostile work environment complaint against Karen Mathews and was concerned for her personal safety. GJ Staff Person forwarded that name to the GJ for possible inclusion to their witness list.

Staff remembers testifying to the 02-24-GJ committee that it is not unusual for the office to receive phone calls regarding witnesses for one of two reasons:

1. **Complainants who call to suggest the names of possible witnesses, or;**
2. **Witnesses who call, at the request of a committee, to provide names of additional witnesses who may possess knowledge regarding the case.**

The Staff Person would pass this information along to the investigating committee. The Staff Person did not determine what witnesses were called. The investigating committee determined who the witness would be and the order in which they would be interviewed.

One member of the 02-24-GJ investigating committee told the Staff Person during her interview that she should only tell citizens what day it was or what time it was.

11. Not applicable to GJ Staff Person.
12. GJ Staff Person testified that County Counsel requested updates on the status of case 01-10-C and whether particular witnesses had been called to testify. County Counsel also complained the case was proceeding too slowly.

RESPONSE - Disagree.

Staff remembers County Counsel asking if one witness had been called because her hostile work environment was escalating and she wanted to talk to the Grand Jury.

13. Not applicable to GJ Staff Person.
14. Not applicable to GJ Staff Person.

15. GJ Staff Person testified she left phone messages for the committee chairperson on case 01-10-C from the County Counsel.

RESPONSE - Disagree.

Staff remembers County Counsel trying to reach the first committee chair on one occasion. Staff recalls that the County Counsel and first committee chair were playing "phone tag" and that County Counsel was attempting to return her call.

16. Not applicable to GJ Staff Person.

17. Committee chairperson testified that County Counsel applied pressure to expedite the investigation on Grand Jury case 01-10-C by making repeated calls to the CGJ office and to her home.

RESPONSE- Disagree.

GJ Staff is only aware of one phone call made by the County Counsel to the original committee chair. On this one occasion, the County Counsel phoned the GJ office and asked to speak to the original committee chair. The County Counsel said he was returning her phone call. Staff told the County Counsel she was not at the GJ office and he would have to reach her at home.

18. Not applicable to GJ Staff Person.

19. Not applicable to GJ Staff Person.

20. Not applicable to GJ Staff Person.

21. Not applicable to GJ Staff Person.

22. Not applicable to GJ Staff Person.

23. Not applicable to GJ Staff Person.

24. GJ Staff Person testified she was aware of pressure and issues going back and forth from County Counsel to the DA, specifically the release of report 01-10-C.

RESPONSE - Disagree.

GJ Staff had no personal knowledge of "pressure," nor does she ever remember using that word.

GJ Staff was only personally aware of one issue. GJ Staff Person had received conflicting advice from the District Attorney and the County Counsel regarding who the 01-10-C report should be released to. An opinion was sought from Presiding Judge Mayhew and the final report was released according to his directions.

25. GJ Staff Person testified County Counsel requested the status of the final report on case 01-10-C because he was anxious to have the report released. GJ Staff told him the report would be heard before the full panel on May 17, 2001.

RESPONSE - Agree.

26. Not applicable to GJ Staff Person.

27. DA testified he believed County Counsel reviewed Grand Jury case 01-10-C prior to release.

RESPONSE- Clarification by Grand Jury Staff.

The County Counsel never saw a copy of the 01-10-C final report until it was released to the CEO's Office and Karen Mathews two working days prior to it being released to the public as required by Penal Code Section 933.05 (f). Staff released the final report as instructed by Presiding Judge Mayhew.

The County Counsel did not sign off on the 01-10-C final report, nor did he have knowledge of the contents of the final report prior to it being released to the CEO's Office. Staff never discussed the contents of final report 01-10-C with the County Counsel.

Staff developed and maintained a separate sign off file for the Presiding Judge, District Attorney and County Counsel. The 2001-2002 sign off file would reflect that the County Counsel did not review or sign off on the 01-10-C investigation. The District Attorney and the Presiding Judge signed off on the 01-10-C final report. All sign offs were required to be signed and dated. Comments from any of the three advisors regarding suggested changes were kept attached in these files maintained by staff.

28. Not applicable to GJ Staff Person.

29. Not applicable to GJ Staff Person.

30. Not applicable to GJ Staff Person.

31. Not applicable to GJ Staff Person.

32. GJ Staff Person testified that County Counsel directed her to write a statement pertaining to case 01-10-C to present to the BOS in a public hearing.

RESPONSE - Agree with clarification.

On January 30, 2001, 1990-1991 Foreperson Ralph Swenson contacted the GJ Staff Person and requested she meet him at Dewz at 11:00 a.m. Ralph Swenson told the GJ Staff Person the following:

1. **Ralph Swenson told the GJ Staff Person that he and Karen Mathews were "close personal friends." Mr. Swenson said Karen had told him she was being investigated by the Grand Jury. Mr. Swenson told Staff that if the Grand Jury wrote "anything negative" about Karen Mathews she said she would commit suicide.**
2. **Ralph Swenson told the GJ Staff Person he heard someone was making negative comments about his good friend Bruce Olson who used to train the Grand Jury. Mr. Swenson told Staff if Mr. Olson found out who was making these comments, Bruce would sue them.**
3. **Ralph Swenson told the GJ Staff Person that he wanted a copy of the Grand Jury Handbook.**

33. The GJ Staff Person testified she drafted said document and forwarded it to County Counsel for review. County Counsel made changes to the document and returned it to the GJ Staff Person.

RESPONSE - Agree.

34. A former grand juror testified the GJ Staff Person showed him this modified document and expressed her concern about making the presentation before the BOS.

RESPONSE - Agree.

35. Not applicable to GJ Staff Person.

36. Not applicable to GJ Staff Person.

37. The Deputy DA testified the GJ Staff Person voiced her concerns and reluctance in preparing a document for release in a public forum that would contain highly confidential CGJ information.

RESPONSE - Agree.

38. Not applicable to GJ Staff Person.

39. On October 4, 2001, CGJ Foreperson (2001-2002) became aware the GJ Staff Person was going to make a verbal presentation to the BOS and he specifically told her not to make the presentation.

RESPONSE - Disagree.

The 2001-2002 Foreperson became aware of the situation because the GJ Staff Person approached him and expressed her concern regarding making a presentation before the BOS. GJ Staff told the Foreperson she sought the approval of the 2001-2002 panel and she would not make a presentation before the BOS without the approval of the Presiding Judge. The document was prepared at the request of the County Counsel and contained Staff's recollection of events surrounding the investigation of 01-10-C. See response to Question #32.

40. County Counsel directed the GJ Staff Person to fax a copy of the document to the CGJ Foreperson.

RESPONSE - Agree.

41. Not applicable to GJ Staff Person.
42. Not applicable to GJ Staff Person.
43. Not applicable to GJ Staff Person.
44. Not applicable to GJ Staff Person.
45. Not applicable to GJ Staff Person.
46. Not applicable to GJ Staff Person.
47. Not applicable to GJ Staff Person.
48. Not applicable to GJ Staff Person.

49. Not applicable to GJ Staff Person.
50. Two (2) 2000-2001 CGJ members testified that GJ Staff Person released confidential information to them regarding the reopening of Grand Jury case 01-10-C.

RESPONSE - Disagree.

GJ Staff asked two 01-10-C committee members to review Karen Mathews's response. The response is a public document. The committee members were aware of the controversy regarding 01-10-C and were interested because they had been on the investigating committee.

Exhibit #30:

E-mail dated August 6, 2001 from 01-10-C committee member to GJ office regarding Karen Mathews response.

Exhibit #31:

E-mail dated August 6, 2001 from 01-10-C committee member to GJ office regarding Letter from Bruce Olson included in the Karen Mathews response.

Exhibit #32:

E-mail dated August 6, 2001 from 01-10-C committee member to GJ office regarding Letter from Ralph Moore included in the Karen Mathews response.

51. In testimony, GJ Staff Person denied sharing with anyone the fact that the 2001-2002 CGJ was reopening a 2000-2001 Grand Jury case.

RESPONSE - Agree.

52. Not applicable to GJ Staff Person.
53. GJ Staff Person testified to sharing with prior grand jurors that she was under investigation.

RESPONSE - Disagree in part.

A 2001-02 committee chair asked GJ Staff to schedule interviews with prior Grand Jurors regarding the letter received from Ralph Moore. This same letter from Ralph Moore had been attached to the Karen Mathews response, sent to all the judges on three separate occasions, discussed on a local radio show, printed in a local

newspaper and posted on the Internet. 2000-01 jurors were well aware of the contents of this letter as they had already discussed it and rejected it at the January 4, 2001 full panel meeting. Staff did not need to say she was under investigation, everyone knew the letter was referring to Staff.

See Exhibit #32.

54. Four (4) 2000-2001 Grand Jurors testified receiving information from the GJ Staff Person that she was being investigated by the 2001-2002 Grand Jury.

RESPONSE - Disagree in part.

A 2001-2002 committee chair asked GJ Staff to schedule interviews with 2000-2001 grand jurors. Several jurors asked Staff why they were being called to testify. Jurors mentioned to Staff that they had read the article in the Modesto Bee where the Court Administrator said the GJ should investigate the GJ.

55. A 2001-2002 grand juror committee chairperson states that the GJ Staff Person tried on three (3) occasion to dissuade him from continuing an investigation regarding a County agency.

RESPONSE - Disagree.

GJ Staff stated in training the 2001-2002 panel, as she does every year, that she does not tell the panel which cases to accept or deny. That is the decision of each panel.

56. The GJ Staff Person questioned a 2001-2002 grand juror regarding the progress of an ongoing investigation which involved her.

RESPONSE - Disagree.

Staff recalls saying to a Grand Juror standing in the hallway: "Hi, how's it going?" The juror responded: "You know I can't tell you about the investigation." Staff's statement was meant to be a friendly greeting and not a literal inquiry as to the status of the investigation.

57. A former local radio talk show host testified to a conversation with GJ Staff Person during which she told him that everything she did was approved by County Counsel.

RESPONSE - Disagree.

Staff recalls meeting Dave Thomas in a grocery store check out line and discussing potato chips; there was nothing else discussed.

58. The 2001-2002 Foreperson stated that on January 23, 2002, GJ Staff Person questioned and challenged him after being instructed to retrieve previous grand jury records.

RESPONSE - Disagree in part.

After the Grand Jury is no longer impaneled, only the Presiding Judge has authority to decide whether to furnish records, information or evidence to the successor Grand Jury. (Penal Code §924.4). The 2001-2002 Foreperson did not provide written documentation to Staff from the Presiding Judge authorizing her to release evidence from the previous Grand Jury. The Foreperson commanded Staff to get the records. Presiding Judge Mayhew never E-mailed, called, or wrote a letter authorizing the Staff Person to release these records.

On August 1, 2001, the Court Administrator ordered Staff not to communicate with any of the judges directly. Staff wondered if she was being tested to see whether she would release the files without proper authorization. A 2001-2002 juror walked in after this conversation with the Foreperson and told Staff she should have demanded a letter from the Judge before giving the Foreperson the files. This 2001-2002 juror commented to Staff that the Foreperson was probably trying to set her up.

59. In testimony, GJ Staff Person admitted questioning the Foreperson on January 23, 2002 regarding his need for requested Grand Jury records.

RESPONSE - Agree. See Response to #58 above.

60. Not applicable to GJ Staff Person.

61. Not applicable to GJ Staff Person.

62. Not applicable to GJ Staff Person.

63. Not applicable to GJ Staff Person.

64. Court Administrator and GJ Staff Person had disagreements over the secretarial position; the staff person wanted the position to be considered full time.

RESPONSE - Disagree.

On December 19, 2000, the GJ Staff wrote a memo to the Executive Officer of the Superior Court, not the Court Administrator, requesting that the position be upgraded to full time which Mr. Lundy approved. Staff had been working eight hours and receiving benefits for six hours.

Exhibit #33:

Memo to Donald H. Lundy, Superior Court Executive Officer dated December 19, 2000.

65. The DA testified that the GJ Staff Person, a Confidential Assistant IV, informed him that she was working out of class and should be a management employee.

RESPONSE - Disagree in part.

The 2000-2001 full panel unanimously voted and requested that GJ Staff be reclassified to management. The 2000-2001 Foreperson wrote a letter to Judge Mayhew on March 29, 2001 that reads in part . . . "We further recommend reclassification of Marnie Ardis to management." This position is unique within the county and does not fit appropriately in a clerical "box" due to the administrative responsibilities."

Exhibit #34:

Letter dated March 29, 2001 from William Compton to Honorable William Mayhew.

Judge Mayhew wrote back on April 24, 2001 saying in part . . . "The position is clearly a County position and subject to the County's personnel rules and regulations. As such, we (the courts) cannot legally assume responsibility for the personnel function of Grand Jury personnel." "Reclassification studies, however, for this position need to be performed by County Personnel and should be included in the budget submission made to the County for 2001-2002. As Foreperson, you can make reclassification requests directly to the County. The Court does not submit a County budget since we are completely state funded."

Exhibit #35:

Letter dated April 24, 2001 from William Mayhew to William Compton, Foreperson.

Staff complied with the Judges request and went to a county department head who had knowledge of her abilities. The District Attorney and Assistant District Attorney reviewed the ten page Position Description Questionnaire. The DA wrote a letter dated April 19, 2001 to the CEO which reads in part:

"I write to request that you consider the reclassification of the position of Grand Jury Confidential Assistant to Manager II--Grand Jury Administrator. This position has been held for the past ten years by Marnie Ardis, an extremely talented and qualified individual . . ." ". . .As you can see, persons holding like positions in other counties are nearly always afforded Management status. Her duties also qualify for a Manager II in Stanislaus County. I would encourage you to grant such status to Ms. Ardis."

See Exhibit #28:

Letter dated April 19, 2001 from District Attorney James Brazelton to Reagan Wilson, CEO.

As suggested by the Presiding Judge in his letter referenced above, the Position Description Questionnaire was submitted to the county for study and included in the budget documents as required. Final budget documents for fiscal year 2001-02 were due on April 24, 2001. A county department head can only submit reclassification requests twice a year--either during the midyear or final budget process.

66. The most recent formal job classification study of the GJ Staff Position was conducted by Melson and Boggs on June 20, 1997.

RESPONSE - Disagree.

The most recent job classification study of the GJ staff position was conducted by the County in April 2001. The reclassification study was requested by the 2000-2001 Grand Jury, suggested by Presiding Judge Mayhew, and supported and signed off by the District Attorney.

The study found that in Santa Clara County the Grand Jury Coordinator is also classified as management. The person holding the position in Santa Clara County has fewer responsibilities and is paid ten dollars an hour more than the Stanislaus County GJ Staff Person.

Three Foremen requested that Staff be reclassified. Foreperson Robert G. Fisher wrote a letter on February 21, 1997 saying GJ Staff should be reclassified to management.

Exhibit #36:

Letter dated February 21, 1997 from Foreperson Robert Fisher to Mr. Tozzi requesting staff be reclassified to management and given a special merit increase.

Exhibit #37:

Letter dated February 28, 1997 from Foreperson Robert Fisher to Michael Tozzi saying he has budgeted monies for step increase and special merit award.

Exhibit #38:

Letter dated March 5, 1997 from Michael Tozzi to Robert Fisher denying Marnie special merit increase and suggesting management status may be the answer.

67. Melson and Bogg's report regarding the GJ Staff position job classification study, dated June 24, 1997, concluded the position should remain as a Senior Executive Secretary (now known as Confidential Assistant IV).

RESPONSE - Agree with clarification.

The 1997 report did reflect a recommendation of no change. However, a new study was conducted based upon new information and the request from the District Attorney and 2000-2001 Grand Jury.

68. A. GJ Staff Person was promoted to Manager II position on September 22, 2001.

RESPONSE - Agree with clarification.

As a result of the reclassification study requested by the 2000-2001 Grand Jury and approved by the DA, CEO and BOS, the GJ Staff Person was promoted to Manager II on September 22, 2001. The BOS approved the reclassification of GJ Staff along with 96 other reclassifications. The BOS voted and accepted in a public hearing the adoption of the final budget for fiscal year 2001-2002, and all the related actions and adjustments. A total of 155 adjustments were made.

As Judge Mayhew states in his letter of April 24, 2001 . . .

"Given the definition of court employees in Government Code Section 71601 and the funding guidelines in California Rule of Court 810, Function 10, this position (GJ Staff) is not an employee of the Superior Court and State funds may not be used for non-court costs. The position is clearly a county position and subject to the County's personnel rules and regulations. As such, we (courts) cannot legally assume responsibility for the personnel function of Grand Jury personnel."

See Exhibit #35.

68. B. Job description has changed and now staff person is reporting to the Deputy Executive Officer for administrative purposes.

RESPONSE - Disagree in part

The County Human Resources Department drafted a job description. The Staff's job duties did not change. GJ Staff was still to report to the Foreperson and Presiding Judge. Due to the change in the courts relationship with the county, they felt it prudent that Staff not report to the Court Administrator. GJ Staff was instead asked to report to the Human Resources Department (DEO) for administrative purposes only, such as documenting vacation and sick days and for

help in processing evaluations. The only other change in the job description was that Staff was to report directly to the Presiding Judge and not the Court Administrator.

69. Not applicable to GJ Staff Person.

70. Not applicable to GJ Staff Person.

71. In testimony, GJ Staff Person reported as of January 2001, after a Legislative change was made to court employees, a letter by Presiding Judge told her she would remain a County employee.

RESPONSE - Agree.

See Exhibit #35.

72. GJ Staff Person testified she is aware she reports to the Grand Jury Foreperson, the Presiding Judge and the Court Administrator.

RESPONSE - Agree.

In the 11 years GJ Staff held the position, she worked with thirteen (13) Foremen and six (6) different Presiding Judges. Staff person worked closely with each Foreperson and adapted polices and procedures to suit the desires of each panel as required under §916.

73. A prior Grand Juror testified that GJ Staff Person discussed being intimidated by the Court Administrator.

RESPONSE - Agree.

74. A prior Grand Juror testified she spoke with the DA and Superior Court Deputy Executive Officer regarding the GJ Staff Person not wanting to work for the Court Administrator.

RESPONSE - Agree.

75. Court Administrator testified the CGJ needs the Staff Person reporting to CGJ Foreperson, not the County.

RESPONSE - Agree.

The GJ Staff Person always reported directly to the current Foreperson and panel members. The Staff Person always functioned in concert with each panel and their wishes.

76. GJ Staff Person testified she would prefer to report to the DA rather than the Court.

RESPONSE - Agree.

See #74.

77. The GJ Staff Person testified that she was informed by the Court Administrator to report directly to him instead of the Presiding Judge.

RESPONSE - Agree.

On August 1, 2001, the Court Administrator told Staff she was not allowed to communicate directly with any of the judges. The GJ Staff Person was told by the Court Administrator that all communication had to go through him.

78. Not applicable to GJ Staff Person.

79. Not applicable to GJ Staff Person.

80. After reviewing documents received from the Auditor-Controller's Office, dated January 2001 through June 2001, regarding Civil and Criminal Grand Jury expenditures, the names of confidential witnesses were discovered on invoices.

RESPONSE - Agree.

The GJ Staff Person never received instruction on processing payables from the Court Administrator. The Staff Person submitted bills from the Court Reporter as they were prepared. Staff was under the impression that the Auditor's Office would not pay a blank bill without a name to reference services rendered. The Court Reporter submitted bills for payment to the Court and also included names on those bills. Staff would have no problem working with the Court Reporter to devise a billing procedure that does not include names.

See Exhibit #39

Statement of Sherrie L. Barakatt, Court Reporter, August 20, 2002.

81. The 2001-2002 CGJ members discovered that archived CGJ records were stored in a poorly secured area shared with another Stanislaus County agency.

RESPONSE - Disagree in part.

In 11 years, GJ Staff worked in three different physical locations. At the first location Staff worked two weeks with the 1990-1991 Foreperson Ralph Swenson. When his term was over, Grand Jury Foreperson Swenson told Staff he was taking all the confidential GJ files home to his house. Staff thought this was very odd, but received no instruction on proper storage techniques from the Court Administrator. Prior to staff starting employment in 1991, there were no historical or archived CGJ records of any kind in the Grand Jury office.

The following year Staff started saving all the records in marked boxes. The GJ then moved its office to the second physical location. Staff worked with the building contractor to create a separate secure locked closet to store all GJ historical files. Staff and the Foreperson had access to this locked storage closet which was located in the conference room and required a separate key.

GJ Staff was notified that they had to immediately move to a third but temporary location due to the fact that their current lease had expired. The GJ at that time was sharing office space with a Charter School. All other county offices had moved out of the surrounding areas to 10th Street Place. The GJ was told this third location, the future home of the Gallo Performing Arts Center, would soon be torn down. There was no storage closet in this third office, so the archival records were stored in a locked area in the basement of the building. Access to this locked storage area required two separate keys. The one common key was held by the GJ Staff Person and the Sheriff's Department Sergeant who was the Jail Alternatives Coordinator. Both the Staff Person and the Sergeant had discussed that this was not the best method of storage, but both respected the confidential nature of the documents.

During the time period that the GJ was in the third temporary location, Staff was working with the architects hired to redesign the old City Hall. The GJ Office was going to be moved into that building once it was reconfigured. Staff worked with the architects designing this permanent future office space to create a separate secure locked storage area for GJ files.

82. The 2001-2002 CGJ was not kept informed of, nor had input into, Grand Jury budget matters.

RESPONSE - Disagree.

GJ Staff was asked by the Court Administrator to prepare the GJ budget.

The county is on a fiscal calendar commencing July 1st. The county budget process requires that the final budget documents for the next fiscal year be submitted in April. The new Grand Jury is sworn in during the month of July. The county determines the allocated appropriations for all departments. The Board of

Supervisors votes to approve the final budget. The Grand Jury is a general fund budget. The county pays for the operation and staffing of the Grand Jury. Funding for the Grand Jury does not come from the Courts budget which is completely funded by the state.

During fiscal year 2000-2001, the GJ Staff discussed the budget on numerous occasions with the Foreperson and current panel. Staff would bring to the panel's attention areas where the budget might be at a deficit. The panel made recommendations which Staff then included in the mid-year budget.

When the final budget for 2001-2002 was prepared and submitted in April, GJ Staff consulted with the 2000-2001 Foreperson and Audit Committee. Staff prepared the final budget documents adhering to county procedures and had the Audit Committee review it prior to submittal. It would be impossible for Staff to consult the 2001-2002 GJ in April of 2001, when the final budget documents were submitted, because panel members were not selected or sworn in until July 9, 2001.

Grand Jury Staff Secretary
Hired by Superior Court

DUTIES AND RESPONSIBILITIES

- Assists Foreperson in coordinating activities of the Grand Jury and various committees.
- Maintains a high level of confidentiality.
- Receives complaints and drafts correspondence.
- Maintains a current list of all local elected officials.
- Maintains administrative, accounting, and archival records.
- Assists in preparation of budget and budget recommendations.
- Prepares payroll and attendance reports.
- Assists in the preparation of interim and final reports, and public relations activities.
- Provides liaison between Grand Jury and public and private individuals and agencies.
- Establishes, and operates computer data base and maintains accurate record of all open and closed cases. Maintains case tracking sheets.
- Makes travel arrangements for Seminar and processes claims for payment.
- Orders all office supplies from Central Services and keeps an accurate inventory.
- Assists Executive Officer/Jury Commissioner and Presiding Judge in the process of selecting the new Grand Jury for the upcoming year.
- Prepares statistical reports and helps coordinate orientation program.

-- Keeps Grand Jury Handbook revised and up to date.



Superior Court of the State of California

COUNTY OF STANISLAUS
P.O. BOX 1011
MODESTO, CALIFORNIA 95353

A. GIROLAMI, JUDGE

TELEPHONE
(209) 525-6371

August 19, 1993

Ms. Marnie Ardis
Stanislaus County Grand Jury
715 13th Street
Modesto, CA 95354

Dear Ms. Ardis:

I wish to take this opportunity to formally thank you for your assistance to the Superior Court during my term as Presiding Judge. Both the Court and the citizens of Stanislaus County are most fortunate to have you performing the functions of Secretary to the Grand Jury.

From past experience, I know the problems that had to be handled by not only the Presiding Judge, but the Executive Officer, the District Attorney, and the County Counsel. Your involvement and your self-motivating characteristics have greatly reduced our workload in relation to the Grand Jury.

I must also commend you for putting together the most comprehensive Grand Jury Manual that we have ever had. When the rough draft was subsequently reviewed by our Judges, only minimal additions and deletions were required. Furthermore, the two Grand Juries that have utilized it had commented most favorably that it has been extremely beneficial to their work.

In conclusion, not only the Grand Jury, but the Court and the citizens of Stanislaus County are well served by having you on the job.

Very truly yours,

A handwritten signature in cursive script, appearing to read "A. Girolami".

A. Girolami
Judge of the Superior Court

AG:mes

Grand Jury Office Administrator
Hired by Superior Court

DUTIES AND RESPONSIBILITIES

- Assists Foreperson in coordinating activities of the grand jury and its various committees.
- Prepares agenda and agenda packets for Full Panel and Committee Chair meetings.
- Schedules and coordinates all full panel and committee chair meetings, interviews, tours and inspections.
- Prepares typed transcripts of all taped interviews with complainants and witnesses.
- Types all reports to be included in the Final Report.
- Maintains a high level of confidentiality.
- Receives complaints and drafts correspondence.
- Maintains administrative, accounting, and archival records.
- Prepares budget and makes budget recommendations.
- Prepares payroll and attendance reports.
- Assists in the preparation of interim/final reports and public-relations activities.
- Provides liaison between the grand jury and public and private individuals and agencies.
- Establishes and operates a computer data-base and maintains an accurate record of all open and closed cases. Maintains case tracking sheets and phase of completion on each case.

- Makes travel arrangements for the Grand Jury Seminar and processes claims for payment.
- Orders all office supplies from Central Services and keeps an accurate inventory.
- Assists Executive Officer/Jury Commissioner and Presiding Judge in the process of selecting the new grand jury for the upcoming year.
- Prepares statistical reports and coordinates orientation program and incoming/outgoing workshop.
- Maintains up to date Grand Jury library complete with reference books and legal opinions.
- Keeps *Grand Jury Handbook* revised and up to date.

BIOGRAPHICAL SKETCH

Please give only the information you would like to share.

Name _____ Nickname (if you want it used) _____

Born where? _____ Grew up where? _____

Residence before Stanislaus County? _____

How long in Stanislaus County? _____ City where you now live _____

Colleges attended: _____

Work related: Retired _____ Employed _____ Full time _____ Part time _____
Self-employed _____ Full time _____ Part time _____

Current employer: _____

Current position/duties: _____

Relevant prior work experience: _____

Volunteer activities: _____

Hobbies/Interests: _____

Special skills/experience: _____

Reason for choosing to be a Grand Juror: _____

Things we should know, but didn't ask: _____

ATTRIBUTES OF A COMMITTEE CHAIRPERSON

1. **Leadership qualities**
2. **Organized and efficient**
3. **Ability to motivate**
4. **Ability to be prepared**
5. **Keep the committee focused and not get sidetracked**
6. **Guides**
7. **Time to devote**
8. **Ability to delegate responsibilities to other members**
9. **No preconceived bias or agenda. Remain impartial and listen to all the facts before making a judgement**
10. **Ability to not alienate other committee members**

Committee Chairs

LEADERSHIP

The role of the chair is vital to the success of the committee and in turn the Grand Jury as a whole. The chair must continually guide the members to focus on the main issues of the investigation. Don't let peripheral issues cloud the main focus of the case. The chair must constantly be asking themselves and the members: What are the issues? What is the reason for this investigation? What is the crux of the case? What are we trying to find out? What are the facts? What can we do to improve this situation? What is the responsibility and jurisdiction of the Grand Jury in this issue? Who should we talk to? What documents would help clarify this issue?

As a chair, you might visualize yourself as the pilot. You need a map to chart the course to reach your desired destination. The chair is flying the plane and must keep all the passengers headed in the right direction.

The role of the chair is to motivate, coach and guide the committee to its maximum effectiveness. It is up to the chair to create an environment where the members work as a team. An outstanding chair will bring out the strengths of each member and nourish their potential. It is up to the chair to make sure the committee is coming up with the fastest, easiest way to get information and make a decision. The chair does not "own" the case. The investigation is conducted by the committee as a whole. The chair should be impartial and not try to displace committee members who do not agree with their point of view.

Sometimes a case will seem like a big ball of yarn that is difficult to unravel. Sometimes a case will be like an octopus with themes branching off in several different directions. The chair must steer the committee to focus on the issues in the complaint. How a witness dresses, talks, or acts is ultimately irrelevant. It is the facts brought forward that will help to solve the puzzle. Don't be so overwhelmed with the various details that you lose sight of the global picture of the case and what the complainant is really complaining about. Brainstorming with committee members is a good way to maintain the proper direction. It is through the spirit of cooperation that results will be achieved.

INDEPENDENCE

- The responsibility for handling an investigation should be placed upon the committee to which it is assigned. The committee may ask for support and assistance, but the committee is in the best position to evaluate progress and what has to be done next. Any committee meeting or interview is open to any member of the Grand Jury who is interested in attending.

COMMUNICATION

- The committee chair keeps the Foreperson and the Grand Jury informed of the progress of the committee at full panel meetings.
- The committee chair must report to the full panel if an investigation shows no promise and should be closed.
- The committee chair stays alert to possible conflicts of interest and excuses committee members from investigations where a conflict exists.

PLANNING

- Careful planning is essential to prevent wasted time and effort, embarrassment, loss of credibility and potential lawsuits.

DETERMINE WHAT NEEDS TO BE LEARNED

- What is the department or agency's reason for existence?
- What are the laws or codes under which it operates?
- Who utilizes the services?
- Is it cost effective?
- Is there value to this function or has it become unnecessary?

INVESTIGATIONS

- **The Committee chairs must organize the committee, make assignments and should try to take advantage of background experience, knowledge and special expertise of committee members.**
- **Committee chairs coordinate the investigations.**
- **Define objectives.**
- **Chairs set the standard for impartial, objective and professional investigations.**
- **Chairs assure that each investigation is completed as soon and as thoroughly as practical.**
- **All investigations and inspections will be made by two or more jurors to assure accuracy and fairness and for the juror's own protection. No investigation or inspection should be undertaken without the prior assignment of a complaint or approval of the Grand Jury to conduct an investigation.**
- **Chairs should remember that not every complaint or suggested investigation can be undertaken. The chairs along with the full panel should try to select investigations that promise to bring the greatest value to the county and still remain within our jurisdiction and resources.**

INTERVIEWS

- **Chairs help to ensure that members read relevant materials and attend meetings and interviews.**
- **Chairs must prepare concise questions designed to elicit the information needed from the interview.**

- **Chairs must remember to not let the witness get off on a tangent and digress to areas that are not relevant to the investigation. It is up to the chair to bring the witness back on track.**
- **Make sure the witness answers the question you actually asked and rephrase it or repeat the question if it was not answered.**
- **As the chairperson, you should set the pace of the interview not the witness.**
- **Listen to what the witness is not saying as well as what is being said.**
- **Be thinking in your mind, what information am I trying to get from this witness.**

FINAL REPORTS

- **Chairs assure that each final report is written no later than two weeks after the close of the investigation.**
- **Oftentimes when the committee begins to write the report they realize there are weak areas in their investigation that need further research. Chairs who wait until the last minute to write their reports won't have the time to go back and strengthen the weak areas.**
- **Chairs make sure that the final report is based on fact, not opinion. All reports must contain valid and truthful observations and must not reflect personal bias.**
- **Chairs make sure there is triangulation to support all findings. If you have only two sources either omit the finding or conduct more research.**

THANK YOU

Your time, effort and dedication to improving local government is appreciated. An outstanding product is testimony to your commitment.

GRAND JURY

O F F I C E

MEMO

To: Civil Grand Jury Members

From: Marnie Hall Ardis

Subject: Grand Jury Survey

Date: March 2, 2001

Please take a moment to fill out the enclosed survey. I am always trying to improve the way the Grand Jury operates and would appreciate any suggestions or comments you could provide. You can remain anonymous. This form does not have to be signed. Please return the survey to Post Office Box 3387, Modesto, California 95353. Thank you for taking the time to give me some feedback. Please contact me at 558-7766 if you have any concerns or questions.

Please mail your survey back by Monday, March 19, 2001.

GRAND JURY

O F F I C E

SURVEY

1. Are you enjoying serving on the Civil Grand Jury? Please explain why or why not.

2. What changes would you like to see implemented to make your job easier and/or more meaningful?

3. When you were selected did you understand the depth of the work involved? If not, how could this be better explained?

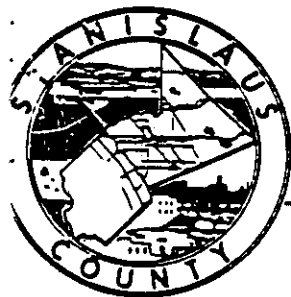
4. When you were selected did you understand the time demands?

5. Do you feel you are able to express your viewpoints/opinions openly at full panel meetings?

6. Are you pleased with the way the full panel meetings are being run?

7. Do you feel there is adequate discussion of the current cases?

8. Do you feel you are being kept informed of upcoming meetings and interviews?
9. Do you feel you were informed regarding office procedures, investigation techniques, conducting interviews and writing final reports? If not, what would you like to see changed or added?
10. If you indicated that you would serve as a Chairperson, are you satisfied with the selection process of the Chairs?
11. For Chairpersons only: Do you feel you received adequate training to assist you in the interview process? Did you feel prepared to conduct an interview?
12. Did you find the field trips helpful and interesting? Would you recommend that we continue having field trips in the future?
13. Is there anything about the Grand Jury process you would like to see changed, improved or any suggestions to make things run more smoothly?
14. Anything I didn't ask but should have?



Stanislaus County

Grand Jury

P.O. Box 3387
Modesto, Ca. 95353
(209) 558-7766

September 24, 1992

Mr. Bruce T. Olson, Ph.D.
Executive Director
AMERICAN GRAND JURY FOUNDATION
Post Office Box 1690
Modesto, California 95353-1690

Dear Bruce:

During your 1992 Grand Jury Seminar, held in Sacramento, our Stanislaus County was represented by twelve members of the Civil Grand Jury. The members attending, consisted of five women and seven men, all of whom were new to the Grand Jury with the exception of one holdover.

Our newly impanelled Civil Grand Jury has been very fortunate to have a quick start in organizing and getting down to business. This was accomplished, in great part, due to the help of our holdover, and staff secretary.

Since our return from the Seminar, we have spent time discussing the two and a half days, and my thoughts were to share some of the results of those discussions with you.

It was our opinion that the discussions on previous investigations, given the first day i.e. Children's Protective Services, Certification of Participation, etc., appeared to be politically motivated, and had little meat to be grasped by a new jury group. It was the feeling of our group that we were being lobbied to investigate these areas, and that is not why we attended your seminar.


Our purpose for attending was to learn the "nuts and bolts" of what a Grand Jury is all about: how to function effectively, what the steps are to an investigation, how to write the final reports, and how to get the public's eye. To sum up our goals, we wanted to learn how to be an effective panel. We wanted to determine how to effect change without sensationalizing, and how to gain the cooperation of local government.

A couple of other feelings were:

1. Several sessions were too long in the discussion, and short on time for questions and answers.
2. Additional workshops or repeated work shops on the What and How's of Grand Juries.
3. Forced get together with Jury members from other areas. Idea sharing, monitored by a facilitator or group leader.
4. Reduced time in coffee breaks, but more locations, and water locations as well.
5. Due to the increased pressure of budgets and cost increases of this seminar, a reduction of at least half a day may be worth consideration.

Should you wish to further explore these ideas, please feel free to call.

Sincerely,



Tom Wright
Grand Jury Foreman
1992-1993

TW:mha

7
ALFRED KAUFMAN

1001 Southampton Lane
Modesto, CA 95350-1663
Phone (209) 526 5662
email: kaufmana@pacbell.net

August 18, 2001

Mrs. Marnie Ardis
c/o Stanislaus County Grand Jury
P. O. Box 3387
Modesto, CA 95353

RECEIVED

AUG 20 2001

Dear Marnie:

Thanks for allowing me to examine the County Clerk-Recorder's response to The 2000-2001 Grand Jury Report Part Six.

I became interested in these documents when I heard Bruce Olson at the Stanislaus Taxpayers Association meeting criticize the Grand Jury's operation in this case. I have not attempted to evaluate the Grand jury report, nor have I attempted to compare Mrs. Mathews' response to the allegations.

It is unfortunate that Mrs. Mathews included the Olsen and ^{MORE} Brown letters as a part of her response. This impeaches the credibility of her response. It is a classic case of slaying the messenger when the messenger brings bad news.

When I heard Mr. Olsen I sensed that he had some sort of a vendetta in condemning the operation of the Grand Jury, and especially your role in its operation. I recall that a few years ago when I served two years on the Grand Jury we attended seminars conducted by Mr. Olsen. We felt in those years that the two-day seminars held out of town were minimally productive, and undoubtedly too expensive in comparison to the value received. Mr. Olson stated at the Taxpayers meeting that he is still involved in the business seminars and teaching for Grand Juries. I concluded that Mr. Olson would like to regain the Stanislaus County business, although he did not explicitly so state.

I plan to rebut Mr. Olsen's words at the next Taxpayers Association meeting. I will also remind them that the Grand Jury is the citizen's most useful tool in ensuring the efficiency of all branches of local governments in this county. Citizens should not hesitate to forward complaints to the Grand Jury, as there is complete assurance that there will be complete and unbiased investigation and recommendations. Furthermore, members of the Taxpayers Association are uniquely motivated and endowed to investigate local governments and they should volunteers to serve on Grand Juries.

Sincerely,


Al Kaufman

**Supplemental Materials for the
Foremen's Forum**

**Wednesday, August 19, 1992
Delta King
Sacramento, California**

**Thirteenth Annual Grand Jury Exchange Seminar
of
The American Grand Jury Foundation**



Foremen's Forum

Thirteenth Annual Grand Jury Exchange Seminar

*August 19, 1992
Delta King
Sacramento, California*

12:00 NOON – 12:45 PM

Paddle Wheel Saloon

LUNCH

1:00 PM – 1:30 PM

S.S. Jenny Lind

FORUM INTRODUCTION — Bruce T. Olson, Ph.D.; Mr. Ralph Swenson

GOALS OF FORUM — Mr. Ralph Swenson

1:30 PM – 3:00 PM

S.S. Jenny Lind

THE FOREMAN'S ROLE — Ms Linda Gilcrest; Mr. Howard Rien; Ms Linda Smalldon; Mr. Ralph Swenson

Summary – Bruce T. Olson, Ph.D.

3:00 PM – 3:15 PM

S.S. Jenny Lind

COFFEE BREAK

3:15 PM – 3:45 PM

S.S. Jenny Lind

HOW COMPUTERS CAN SUPPORT THE FOREMAN AND THE GRAND JURY — Mr. Ralph Swenson; Ms Marnie Ardis

1. Payroll
2. Complaint Tracking
3. Other systems

3:45 PM – 5:00 PM

S.S. Jenny Lind

CLINIC

Delta Lounge

NO-HOST SESSION

GRAND JURY

OFFICE

MEMO

To: Civil Grand Jury Members

From: Marnie Hall Ardis

Subject: Grand Jury Survey

Date: March 2, 2001

Please take a moment to fill out the enclosed survey. I am always trying to improve the way the Grand Jury operates and would appreciate any suggestions or comments you could provide. You can remain anonymous. This form does not have to be signed. Please return the survey to Post Office Box 3387, Modesto, California 95353. Thank you for taking the time to give me some feedback. Please contact me at 558-7766 if you have any concerns or questions.

Please mail your survey back by Monday, March 19, 2001.

Marnie,

I don't mind signing my name. I want to address a subject that wasn't asked about and that was holdovers. I thought you held over too many people from last year. They were strong personalities and sometimes overwhelmed the new people. I thought Sheila and Virginia were good choices. I do not think Ralph, Karly + Jan were good choices. All three were almost proprietary about the grand jury. I appreciate your soliciting input from us.

Rebecca Bearden

GRAND JURY

SURVEY

OFFICE

1. Are you enjoying serving on the Civil Grand Jury? Please explain why or why not.

I enjoy it very much. It was very busy for me during January and February and I believe better leadership could have prevented that. I like the work and I believe it is valuable to the public.

2. What changes would you like to see implemented to make your job easier and/or more meaningful?

Better choices of program chairs and an early evaluation of each case to avoid backing things up. Sometimes this can't be avoided due to what comes out in interviews.

3. When you were selected did you understand the depth of the work involved? If not, how could this be better explained?

I believe I understood it would take a lot of time. I think having someone from the year before talk about how many hours they spent on "big" cases might help.

4. When you were selected did you understand the time demands? *yes.*

5. Do you feel you are able to express your viewpoints/opinions openly at full panel meetings? *yes, all viewpoints are taken seriously and all are listened to before decisions are made.*

6. Are you pleased with the way the full panel meetings are being run? *I think they are too hurried. The foreman has another meeting immediately following and I sometimes feel things are pushed so we get out early.*

7. Do you feel there is adequate discussion of the current cases? *Sometimes I feel like the reports go too long if we are not hearing new material. I would rather have a written report before the meeting with a short verbal and a chance to ask questions and provide input.*

8. Do you feel you are being kept informed of upcoming meetings and interviews? *yes*
9. Do you feel you were informed regarding office procedures, investigation techniques, conducting interviews and writing final reports? If not, what would you like to see changed or added? *Yes, I thought the training was very good.*
10. If you indicated that you would serve as a Chairperson, are you satisfied with the selection process of the Chairs? *I don't think it could have happened any better but I did think some Chairs weren't too open. Chairs need to understand its not their case but the whole Committee's*
11. For Chairpersons only: Do you feel you received adequate training to assist you in the interview process? Did you feel prepared to conduct an interview? *Yes, - see 13 below*
12. Did you find the field trips helpful and interesting? Would you recommend that we continue having field trips in the future? *I found the field trips useful and interesting. I think we could have spent more time in some departments like CSA - we missed all of the Tanff programs & their support staff, computer folks & Gain.*
13. Is there anything about the Grand Jury process you would like to see changed, improved or any suggestions to make things run more smoothly? *I think when groups start interviewing they may want a refresher training course & that might be the focus of an early meeting with Committees sharing successes or concerns - I thought this year's group seemed to come together very well in the beginning and then splintered at the mid-point.*
14. Anything I didn't ask but should have?

I think the foreman of the grand jury is very important. I have appreciated Bill's willingness to give a lot of time to the job. I have thought his style allowed some members too much time when they start having trouble. This case however, dealt with some

GRAND JURY

OFFICE

SURVEY

1. Are you enjoying serving on the Civil Grand Jury? Please explain why or why not.

*Absolutely! I've learned so many things I would
of not even been introduced to if I weren't on the
Grand Jury. I enjoy new people and the different personalities.*

2. What changes would you like to see implemented to make your job easier and/or more meaningful?

I can't think of any.

3. When you were selected did you understand the depth of the work involved? If not, how could this be better explained?

*No - I'd explain that once you're
on a committee there will not only be witness inter-
views but, several committee meetings to go over questions
and directions of the case. Also, the hours of reading
involved.*

4. When you were selected did you understand the time demands?

Some what. Every case is a new adventure!

5. Do you feel you are able to express your viewpoints/opinions openly at full panel meetings?

Yes - and we do!!!

6. Are you pleased with the way the full panel meetings are being run?

Yes - except Bill needs to "focus" ...

7. Do you feel there is adequate discussion of the current cases?

Absolutely

8. Do you feel you are being kept informed of upcoming meetings and interviews?

Yes - Am always updated on any changes.

9. Do you feel you were informed regarding office procedures, investigation techniques, conducting interviews and writing final reports? If not, what would you like to see changed or added?

Yes

10. If you indicated that you would serve as a Chairperson, are you satisfied with the selection process of the Chairs?

11. For Chairpersons only: Do you feel you received adequate training to assist you in the interview process? Did you feel prepared to conduct an interview?

12. Did you find the field trips helpful and interesting? Would you recommend that we continue having field trips in the future?

The field trips were the best. I enjoy checking out places the average citizen can't go. I think they're an important part of being on the Grand Jury.

Is there anything about the Grand Jury process you would like to see changed, improved or any suggestions to make things run more smoothly?

No - You've got it together Marnie. Without you there wouldn't be a Grand Jury.

14. Anything I didn't ask but should have?

That's the bottom line.

GRAND JURY

SURVEY

OFFICE

1. Are you enjoying serving on the Civil Grand Jury? Please explain why or why not.

Yes. Very much. This has been a tremendous learning experience.

2. What changes would you like to see implemented to make your job easier and/or more meaningful?

Nothing comes to mind.

3. When you were selected did you understand the depth of the work involved? If not, how could this be better explained?

No. The time involved is difficult to comprehend and the time involved in reading all of the material.

4. When you were selected did you understand the time demands?

No

5. Do you feel you are able to express your viewpoints/opinions openly at full panel meetings?

Absolutely

6. Are you pleased with the way the full panel meetings are being run?

Yes

7. Do you feel there is adequate discussion of the current cases?

Yes

8. Do you feel you are being kept informed of upcoming meetings and interviews?

Yes

9. Do you feel you were informed regarding office procedures, investigation techniques, conducting interviews and writing final reports? If not, what would you like to see changed or added?

Yes the training was very helpful and having access to previous reports.

10. If you indicated that you would serve as a Chairperson, are you satisfied with the selection process of the Chairs?

Yes

11. For Chairpersons only: Do you feel you received adequate training to assist you in the interview process? Did you feel prepared to conduct an interview?

Yes. At least I felt a bit inadequate, however, was less as we go along.

12. Did you find the field trips helpful and interesting? Would you recommend that we continue having field trips in the future?

Yes. I don't think its necessary for the hold overs.

13. Is there anything about the Grand Jury process you would like to see changed, improved or any suggestions to make things run more smoothly?

No. The Grand Jury is run very efficiently.

14. Anything I didn't ask but should have?

GRAND JURY

OFFICE

SURVEY

1. Are you enjoying serving on the Civil Grand Jury? Please explain why or why not.

yes

2. What changes would you like to see implemented to make your job easier and/or more meaningful?

None noted

3. When you were selected did you understand the depth of the work involved? If not, how could this be better explained?

No — "depends on volume/severity of cases"

4. When you were selected did you understand the time demands?

Not the extent required to do the job correctly.

5. Do you feel you are able to express your viewpoints/opinions openly at full panel meetings?

yes

6. Are you pleased with the way the full panel meetings are being run?

N/A

7. Do you feel there is adequate discussion of the current cases?

yes

8. Do you feel you are being kept informed of upcoming meetings and interviews?

N/A

9. Do you feel you were informed regarding office procedures, investigation techniques, conducting interviews and writing final reports? If not, what would you like to see changed or added?

yes

10. If you indicated that you would serve as a Chairperson, are you satisfied with the selection process of the Chairs?

N/A

11. For Chairpersons only: Do you feel you received adequate training to assist you in the interview process? Did you feel prepared to conduct an interview?

N/A

12. Did you find the field trips helpful and interesting? Would you recommend that we continue having field trips in the future?

yes - a real necessity for jurors
to get the big picture/meet the "players"

13. Is there anything about the Grand Jury process you would like to see changed, improved or any suggestions to make things run more smoothly?

No

14. Anything I didn't ask but should have?

Do we like the cookies? (yes!)

GRAND JURY

OFFICE

SURVEY

1. Are you enjoying serving on the Civil Grand Jury? Please explain why or why not.

Yes. Jury members are conscientious and dedicated and have good sense of humor. It is a pleasant association.

2. What changes would you like to see implemented to make your job easier and/or more meaningful?

I would like to have the county and city government structure explained in greater detail (names of departments, who reports to whom, budget process, etc)

3. When you were selected did you understand the depth of the work involved? If not, how could this be better explained?

I generally understood. I just didn't think that some cases would be as involved as they are.

4. When you were selected did you understand the time demands?

yes. However, because of the nature of some investigations, a greater amount of time than I thought has been expended. This has not been a problem for me. It's a part of the job.

5. Do you feel you are able to express your viewpoints/opinions openly at full panel meetings?

Yes. If I have something to say, I know I will have the opportunity to do so.

6. Are you pleased with the way the full panel meetings are being run?

Yes. I like the interaction among the panel and the informal atmosphere.

7. Do you feel there is adequate discussion of the current cases?

Generally yes. Once in a while a chairperson will not give enough information on a current case, e.g., 01-10-c. But I could always ask questions.

8. Do you feel you are being kept informed of upcoming meetings and interviews?

yes, no problem.

9. Do you feel you were informed regarding office procedures, investigation techniques, conducting interviews and writing final reports? If not, what would you like to see changed or added?

Training and information has been good.

10. If you indicated that you would serve as a Chairperson, are you satisfied with the selection process of the Chairs?

N/A

11. For Chairpersons only: Do you feel you received adequate training to assist you in the interview process? Did you feel prepared to conduct an interview?

N/A

12. Did you find the field trips helpful and interesting? Would you recommend that we continue having field trips in the future?

Continue the field trips. It gives people a better understanding of the county and city. Meeting department heads is also important.

13. Is there anything about the Grand Jury process you would like to see changed, improved or any suggestions to make things run more smoothly?

I have no suggestions.

14. Anything I didn't ask but should have?

I can't think of anything.

Dawson Wright

GRAND JURY

SURVEY

OFFICE

1. Are you enjoying serving on the Civil Grand Jury? Please explain why or why not.
Serving on the Civil Grand Jury encompasses far more than personal enjoyment. Service yields satisfaction in giving the best of one's intelligence, listening, reading & writing skills to the citizens of this county. One obtains a holistic perspective of city & county govt. It allows the development of a cohesive team by exception we all have noted this past year.
2. What changes would you like to see implemented to make your job easier and/or more meaningful?
For Audit Committee's in July receive the last 3 yrs of county budgets w/ state Govt Acctg synopsis of funds. Estb mtg w/ last year's chairman within first 6 weeks of appointment to review areas of concern. Read/digest management reports & Auditor's statements of last 2-3 yrs by no later than Sept 15. Don't wait for Chair to request since he/she may not know what to do.
3. When you were selected did you understand the depth of the work involved? If not, how could this be better explained?
Because some years' complaints maybe simpler in nature &/or less in numbers, highlight cases within last 1-5 yrs which were complex, required multi-coordination & execution. Have panel from prior year's 65 give an overview of what he/she did as a committee to assist newcomers w/ intensity & depth issues.
4. When you were selected did you understand the time demands?
Absolutely not. I feel like I'm working PT w/ the expectation that goals & objectives will be met in a timely, successful fashion.
5. Do you feel you are able to express your viewpoints/opinions openly at full panel meetings?
Yes - Having round robin of status reports is helpful. Agendas are concise. Deel Compton has served admirably in running smooth functioning mtgs w/out much squabbling or ego issues.
6. Are you pleased with the way the full panel meetings are being run?
See above. Much has to do w/ leadership of 65 Foreman & his/her people skills, administrative/management experience at running mtgs that work. The doc. backup has been excellent & timely response to requests from agencies/depts also excellent due to Ms. Aulis' persistence & perseverance.
7. Do you feel there is adequate discussion of the current cases?
Yes. If anyone wishes to know more detail, opportunity is there to request info/clarification from chair.

8. Do you feel you are being kept informed of upcoming meetings and interviews?

Calendar updates very helpful inc. discussion at regular full panel mtgs.

9. Do you feel you were informed regarding office procedures, investigation techniques, conducting interviews and writing final reports? If not, what would you like to see changed or added?

I feel all issues above were excellent w/ one addition - more work w/ GJ on writing findings vs Records vs - conclusions.

10. If you indicated that you would serve as a Chairperson, are you satisfied with the selection process of the Chairs?

(yes?) I don't really know what the exact process was, so can't respond adequately.

11. For Chairpersons only: Do you feel you received adequate training to assist you in the interview process? Did you feel prepared to conduct an interview?

yes. Only area of concern is when another committee member sits in on your interview & then adds inordinate length to interview time w/ his/her questions. This only happened once to me, but I would never want that person back again unless I had seen & approved the questions before intended to ask.

12. Did you find the field trips helpful and interesting? Would you recommend that we continue having field trips in the future?

yes. I've lived here 12 years & had never seen the downtown jail. It gives one the realization how overarching county agencies are in all our lives.

13. Is there anything about the Grand Jury process you would like to see changed, improved or any suggestions to make things run more smoothly?

See suggestions embodied within responses 1-12.

14. Anything I didn't ask but should have?

- Yes - How helpful has the liaison been for GJ functioning positively & productively? Love deeply appreciated your assistance, Marine, for you have been an integral key to the whole process.

GRAND JURY

OFFICE

SURVEY

1. Are you enjoying serving on the Civil Grand Jury? Please explain why or why not.
Yes - (and no, sorry to have ~~so~~ so much info. on how screwed up the city is.)
2. What changes would you like to see implemented to make your job easier and/or more meaningful?
Sometimes, I felt like I was just taking up space.
3. When you were selected did you understand the depth of the work involved? If not, how could this be better explained?
No, lots of reading required.
4. When you were selected did you understand the time demands?
No
5. Do you feel you are able to express your viewpoints/opinions openly at full panel meetings?
Mostly,
6. Are you pleased with the way the full panel meetings are being run?
The language (cursing) is not very professional professional and too much talking about people who are not present. Very childish.
7. Do you feel there is adequate discussion of the current cases?
Mostly,

8. Do you feel you are being kept informed of upcoming meetings and interviews? *yes*
9. Do you feel you were informed regarding office procedures, investigation techniques, conducting interviews and writing final reports? If not, what would you like to see changed or added? *yes*
10. If you indicated that you would serve as a Chairperson, are you satisfied with the selection process of the Chairs? */*
11. For Chairpersons only: Do you feel you received adequate training to assist you in the interview process? Did you feel prepared to conduct an interview? */*
12. Did you find the field trips helpful and interesting? Would you recommend that we continue having field trips in the future? *yes, was very informative.*
13. Is there anything about the Grand Jury process you would like to see changed, improved or any suggestions to make things run more smoothly?
14. Anything I didn't ask but should have?

GRAND JURY

OFFICE

SURVEY

1. Are you enjoying serving on the Civil Grand Jury? Please explain why or why not.

*It's a great learning experience about County Government
I enjoy it*

2. What changes would you like to see implemented to make your job easier and/or more meaningful?

*The better the total panel - the more meaningful it
will be for everybody -*

3. When you were selected did you understand the depth of the work involved? If not, how could this be better explained?

~~It's~~ *It's not anymore involved than I thought
it would be -*

4. When you were selected did you understand the time demands?

*I guess I thought it would take a lot of time
and it does -*

5. Do you feel you are able to express your viewpoints/opinions openly at full panel meetings?

Yes I do -

6. Are you pleased with the way the full panel meetings are being run?

most of the time - and mearie you are a great resource -

7. Do you feel there is adequate discussion of the current cases?

*most of the time.
I think it is important for everyone to know
as much about each case as is reasonable*

8. Do you feel you are being kept informed of upcoming meetings and interviews?

yes

9. Do you feel you were informed regarding office procedures, investigation techniques, conducting interviews and writing final reports? If not, what would you like to see changed or added?

yes I do -

10. If you indicated that you would serve as a Chairperson, are you satisfied with the selection process of the Chairs?

11. For Chairpersons only: Do you feel you received adequate training to assist you in the interview process? Did you feel prepared to conduct an interview?

12. Did you find the field trips helpful and interesting? Would you recommend that we continue having field trips in the future?

yes - the field trip were great - continue -

13. Is there anything about the Grand Jury process you would like to see changed, improved or any suggestions to make things run more smoothly?

a informed panel - makes the Grand Jury run smoother -

14. Anything I didn't ask but should have?

you make the Grand Jury better -

Ham

From: Mamie Ardis
To: John Whiteside
Date: 6/15/00 9:49AM
Subject: Re: letters and other stuff

Thanks for the nice compliment. It has been a wonderful three years and I will miss working with you! I am releasing the utility tax case this morning. This afternoon we have a full panel meeting to approve the last two reports, one of which is 26 pages. I hope to forward these to you tomorrow. Once these last reports are approved, I will print the bound version with all the final reports in it. It has been a busy year and I think the panel has been very productive. It seems like the more I train the members, the better they conduct their investigations and write their reports. We are making positive progress. Thanks for all the help and support.

>>> John Whiteside 06/15/00 09:16AM >>>

Dear Mamie,

I just finished signing the letters for the outgoing Grand Jury members. I'll be sending them back to you by departmental mail. Sounds like the Oakdale Schools case was quite a bombshell. I guess we'll never know the name of the very knowledgeable complainant who turned that one in...will we?:)

Please accept my personal thanks for a job well done. Without your very able and professional assistance, I would be spending a great deal of time on Grand Jury matters, and I'm pretty sure things would not be working nearly as well. I've enjoyed working with you the past three years, and I know Judge Mayhew will have just as good an experience.

Good luck and thanks again.

John

From: Michael Tozzi
To: Mamie Ardis
Date: 10/21/99 3:59PM
Subject: Re: Attending Full Panel Meetings

I answered john. he may send my response to you. if not and you want it, let me know.

>>> Mamie Ardis 10/21/99 09:10AM >>>

The question has been raised again this year by several panel members who think it would be helpful for me to attend the Full Panel meetings. They feel with my historical perspective of past cases that I could provide needed insight, answer questions and consequently save them time. They counter that since I am a confidential employee and "know everything anyway" they can't understand why a staff person isn't in the meetings. I know I have asked this before and as I recall, I am not supposed to attend the meetings because I am not a Grand Jury member. Just checking so I can answer their question accurately.

From: John Whiteside
To: Marnie Ardis
Date: 10/21/99 4:01PM
Subject: attend full panel meetings./

you can, as a resource. you shouldn't offer direction or advice except when asked, and should not guide them as to what to do in their investigations. other than that, ok.

CC: Michael Tozzi

From: William Mayhew
To: Mamie Ardis
Date: 7/25/00 3:30PM
Subject: Re: Attending Full Panel Meetings

yes

>>> Mamie Ardis 07/25/00 03:28PM >>>

As you know, last year Judge Whiteside ruled that I could attend full panel meetings as a resource. I understand that I am not allowed to offer advice except when asked. My role is to provide a historical perspective if needed and clarify questions on procedures. I received a lot of positive feedback from Foreperson George Betker and the members that it saved them time and was helpful.

I wanted to verify that I have your permission to attend the full panel meetings this year.

Confidential

①
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Phone: (209) 525-6376 Fax: (209) 525-4473

8/1/01 Copy: MARWJ ARD.

DATE: July 25, 2001

TO: The Honorable William Mayhew
Judge of the Superior Court

FROM: Dean Wright *DW*
Deputy County Counsel

• Put into
Handbook

IN RE: PERSONS WHO MAY BE PRESENT AT GRAND JURY SESSION

It is my understanding that you seek guidance with regard to a question concerning who may be in attendance at sessions of a grand jury. Section 939 of the California Penal Code, as amended, reads as follows:

"No person other than those specified in Article 3 (commencing with Section 934), and in Sections 939.1, 939.11, and 939.21, and the officer having custody of a prisoner witness while the prisoner is testifying, is permitted to be present during the criminal sessions of the grand jury except the members and witnesses actually under examination. Members of the grand jury who have been excused pursuant to Section 939.5 shall not be present during any part of these proceedings. No persons other than grand jurors shall be permitted to be present during the expression of the opinions of the grand jurors, or the giving of their votes, on any criminal or civil matter before them."

The court in Farnow v. Superior Court, 226 Cal.App.3d 481, interpreted this statute where the issue was whether or not a public official, who had been subpoenaed to appear before a civil session of the grand jury could be accompanied by his attorney during his testimony. The court in Farnow answered the question as follows: "The need for grand jury secrecy is not limited to criminal sessions." (Farnow v. Superior Court, *supra*, at page 488.) I have attached a copy of the Farnow decision for your review and commend pages 487 through 491 to your attention.

Based upon the clear language of the third sentence of Section 939, it is the opinion of this office that in providing guidance to the grand jury, the presiding judge should advise them that it is not appropriate for any persons other than grand jurors to be present during the expression of the opinions of grand jurors or the giving of their votes on any criminal or civil matter before them. (Please see attached both the current version of Section 939 and its predecessor and note that the content of the last sentences remain the same in both versions.)

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Memo to The Honorable William Mayhew
July 25, 2001
page 2

If individuals other than members of the grand jury have been present in the past, it appears that this would be a procedural problem rather than a violation of California law if such persons were present with the knowledge and consent of the grand jury. Section 891 of the California Penal Code makes it a misdemeanor offense for an individual without the knowledge and consent of the grand jury to attempt to record, listen, observe, or attempt to do the same if he is not a member of the grand jury while such jury is deliberating or voting. Therefore, despite the proscriptive language of Section 939 of the Penal Code, it appears that there is no criminal violation unless a person who is not a member of the grand jury was present without the knowledge and consent of the grand jury during deliberations or voting.

DW/cgk
Enc.

cc: Michael H. Krausnick, County Counsel

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2

the superior court shall require the report show by affidavit or otherwise that he has ten up and delivered all testimony request him in accordance with that subdivision. Added Stats 1959 ch 501 § 2. Amended Stats 1975 ch 298 § 4, effective August 22, 1975.

Cal Jur 3d (Rev) Criminal Law § 2693.

§ 938.3. Fixing rate of compensation; Liability for payment. The services of the stenographic reporter shall constitute a charge against the county, and the stenographic reporter shall be compensated for reporting and transcribing at the same rates as prescribed in Sections 69947 to 69954, inclusive, of the Government

county treasury on r when ordered by court. Added Stats 1977 ch 501 § 2. Amended Stats 1987 ch 828 § 56.

§ 938.4. Meeting room and other support. The superior court shall arrange for a suitable meeting room and other support as the court determines is necessary for the grand jury. Any costs incurred by the court as a result of this section shall be absorbed by the court or the county from existing resources. Added Stats 1997 ch 443 § 6 (AB 829).

Penal Code

ARTICLE 4

Conduct of Investigations

- Section 939. Right of persons to be present at grand jury session.
- 939.1. Public sessions as to matter affecting general public welfare.
- 939.11. Use of interpreters for grand jury members with hearing, sight, or speech disabilities.
- 939.2. Compelling attendance of witnesses.
- 939.21. Minor witness to select person to provide support.
- 939.3. Privilege against self-incrimination; Procedure to compel testimony.
- 939.4. Oath.
- 939.5. Statement by foreman; Retirement of prejudiced juror.
- 939.6. Admissibility of evidence.
- 939.7. Consideration of exculpatory evidence.
- 939.71. Prosecutor's duty to inform jury about exculpatory evidence and about jury's duties with respect to it.
- 939.8. Evidence warranting indictment.
- 939.9. Jury's actions to be based on direct investigation.
- 939.91. Declaration that evidence did not support an indictment; Declaration that person called as a witness was not subject of an investigation.

NEW

§ 939. Right of persons to be present at grand jury session. No person other than those specified in Article 3 (commencing with Section 934), and in Sections 939.1, 939.11, and 939.21, and the officer having custody of a prisoner witness while the prisoner is testifying, is permitted to be present during the criminal sessions of the grand jury except the members and witnesses actually under examination. Members of the grand jury who have been excused pursuant to Section 939.5 shall not be present during any part of these proceedings. No persons other than grand jurors shall be permitted to be present during the expression of the opinions of the grand jurors, or the giving of their votes, on any criminal or civil matter before them. Added Stats 1959 ch 501 § 2. Amended Stats 1986 ch 357 § 2; Stats 1988 ch 415 § 1, ch 1297 § 7; Stats 1998 ch 755 § 1 (AB 377).

Witkin & Epstein, Criminal Law (2d ed) § 2039; Witkin Evidence (3d ed) § 23; Cal Jur 3d (Rev) Criminal Law § 2677.

§ 939.1. Public sessions as to matter affecting general public welfare. The grand jury acting through its foreman and the attorney general or the district attorney may make a joint written request for public sessions of the grand jury. The request shall be filed with the superior court. If the court, or the judge thereof, finds that the subject matter of the investigation affects the general public welfare, involving the alleged corruption, misfeasance, or malfeasance in office or dereliction of duty of public officials or employees or of any person allegedly acting in conjunction or conspiracy with such officials or employees in such alleged acts, the court or judge may make an order directing the grand jury to conduct its investigation in a session or

1959 ch 501 § 2. Amended Stats 1963 ch 251 § 1; Stats 1988 ch 1297 § 1.

Witkin & Epstein, *Criminal Law* (2d ed., §§ 1797, 1804.

§ 888.2. "Required number" of grand jurors. As used in this title as applied to a grand jury, "required number" means:

(a) Twenty-three in a county having a population exceeding 4,000,000.

(b) Eleven in a county having a population of 20,000 or less, upon the approval of the board of supervisors.

(c) Nineteen in all other counties. Added Stats 1963 ch 259 § 2. Amended Stats 1994 ch 295 § 1 (AB 3460).

§ 889. "Indictment". An indictment is an accusation in writing, presented by the grand jury to a competent court, charging a person with a public offense. Added Stats 1959 ch 501 § 2.

§ 890. Jurors' fees. Unless a higher fee or rate of mileage is otherwise provided by statute or county or city and county ordinance, the fees for grand jurors are ten dollars (\$10) a day for each day's attendance as a grand juror, and fifteen cents (\$0.15) a mile, in going only, for each mile actually traveled in attending court as a grand juror. Added Stats 1959 ch 501 § 2. Amended Stats 1971 ch 1540 § 1; Stats 1980 ch 1361 § 8.

The per diem re allowed by of the county

out of the general fund of the county upon warrants drawn by the county auditor upon the written order of the judge of the superior court of the county. Added Stats 1959 ch 501 § 2.

§ 891. Unauthorized recording, listening, or observing of proceedings; Taking of notes by juror. Every person who, by any means whatsoever, wilfully and knowingly, and without knowledge and consent of the grand jury, records, or attempts to record, all or part of the proceedings of any grand jury while it is deliberating or voting, or listens to or observes, or attempts to listen to or observe, the proceedings of any grand jury of which he is not a member while such jury is deliberating or voting is guilty of a misdemeanor.

This section is not intended to prohibit the taking of notes by a grand juror in connection with and solely for the purpose of assisting him in the performance of his duties as such juror. Added Stats 1959 ch 501 § 2.

§ 892. Authority to proceed against corporation. The grand jury may proceed against a corporation. Added Stats 1959 ch 501 § 2. Amended Stats 1973 ch 249 § 1.

CHAPTER 2

Formation of Grand Jury

Article

1. Qualifications of Grand Jurors. § 893
2. Listing and Selection of Grand Jurors. § 895
3. Jury Commissioners. § 903
4. Impaneling of Grand Jury. § 904

ARTICLE I

Qualifications of Grand Jurors

Section

893. Competency to act as grand juror.
894. Exemption from jury duty.

§ 893. Competency to act as grand juror.

(a) A person is competent to act as a grand juror only if he possesses each of the following qualifications:

- (1) He is a citizen of the United States of the age of 18 years or older who shall have been a resident of the state and of the county or city

and county for one year immediately before being selected and returned.

(2) He is in possession of his natural faculties, of ordinary intelligence, of sound judgment, and of fair character.

(3) He is possessed of sufficient knowledge of the English language.



STANISLAUS COUNTY CIVIL GRAND JURY

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002
ID JURY MEMBERS

September 19, 2001

F. E. JOHNSON, FOREPERSON
B. CLARK, PRO TEMPORE

Honorable William A. Mayhew
Presiding Judge of the Superior Court
County of Stanislaus
Post Office Box 3488
Modesto, California 95353

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UN
E CARR
J. L. CLARK
ERWIN
REUDENTHAL
HERBERT
A. MARTIN
ELGOZA
ALEY
PETTYGROVE
D. PROVOST
CANLON
THILL
YARD
VEAVER
WHIPPLE

Dear Judge Mayhew:

The Civil Grand Jury met as a full panel on August 2, 2001. Marnie Ardis, Grand Jury Manager II, was not present at anytime during the meeting nor was she on the premises. *California Penal Code* Section 916 states that each Grand Jury "... shall determine its own rules of proceedings." The panel discussed at length and adopted a procedure regarding the attendance of the Grand Jury Manager II at full panel meetings. We would like you to approve the following:

"We, the 2001-2002 Stanislaus County Civil Grand Jury propose to the Presiding Judge of the Superior Court that the Grand Jury Manager II (Staff Assistant) may be present at full panel meetings at the request of the Civil Grand Jury Foreperson and, when present, shall serve solely in a resource capacity i.e., to answer questions posed to her by the panel. At any time during the proceeding, the Civil Grand Jury Foreperson may direct the Staff Assistant to leave.

The Civil Grand Jury is fully aware of the limitations placed on non-Grand Jury members by *California Penal Code* Section 939. Further, the Civil Grand Jury and its Foreperson will accept full responsibility for ensuring that there will be no violation of the intent of Section 939, and that the integrity of the Civil Grand Jury and the absolute need for secrecy shall be preserved."

Very truly yours,

Robert E. Johnson
Civil Grand Jury Foreperson
Fiscal Year 2001-2002

cc: Michael Tozzi
Superior Court Administration



Superior Court of the State of California

COUNTY OF STANISLAUS
P. O. BOX 1911
MODESTO, CALIFORNIA 95301

WILLIAM A. MAYHEW, JUDGE

TELEPHONE
525-7846

September 21, 2001

Robert E. Johnson
Civil Grand Jury Foreperson
PO Box 3387
Modesto, CA 95354

Dear Mr. Johnson:

I hereby approve the procedure set forth in your letter of 9/19/01,
regarding attending of the Grand Jury Manager II at full panel meeting.

Sincerely,

A handwritten signature in black ink, appearing to read "William A. Mayhew".

William A. Mayhew
Presiding Judge of the Superior Court

WAM/bm

cc: Michael Tozzi

RECEIVED

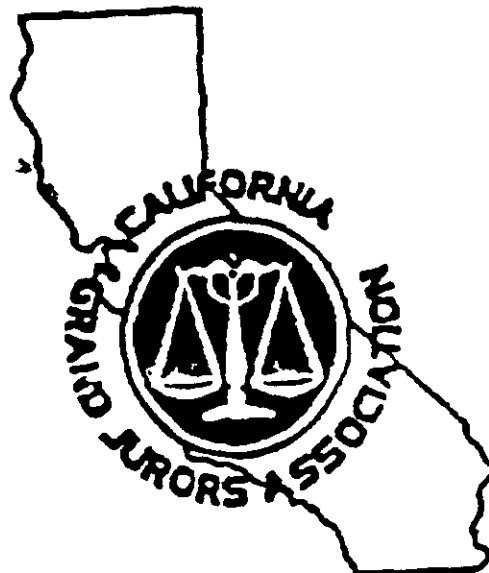
SEP 24 2001

California Grand Jurors' Association

Nineteenth Annual

Conference Proceedings

(Partial)



RANCHO CORDOVA
September 22-23, 2000

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...ome tinkering with parts of the statutes that are now in effect, but
together giving ourselves more prominence in our respective counties.

Q Unidentified: In relations to your interviews of prospective Jurors, the way we've been doing it for 2 years, and it seems to be working very well, is that 5 Judges sit in a room with a table. A Judge, someone from the sitting Grand Jury and someone from the Association do the interviewing; it seems to work very well.

Judge Kopp:

That's a good idea...if I could get more Judges interested, (that was something I didn't utter,) most Judges in my experience aren't very interested in the Grand Jury. Which is maybe why when I set at the suggestion of a former Grand Jury in San Mateo County I offered myself as the next Grand Jury advisor, that offer was accepted immediately. Yes Ma'am?

Q Emma Fishbeck from Los Angeles County, I was curious about whether or not you had a District Attorney as advisor also or are you the only advisor?

Judge Kopp:

San Mateo does not have the District Attorney as an advisor. San Mateo has County Counsel as advisor and County Counsel is faithful in his attendance, as am I at every Grand Jury meeting, not the committee meetings, but at the meetings of the whole Grand Jury every 2 weeks at quarter to 5 in the afternoon. It takes a couple of hours usually, plus or minus and personally I wouldn't think a District Attorney would be appropriate as the legal advisor. The problem with County Counsel in many Counties, including ours, is that County Counsel is also the lawyer for many agencies, not Cities but many of the Special Districts and so there's always that suspicion that the County Counsel is trying to serve 2 masters. You have to recognize that and I think most County Counsels recognize it themselves so bring it to their attention. Yes Ma'am?

Q Unidentified: I think you answered my question, I was going to ask you if you think it's a conflict of interest for the County Counsel to be advisor to the Grand Jury.

Unidentified: Judge Kopp stated that he and the County Council sit in on each plenary session of the Grand Jury in San Mateo County. I find that fascinating and I would be curious as to the panels' reflection on that.

Jack: Does anyone want to--I can give you a legal response--but, Kay?

Kay: I don't know what the legal response is. I know we threw them out.

Jack: That's the legal response. (Laughter).

Sherry: I don't know of many Judges that are that interested or have the time maybe to go in and...Senator Kopp or Judge Kopp now is very interested in Grand Juries obviously and that's why he's making the effort and it may be very beneficial, you know for that particular County. But you're not going to find that in other Counties. I have a real concern about County Counsel being in Grand Jury sessions, he, you know, there was some talk about the conflict with Special Districts, a conflict of interest, the County Counsel has a conflict of interest with Grand Juries because of their involvement with Special Districts. Very seldom does a County Counsel act as a legal advisor for a Special District. Most Special Districts have their own independent legal advisors so it's not with Special Districts it's with the County Counsel's role as the County Legal Advisor. You know and that's where the real conflict is and I was kind of, I perked my ears up, when he said that because I thought he should not be in that room. Because you investigate County departments and he would have to defend them in any case, or action of the Grand Jury.

Jack: Let me just read you what the statute says so that if anybody has this issue, it's Penal Code, section 934, which says: "unless advise is requested", (that's by the Grand Jury), "unless advise is requested the Judge of the Court or the County Counsel as to civil matters shall not be present during the sessions of the Grand Jury". That's the law. The "iffy" one is the D.A. because there is another statute, and I don't have my reading glasses and I'm not finding it right away, but there is another statute that say's basically that the D.A. upon his request or words like that, can appear before the Grand Jury; and the context of that statute is the D.A. needs to get an indictment because somebody is about to leave town or something, he has the statutory authority to convene the Grand Jury, appear, and say "this is what I need from you guys." The legislation that I mentioned the first time that we were together this weekend that I said, or maybe I just said it to the Board, the first thing I did for this association was, I wrote legislation designed to prevent the D.A. from using that statute as a lever to get into the Grand Jury civil deliberations. We made a decision not to proceed legislatively with that statute. That that's not a loophole for the Judge and the County Counsel is clear.

Unidentified: My understanding of the D.A.'s role, that we ran into, we just barred anyone from coming in, County Counsel or D.A., we just told them you come at our invitation or you don't come at all. But my understanding of the D.A.'s clause that you're talking about is basically during an indictment he has the right to be there to present the indictment to you. He absolutely cannot stay during the jury's deliberations. No one can stay except who is recording and at the request of the jury to stay during the deliberations and comments.

Jack: I agree -- you just need to know there are Counties where the D.A.'s take the position that that's not correct, and they're sitting there and they won't leave the room.

Unidentified: Well two attorneys give you seventeen decisions.

Jack: Right, give me fifteen minutes and I'll change my mind...yes Ma'am?

Unidentified: Are you saying that Judge Kopp or any other Judge was not supposed to be in the jury room?

Jack: Correct.

Unidentified: I wonder if anyone in San Mateo County pointed that out, someone would send a note on that. I was curious as I came in late. If I asked a question it might just show I hadn't heard his talk, and therefore it may have been referred to. But I was appalled when I heard him say, particularly because I know Kopp and I know what a heavy-handed guy he is.

Unidentified: Mr. Moderator could I ask just one question?

Jack: Yes.

Barry Newman: When we try and bring this microphone to you it's not because we think the panel will not hear you, we accept that fact. We want to do it because to hear the answer without the question leaves an awful lot to be desired. So if you could just wait a second until I can come over and we get, part of it is to get your question into the record. Because we're hearing the answers just fine. So from now on if you can just do yourselves that favor, it's not for us.

Unidentified: I am from San Mateo County, and I know that it must be very unique for Tom Casey, who is County Counsel. I retired in 93 off the Grand Jury; Tom Casey was County Counsel then. My interview for the Grand Jury was by a telephone call. So it's unique for Quentin Kopp to do it one on one. I mean it's totally different from what has been standard for County Counsels office in the interim seven years so I think it's something that Quentin instituted due to the fact that he felt this was the way he wanted

August 8, 2001

Bob Johnson, Foreman
Stanislaus County Civil Grand Jury
PO BOX 3387
Modesto, CA 95354

Dear Bob Johnson,

Here is my attempt to remember what I told you over the phone today about my experience as the Secretary for the Full Civil Grand Jury Panel during the 1998-1999 year and the comparisons to my experiences as the lone holdover for the 1999-2000 year.

1998-2000

- ◊ I was drafted by the Foreman Dr. Roy Levin to perform the secretary function for the Civil Grand Jury. I did not know what it entailed but agreed to the assignment willingly.
- ◊ During the first few months the responsibilities of secretary included; full panel roll call/attendance, taking of the panel minutes, collecting the attendance sheets from chairpersons and documenting when/if panel members excused themselves from the meeting due to a conflict of interest. I was a Chairperson and took minutes for my cases and attendance for my committee. This information was then passed on to the Civil Grand Jury staff.
- ◊ As the cases came in and were processed the secretary's job included documenting the full panels' editing of the written cases. This editing was then turned over to the Civil Grand Jury's staff person to transcribe. At times as secretary I had to speak with staff over the phone or go into the office to help with the final draft of the reports. This was done as an addition to my own report writing as the Chairperson of a committee that was assigned cases.
- ◊ Cases and their reports went through the editorial committee as well as the full panel for editing. Reports may be brought back several weeks in a row for further editing and transcription. One particular case was brought into the grand jury office over a holiday with staff and myself working on the report to meet the end of the year deadline.

1999-2000

- ◊ Foreman George Betcker drafted Sheila Carroll as the secretary for this year's Civil Grand Jury. During the first month and a half her experience was similar to my 1998-1999 experience.
- ◊ Circumstances arose and other jury panelists petitioned for the Civil Grand Jury staff person to attend the full panel meetings in a support function. The question was brought to the presiding judge and the decision was made to have the staff person attend. At that time the staff assumed the roll call, attendance, minutes and editing functions.
- ◊ I remember commenting to Sheila Carroll that she was lucky and would enjoy the year much more not performing all of the past secretary functions. In comparison my experience as a panel member was much more fulfilling not being secretary in that I had the time and concentration to participate in panel debate. I hadn't realized until my

holdover year how often I did not participate fully in case debate due to the overwhelming task of documenting for the full panel.

- ◊ The one benefit of being secretary was my full emersion into the Civil Grand Jury process and being able to know the panelists by name and face quicker than the rest of the panel members did.

I truly hope that this information and recanting of my experience is helpful. My experience serving on the Civil Grand Jury was a great one. If there is anything else I may be of assistance with during your tenure as Foreman, please feel free to contact me.

Sincerely,

Sandra J. Elespuru-Bishop
Civil Grand Juror
1998-1999 & 1999-2000

To: 2001-2002 Civil Grand Jury
From: Virginia Andleman, 2000-2001 Civil Grand Jury Member
Subject: *Virginia Andleman*
Ralph Moore's objection to final report format

Monday, November 27, 2000

The Editorial Committee met with Ralph Moore. Those present at the meeting were Mr. Moore, Foreperson Bill Compton, Editorial Committee Chair Virginia Andleman, and committee members Kandi Schmidt and Martha Martin.

Mr. Moore was given one hour to make a presentation about the way final reports should be written. He said that he used our format when he served on the Editorial Committee during his last stint on the Grand Jury, but that now he knew the correct way to write reports. After his one hour presentation, in which we often made comments and voiced disagreement with his "correct way," the foreperson told him that he could make a presentation to the entire panel. After Mr. Moore left the room, we all agreed, including the foreperson, that we couldn't figure out what he was talking about.

Mr. Compton went to his office (we were still in the facilities on 13th Street). Kandi Schmidt and I entered his office and told him that we thought he was wrong in allowing Mr. Moore to make a presentation to the entire panel since he had made one to the committee and we rejected his ideas. We felt that Mr. Compton was taking away our power as a committee to make decisions, but he insisted that Mr. Moore be allowed to speak to the entire panel.

December

I read Civil Grand Jury final reports for most of the counties in California via the Internet. Many use our format. Some do not. Some write in narrative form, some in outline. I concluded that there is no one correct way to write a report.

I called Mr. Krausnick, County Counsel, to ask his opinion about changing our report format. He said that we do a fine job and that if we incorporated Mr. Moore's ideas we could be leaving ourselves open to problems, including lawsuits. I asked him to write a letter to the Grand Jury stating this, which he did on December 19, 2000.

If our report writing is as poor as Mr. Moore and Mr. Olson have told us, we would certainly have heard about it from the Board of Supervisors, the CEO, the Modesto Bee, other Grand Juries, and all those attorneys out there.

Thursday, January 4, 2001

Mr. Moore was placed on the agenda to speak to the entire panel about report format. He would not share his presentation plans with the foreperson. Before he was called, I gave a short training session on how we write reports. This would enable the panel to understand what he wanted changed. Mr. Moore passed out a paper with his "message" and lectured on our unacceptable (to him) format. The panel members rejected his ideas. After this he gave us another paper that attacked Mamie and her role as administrator of the Grand Jury. I did not expect this as he told us that he was going to talk about report writing. After remarks were met with disapproval, Mr. Moore got up and walked out of the meeting, leaving behind all his materials.



OFFICE OF COUNTY COUNSEL
STANISLAUS COUNTY

Michael H. Krausnick
COUNTY COUNSEL
E. Vernon Seeley
ASSISTANT COUNTY COUNSEL

DEPUTIES
Wm. Dean Wright
Linda S. Macy
John P. Doering
Victoria A. Halliday
Vicki F. de Castro
Came M. Stephens

1010 10th Street, Suite 6400 Modesto, CA 95354
PO Box 74, Modesto, CA 95353-0074
Phone: 209.525.6376 Fax: 209.525.4473

CONFIDENTIAL ATTORNEY-CLIENT PRIVILEGE

December 19, 2000

Mr. William D. Compton, Foreperson
Stanislaus County Grand Jury
Post Office Box 3387
Modesto, CA 95353

HAND-DELIVERED

RE: FORMAT OF GRAND JURY REPORTS

Dear Mr. Compton:

It is my understanding that the Grand Jury is considering revising or changing the format of Grand Jury reports. The format that the Grand Jury has been utilizing for a number of years is one in which I believe most grand juries in this State follow.

The current format begins with the "reason for the investigation" followed by brief "background information." Next, the "procedures that are followed" are set forth. The "findings," "conclusions," and "recommendations" sections complete the Grand Jury written reports with a "statement of response required" which sets forth State law relating to a response.

Marnie Ardis has advised me that concerns regarding the findings section have been raised. The findings section sets forth certain information or findings which have been obtained by the Grand Jury as a result of a Grand Jury investigation. The findings should include statements which have been corroborated by several sources and are generally not controverted. The findings of fact section serves as the basic premise upon which conclusions and recommendations are based. Therefore, "findings" are very important to the report and should be carefully investigated to insure that they are accurate and can be supported by facts obtained during the investigation.

If a "findings" section is not included in the report, the conclusions that are reached may be subject to question and lack of a foundation. Omitting a "findings" section could result in defamatory statements being included in the report. If "inferences" are substituted in

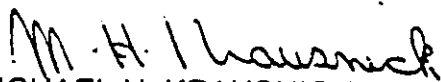
Letter to William D. Compton, Foreperson
December 19, 2000
Page 2-

place of findings, Grand Jury members and the County could find themselves in a potential "libel" situation.

Therefore, any change in the format should be reviewed very carefully and the potential liability resulting from such a change should be carefully considered before such change is made. I would be pleased to review any potential changes in the Grand Jury report format. I would also suggest that any proposed changes be put in writing and sent to the Presiding Judge of the Superior Court, William A. Mayhew, and myself for our review and comments prior to the Grand Jury report format being presented to the Grand Jury.

If you have any comments regarding this memorandum, or any questions, please do not hesitate to contact me directly at 525-6376.

Very truly yours,


MICHAEL H. KRAUSNICK
County Counsel

MHK/vln.

cc: ✓ Marnie Ardis, Grand Jury
V:\CO_ADMIN\WPNSKNN\MHK\GRNDJURY\compton.ltr.wpd

A Definition of *find*
from Webster's Third International Dictionary

To arrive at (a conclusion): come to (a finding): determine and declare (as a verdict in a judicial proceeding): agree or settle upon and deliver <he was *found* guilty> <*find* a verdict> <*find* a true bill of indictment against an accused person>

A Definition of *finding of fact*
from Black's Law Dictionary

A determination by a judge, jury, or administrative agency of a fact supported by the evidence in the record, usually presented at the trial or hearing <he agreed with the jury's *finding of fact* that the driver did not stop before proceeding into the intersection>. Often shortened to *finding*.

Comments on *finding*
from Ralph Moore

As the California Penal Code uses the word, a finding is an inference that is approved by at least twelve members of a nineteen-member panel. It results from their observations and deliberations about the facts that they have gathered during their investigation. Through their experience and intuition, the jurors perceive that the facts point them toward a significant generalization, or truth, about the facts. This truth will be labeled a finding; it should be equally discernible by any reasonable person. But though it be based solidly on the facts, it is not itself a fact, for it extends beyond—transcends—the facts. Just as to get to belief from reason you must make the leap of faith, so too, to get to the finding from the facts, you must make the inductive leap. That's where your experience—your knowledge about the facts—and your intuition come into play. Although a number of findings may emerge from any accumulation of facts, only the findings that elucidate the complaint will be published in the *Final Report*.

An example suggested by the definition of *finding of fact* in *Black's Law Dictionary*.

The person following immediately behind the driver did not see a brake light on the driver's car. A woman who was about to cross the street in front of the driver's car had to step back onto the curb when she perceived that the driver was not going to stop.

No witnesses heard any squealing of tires on pavement.

There were no skid marks on the pavement.

When the driver stepped out of his car, an unfolded map fell to the ground.

FINDING: The jury found that the driver did not stop before proceeding into the intersection.

Examples of so-called findings from the 1999 final report (pp. 45-46):

1. April 7, 1994, the Modesto Police Department adopted the Sig-Sauer brand, 9mm, semi-automatic pistol as the department standard firearm.
2. MPD policy required all personnel hired since April 1994 to carry a department-issued .38 S&W revolver or to purchase their own Sig-Sauer pistol.
3. On December 12, 1995, the City Council authorized the purchase of Sig-Sauer 9mm semi-automatic pistols for sworn personnel.
8. A Departmental plan (January 2, 1996, memorandum) for the full-time peace officers to purchase carried issued firearms was delineated as follows: [5 quoted statements follow]

- The name of the complainant is not mentioned in the final report.

BACKGROUND

- The background is the state of the organization when the investigation started. This includes what the entity is supposed to do. The purpose of the background is to provide the reader who may be unfamiliar with an entity a clear understanding of what they do.
- The background includes a description of any history, definitions, department procedures, or organizational structures necessary to understand the report but not mentioned in the Reason for Investigation or in the Findings.

PROCEDURES FOLLOWED

- The list of people interviewed identified by title or job description. No names are mentioned in a grand jury final report.
- A description of the documents reviewed.
- A description of the sites visited.

FINDINGS

- State the facts upon which findings will be based.
- A fact, in the grand jury sense, is an aspect in the investigation that shows demonstrable existence. It is not hearsay, rumor or innuendo. It has the quality of being real or actual. Findings must be verified by multiple sources. Triangulation is necessary to make sure your "fact" is proved.
- A finding, in the grand jury sense, is an assertion or judgment based on fact. It is a conclusive statement that logically follows from a fact or series of facts. It does not allow for conjecture. There must be a simple flow from fact to finding.
- Findings should be developed from an analysis of the facts.
- If appropriate, the legal authority for findings should be cited.

- In a long and complicated investigation there may be many findings grouped into logical sets. Some juries like to keep notes on three by five cards with a source on the back. Cards can then be sorted into logical order.
- The grand jury does not overlook positive findings or commendations. Reports often recognize that an agency is doing something particularly well.

CONCLUSIONS

- A conclusion is based on one or more findings. It must be the logical outcome of these findings.
- A conclusion is the consequence of the finding. For example, if there is a finding that the cash drawer in a department is never locked, it might be concluded that security against theft is poor.
- There is no need to have a conclusion for every finding. Sometimes, a combination of findings is required to yield a conclusion.
- This is the section where the grand jurors describe what the findings mean.

RECOMMENDATIONS

- Recommendations arise from the findings and tell the reader what course of action the grand jury believes should be taken and by whom.
- A recommendation must be a logical consequence of a set of findings and conclusions. A recommendation is never made without sufficient evidence in terms of findings and conclusions to make the need for the recommendation compelling.
- The greatest force that a recommendation can have is to inform the public of a simple action that could solve a problem.
- There may be no recommendations if the grand jury conclusion showed a satisfactory condition.
- Make certain that recommendations are feasible, and when cost is a factor, include independent estimates of the cost of correcting the problem.

From: William Mayhew
To: Marnie Ardis
Date: 1/5/01 10:01AM
Subject: Re: Civil Grand Jury Member Ralph Moore

I'm leaving after lunch and I won't be here next week so do it for bill compton's signature.

>>> Marnie Ardis 01/05/01 09:50AM >>>

Do you want the letter to come from you or the Foreman?

>>> William Mayhew 01/05/01 09:49AM >>>

I suggest that we just write him a letter accepting his resignation and thanking him for his service—short and sweet.

>>> Marnie Ardis 01/05/01 09:44AM >>>

Yesterday we had a full panel meeting. Ralph Moore had asked to be on the agenda because he felt that we were writing our final reports incorrectly. Specifically, he feels that a finding is not a fact. Instead he believes we should use inferences. He went on to tell the panel that I was wrong and so were the judges and county counsel. He spoke for approximately 30 minutes. The panel members were unclear as to what he was saying.

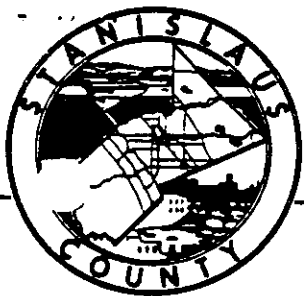
I had contacted Mr. Krausnick prior to the full panel meeting to make sure he felt I was training correctly. I will send over his letter and a copy of my training sheet and Ralph's presentation to the panel.

Ralph had previously told me that if the grand jury "didn't do it his way" he would quit. The panel was confused by his presentation and chose to keep things status quo. He got frustrated when that was unsuccessful and then proceeded to attack me personally saying I should not be allowed to prepare the agenda, take the minutes or attend full panel meetings. The entire panel was outraged at this and did not support his opinion.

True to his word, Ralph said good bye and walked out of the room. He had brought all of his grand jury notebooks, parking pass, badge, etc. in a paper bag and left those as he walked out. The panel seems happy he is gone as he has been a constant problem. I would expect you to receive an angry letter of resignation from him.

I talked to Mr. Krausnick last night around 6:30 after the meeting was over. He feels we are lucky he left and suggested a letter be prepared stating that if we don't hear from him within 48 hours we will consider him to have resigned.

Just wanted you to know. Comments??



Stanislaus County

Grand Jury

P.O. Box 3387
Modesto, Ca. 95353
(209) 558-7766

January 5, 2001

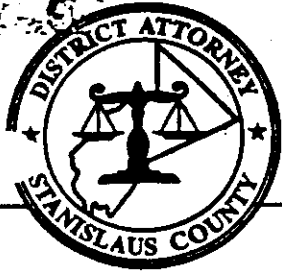
Mr. Ralph Moore
1129 Cornell Avenue
Modesto, CA 95350

Dear Mr. Moore:

It is with regret that Judge Mayhew and I accept your resignation. The Grand Jury panel members were selected in an attempt to represent a cross section of the community by geographical location, skills, age, and sex. Each year 19 people from diverse backgrounds are brought together to form a Grand Jury. Differences of opinion are almost inevitable. We are sorry that you feel compelled, as a result of such a disagreement, to resign. Thank you for your service as a member of the 2000-2001 Civil Grand Jury.

Very truly yours,

William D. Compton
Civil Grand Jury Foreperson
Fiscal Year 2000-2001



OFFICE OF THE

DISTRICT ATTORNEY

JAMES C. BRAZELTON
District Attorney

Court House 11th & I Streets

P.O. Box 442 Modesto, California 95353 Tel. (209) 525-5550 Fax (209) 525-5545

April 19, 2001

Reagan Wilson
Chief Executive Officer
County of Stanislaus
1010 10th Street, 6th floor
Modesto, CA 95354

Re: Marnie Hall Ardis
Confidential Assistant to the Grand Jury

Dear Reagan:

I write to request that you consider the reclassification of the position of Grand Jury Confidential Assistant to Manager II - Grand Jury Administrator. This position has been held for the past ten years by Marnie Hall Ardis, an extremely talented and qualified individual. I am also requesting that you consider the reassignment of the position for administrative and supervision purposes.

As you know, the position for several years was under the supervision of the presiding judge of the Stanislaus County Superior Court. At some point during the recent consolidation of the courts and the resulting confusion, the position of Confidential Assistant (or secretary to the Grand Jury as she is sometimes referred) was placed under the control of your office. As you and I have previously discussed, due to the nature of the work of the Grand Jury it would be preferable that the position be under the supervision of this office or the Superior Court.

Since the Superior Courts are now considered to be under the control of the State rather than Counties, my personal view as well as that of my peers is that the Grand Jury Administrator should be assigned to the office of the district attorney of the county. This move would also provide greater stability since presiding judges change more frequently than do District Attorneys.

My office presently maintains a close working relationship with Ms. Ardis, and frequently assists the Grand Jury in its function. Transferring the position to the District Attorney should be easily accomplished. It would also be possible for the district attorney to provide training and back up relief to Ms. Ardis. Naturally, any grand jury investigation of this office would result in immediate recusal and referral of the Grand Jury to the office of County Counsel or the Attorney General for legal advise.

It is also my understanding that, due to the present job class assignment, Ms. Ardis is perhaps not being afforded the same job benefits as other county employees. Her evaluations are not being processed in a timely manner thus resulting in delayed pay increases.

Reagan Wilson
April 19, 2001
page two

Enclosed you will find a position description questionnaire completed by Ms. Ardis. As you can see, persons holding like positions in other counties are nearly always afforded Management status. Her duties also qualify for a Manager II in Stanislaus County. I would encourage you to grant such status to Ms. Ardis.

If you have any questions please feel free to contact me at your convenience.

Sincerely,

JAMES C. BRAZELTON
District Attorney

cc: Eileen Melson
Gina Leguria
Marnie Ardis

From: Ralph/Ellen Moore <ralphnel@pacbell.net>
To: Courts_DMN.Courts_PO(ardism)
Date: 7/31/00 9:29PM
Subject: my aggressive behavior

Dear Mamie,

A week ago I met with you and Bill Compton in the foreman's office to discuss my interest in the position of Chair of the Editorial Committee. Certainly in my aggressive pursuit of this office, I must have surprised you by some of the statements I made in relation to your activities in re the grand jury. Although those statements were made earnestly and sincerely, they were not meant to demean or disparage you in any way. As I have thought back on this "audition" I have wondered whether I said anything that could be construed to mean that I have become your adversary. If it seems to you or anyone that that is the truth, then let me assure you that it is not. There is no way in which I see you and me as adversaries; we both want what is best for the Stanislaus County Grand Jury. No one has done more for the success of this grand jury than you have, and for that I sing your praises. You are justly proud of the headlines that recent grand juries have garnered. My main concern is to preserve the independence of the grand jury, and in doing that I may at times question or criticize some of the actions you have taken in the recent past on behalf of the grand jury. My next concern is to help to produce the best final report that has ever been published by a grand jury in this county. In regard to both of these goals, I shall at times appear to be your worst enemy, but that will be mainly because I have not yet perfected the art of tactful criticism. I believe that the grand jury needs our best conjoined efforts, and I pledge to give mine for the remainder of this fiscal year. At the same time I must apologize to you if I have said anything to you or to Bill that seemed to undermine your work so far. I'll try to see you on Tuesday, Aug. 1, perhaps in the early afternoon, to affirm my high regard for your work.

Most sincerely,

Ralph

Memo to: Marnie
From: Roberta
Re: KM response
Date: August 6, 2001

I have review Ms. Mathews response to the grand jury report. As usual when someone doesn't have a defense they rush to place a black mark on the other party. In this case Ms. Mathews spent more time trashing the grand jury than in responding with facts to the report.

I do not have complete memory about who said what but I know we had evidence for everything we called. I will make my comments and you can let me know if they need to go further than yourself.

Allegation #1

1 & 2. Ms Mathews completely overlooks the fact that she is the department head and as such she supervises everyone. Additionally, she signed her sons time cards which places her in a position of authority over him. Testimony indicated that Ms. Mathews was informed on more than one occasion that her son was not at his job and she always managed to find him and "suddenly he was at work." It is my belief based on testimony and written documentation that Ms. Mathews did have control of his work and did violate the nepotism policy.

4. Ms. Mathews was the only one who indicated an emergency situation. I believe testimony from others indicated there wasn't any unusual situation necessitating Mike Mathews employment. Also, she states he was defined as an unclassified part-time service worker and as I understand it he was classified as an election officer.

7. No one, including Ms. Mathews indicated in testimony that it was common department policy to duplicate all work done in the warehouse. I believe this is a fabricated statement because there wasn't any other defense. Testimony did indicate the work was not done, not that the work was being duplicated.

I believe her when she states she did not receive any complaints against her son. I would not expect anyone in Ms. Mathews office to be so secure as to feel they could criticize her son's performance and have it received in an open and approving manner.

Allegation #2

6. On page 44 of Ms. Mathews testimony she was unable to give a definition of the credit card policy. I would expect a department head to know the policy and be able to define it to anyone. She did not state here she hadn't read it. It may have been in deposition that she stated she hadn't read it.

9. Meals were considered by the committee as personal needs. Interviews with the Assistant Sheriff and the Sheriff and paperwork from the Sheriff's department indicated there was no requirement for Ms. Mathews to provide meals for the deputies assigned to her. Additionally, had there been such a requirement it would not have been for her to take

them to local restaurants two or more times a day. This would be a waste of taxpayers money.

Ms. Mathews also stated that if the bill exceeded the credit card limit she would pay for the difference out of her pocket. I think credit card statements would indicate this was incorrect and in fact many meals did exceed the county credit card limit.

10. Credit card audits and the demand that Ms. Mathews pay money back to the county supports this allegation. I agree with Ms. Mathews that someone in the auditor's office should have been questioning these expenditures and fault them for not doing that.

The reimbursement of these funds were requested in the fall of 2000 more than six years after the assault. It does not follow that Ms. Mathews was "so exhausted and traumatized by the aftermath of the assault" that she agreed to reimburse the county. If that is true then a responsible elected official would have already removed themselves from the office they held and would have realized they were unable to function.

The grand jury did understand that Ms. Mathews was involved in the trial in Fresno. None of the meals or other expense on the credit card for Fresno were called as a problem.

11. Ms. Mathews states, "Given the general weakness of the investigation it is not surprising that in its list of "findings" the Grand Jury Committee failed to corroborate any of the date concerning meals by interviewing deputies who accompanied me during those meals." The Grand Jury had access to written material from deputies regarding these meals and testimony from the Sheriff and the Assistant Sheriff. Had Ms. Mathews read the list of documentation she would have seen these items listed.

13. The items mentioned in this allegation were for areas such as Stockton, Pleasanton, and other areas close to Modesto, not for Fresno.

15. The exhibit speaks for itself.

Allegations 3 & 4

1. The Grand Jury reviewed the book on disk and testimony indicated it was a book. Additionally, I think the receipts for sending it indicated it was a manuscript.

2 & 3. These are testimony conflicts. I cannot respond to them.

4. Personal letters were reviewed and testimony indicated the secretary did not volunteer but was requested on numerous occasions.

5 & 6. The federal express tickets speak for themselves.

7 & 8. Testimony indicated these comparisons were made for the purpose of the lawsuit and were completed too close to the lawsuit for these statements to be credible.

Allegation #5

4. I could not find the reference Ms. Mathews made regarding the County Management Information Systems report referencing a lack of a County cell phone policy. Perhaps I overlooked it.

The Grand Jury not only understood the difference between elected officials and county employees but believes elected officials need to be held to an even higher standard because they do not have a superior to oversee their work as county employees do.

5. The Grand Jury did not read the County Personal Telephone Calling Policy to be specific to landline phone use. We interpreted this to mean all county phones which would include cell phones.

7. This agreement was not mentioned by any of the witnesses who testified but may have been true. It does not change any of the findings.

Allegation 6.

3. Testimony of staff indicated this had occurred over many years and was not related to the medical leave of absence.

4, 5, 7, 8. Testimony indicated these needs and concerns to the Grand Jury. Again, I don't see how anyone can say that someone else does not have those concerns when clearly they state in testimony that they were concerned

9. I cannot comment on this item because I don't have enough information, we relied on Ms. Mathews testimony.

Allegation 7

4. Ms Mathews has a direct conflict between her answer here and her answer in #10. She states in one that the CEO didn't inform her and in the other that he did. Letters between Ms. Mathews and the CEO and testimony will support the Grand Jury findings.

8. Again, Ms. Mathews attempts to negate the concerns of employees and their feelings with statements that do not provide evidence to the contrary.

Allegation 8.

6. Testimony indicated that she not only refused but that the purchasing agent took the matter up with his superiors.

7. This was not the understanding of the Grand Jury based on testimony. The CEO might need to clarify this issue.

9. See testimony of the purchasing agent regarding this issue.

Memo to: Marie
From: Roberta
Re: letter from Bruce Olson
Date: August 6, 2001

I read with interest the letter from Bruce Olson who seemed to take your Grand Jury handbook and proceed to draw conclusions about the 2000/2001 Grand Jury that he did not draw about other Grand Juries in the past. It makes me wonder what his agenda is at this time.

I don't wish to hurt your feelings but frankly I took the Grand Jury handbook home and did not look at again during the time I was serving. I simply did not have the time to study it. I did not feel my independence was compromised by this handbook and certainly my integrity is intact.

I found your role to be very helpful to the Grand Jury. Frankly I would not have wanted to be responsible for taking notes at the meetings, setting up interviews or discussing those issues with prospective witnesses prior to interviewing them. I never thought I couldn't go to anyone I chose to get information regarding grand juries nor did I think I was being controlled in any manner. In fact it was just the opposite as you always told us we could seek advice from the District Attorney, the presiding Judge, or County Counsel.

It might be helpful to note that in the Karen Mathews case we had an Assistant District Attorney consulting with us and for most testimony had an outside person transcribing the testimony. I believe other committees also used outside transcribers and consultants.

I found Mr. Olson's letter to be so ludicrous that it is difficult to respond to it. He draws unfounded conclusions regarding a group of people he has never met based on a manual that was designed to support not control anyone.

I did notice that in the letter he was urging Ms. Mathews to file a suit against the grand jury. Perhaps he stands to collect money for this opinion?

To: Mamie
From: Roberta
Re: Ralph Moore
Date: August 6, 2001

I felt sorry for Ralph when I read his letter to the judge. He obviously was very upset by not receiving the support from the Grand Jury regarding his proposals. He seemed to carry a grudge that I can't respond to.

Regarding whether he might have given information to Ms. Mathews, I couldn't say. The deposition was referred to by Ms. Mathews in her testimony to us so she certainly had knowledge of it and expected we had knowledge of it.

Like Mr. Olson, Mr. Moore appears to have a hidden agenda of which none of us are aware, otherwise, I can't understand what he is trying to do with this letter. It doesn't offer any constructive proposals for change so I can't really respond to it other than to assure you that my independence and integrity were uncompromised by your presence in any meeting.

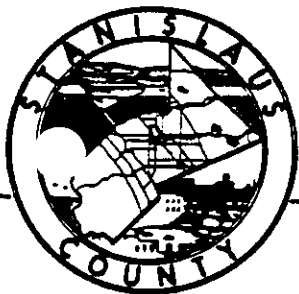
I N T E R

O F F I C E

MEMO

To: Donald H. Lundy, Superior Court Executive Officer
From: Marnie Hall Ardis
Subject: Full Time Benefits
Date: December 19, 2000

The past two years I have been working full time. My current benefits are based on a 30 hour work week. I am compensated, by the hour, for any time worked over 30 hours in a given week. My benefits don't reflect the additional hours worked. I receive only 6 hours for holidays, vacation days or sick days. My schedule was originally set for a 30 hour week because I had young children and wanted to be home earlier. My responsibilities have increased and consequently I am working a 40 hour week. I request that my benefits be based on a 40 hour work week.



Stanislaus County

Grand Jury

P.O. Box 3387
Modesto, Ca. 95353
(209) 558-7766

March 29, 2001

The Honorable William A. Mayhew
Presiding Judge of the Superior Court
County of Stanislaus
Post Office Box 3488
Modesto, California 95353

Dear Judge Mayhew:

The 2000-2001 Stanislaus County Civil Grand Jury unanimously requests that, in order to maintain the independence of this body in the future, the court take over the personnel function for the position of Grand Jury Administrator, Marnie Ardis.

We further recommend reclassification of Marnie Ardis to management. This position is unique within the county and does not fit appropriately in a clerical "box" due to the administrative responsibilities.

Please present these concerns to the planners for next year's court budget.

Very truly yours,

William D. Compton
Civil Grand Jury Foreperson
Fiscal Year 2000-2001



Superior Court of the State of California

COUNTY OF STANISLAUS
P. O. BOX 1011
MODESTO CALIFORNIA 95333

WILLIAM A. MAYHEW, JUDGE

TELEPHONE
525-7846

April 24, 2001

Mr. William D. Compton, Foreperson
Stanislaus County Civil Grand Jury

Dear Mr. Compton:

Thank you for your letter of March 29, 2001 regarding the position of Marnie Ardis, Confidential Assistant IV.

Given the definition of court employees in Government Code Section 71601 and the funding guidelines in California Rule of Court 810, Function 10, this position is not an employee of the Superior Court and State funds may not be used for non-court costs. The position is clearly a county position and subject to the County's personnel rules and regulations. As such, we cannot legally assume responsibility for the personnel function of Grand Jury personnel.

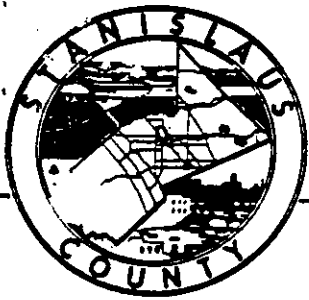
We are and have been amenable to assisting the Civil Grand Jury in administrative areas and have previously indicated that our staff will process Ms. Ardis' performance reviews using the County's review procedure. Reclassification studies, however, for this position need to be performed by County Personnel and should be included in the budget submission made to the county for 2001-2002. As foreperson, you can make reclassification requests directly to the County. The Court does not submit a county budget since we are completely state funded.

As to the control of this position, we will continue to serve as a resource for the Civil Grand Jury and assist in resolving issues between the County and the Grand Jury and other internal Grand Jury matters that arise. The County has recognized this relationship and has not made any legal or other objection to our involvement. Ms. Ardis should look to the Superior Court Management Team for guidance as she finds necessary and work with the county on issues of administrative concern. We have found this approach is consistent with most other courts and acts to preserve the independence of the Grand Jury.

Sincerely yours,

William A. Mayhew, Presiding Judge
Stanislaus County Superior Court

WAM/dmd



Stanislaus County

Grand Jury

P.O. Box 3387
Modesto, Ca. 95353
(209) 558-7766

FEBRUARY 21, 1997

MR. MICHAEL A. TOZZI
EXECUTIVE OFFICER/JURY COMMISSIONER
STANISLAUS COUNTY
1100 "I" STREET
MODESTO, CA 95353

SUBJECT: MARNIE HALL ARDIS - EMPLOYEE PERFORMANCE REPORT

DEAR MR. TOZZI,

I HAVE BEEN ASSOCIATED WITH MRS. ARDIS FOR ALMOST TWO YEARS NOW AND I WOULD LIKE TO INFORM YOU THAT SHE IS ONE OF THE MOST ORGANIZED AND COMPETENT MANAGERS I HAVE WORKED WITH. SHE COVERS THE FULL SPECTRUM OF DUTIES, OF MANAGING HER DEPARTMENT, WITH THE ADDED HANDICAP OF HAVING A "GREEN" CREW EVERY TWELVE MONTHS. SHE NOT ONLY PERFORMS HER MANAGERIAL FUNCTION, BUT ALSO DOES HER OWN SECRETARIAL WORK, AS WELL AS THAT OF THE ENTIRE STAFF. BEING THE FOREMAN IS A DIFFICULT JOB, BUT SHE HAS LED ME THROUGH THE DUTIES WITH GREAT SKILL. I FEEL AS IF I WORK FOR HER, (SHE IS A VERY TALENTED TEACHER AND SUPERVISOR). THIS YEAR SHE HAS HAD TO FUNCTION WITH THE ADDITIONAL BURDEN OF HAVING TWO SPECIAL INVESTIGATORS IN THE OFFICE FOR A GREAT DEAL OF THE TIME. I HAVE BEEN COMPLIMENTED BY THESE INVESTIGATORS FOR THE OUTSTANDING ASSISTANCE AFFORDED THEM BY MRS. ARDIS.

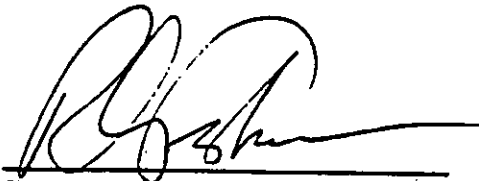
I HAVE RATED MRS. ARDIS AS AN EXCELLENT EMPLOYEE. I DO NOT DO THIS LIGHTLY AND I HAVE VERY SELDOM EVER GIVEN ANYONE AN EXCELLENT RATING. BUT IN MY PROFESSIONAL CAREER, OF OVER 35 YEARS, I FEEL SHE IS ONE OF BEST EMPLOYEES I HAVE HAD THE PRIVILEGE OF WORKING WITH. I REQUEST THAT SHE BE GIVEN HER REGULAR STEP INCREASE PLUS A "SPECIAL MERIT INCREASE", AS PROVIDED IN COUNTY POLICY. FURTHER, IT IS MY OPINION THAT SHE PERFORMS ALL OF THE FUNCTIONS OF A "MANAGER" CLASSIFICATION AND SHOULD HAVE THIS TITLE. SHE PERFORMS ALL TASKS FROM BUDGETING TO DIRECTING THE ACTIVITIES OF 19 PEOPLE ROUTINELY, PLUS ANOTHER 19 PERSONNEL WHEN SHE COORDINATES THE FUNCTIONS OF THE CRIMINAL GRAND JURY. WITHOUT HER, THE GRAND JURY

DEPARTMENT WOULD HAVE NO LEADER. IT IS MY UNDERSTANDING THAT BEFORE MRS. ARDIS WAS GIVEN THE POSITION, THAT SEVERAL SECRETARIES WERE TRIED AND FAILED TO PERFORM.

ALSO THE ASSISTANT JURY COMMISSIONER WAS INVOLVED IN DOING THE SELECTION PROCESS FOR THE INCOMING GRAND JURY. TODAY, THAT JOB IS PERFORMED BY MRS. ARDIS. SHE WORKS WITH LITTLE OR NO COUNTY SUPERVISION AND THE DEPARTMENT FUNCTIONS AS ONE OF THE BEST IN THE STATE. I AM SURE THAT IF A JOB DESCRIPTION WERE WRITTEN FOR "MANAGER, GRAND JURY" YOU WOULD FIND THAT ALL THE DUTIES ARE PERFORMED BY MRS. ARDIS NOW.

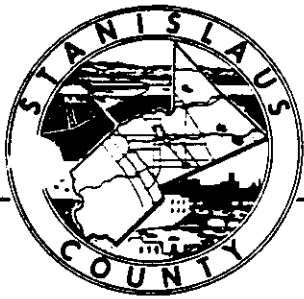
THANK YOU FOR YOUR TIME AND CONSIDERATION.

RESPECTFULLY SUBMITTED,



ROBERT G. FISHER
FOREPERSON 1996-1997
CIVIL GRAND JURY

CC: HONORABLE HUGH ROSE, III
PRESIDING JUDGE



Stanislaus County

Grand Jury

P.O. Box 3387
Modesto, Ca. 95353
(209) 558-7766

FEBRUARY 28, 1997

MR. MICHAEL A. TOZZI
EXECUTIVE OFFICER/JURY COMMISSIONER
STANISLAUS COUNTY
1100 "I" STREET
MODESTO, CA 95353

SUBJECT: MARNIE HALL ARDIS - EMPLOYEE PERFORMANCE REPORT ,

DEAR MR. TOZZI,

WHEN I SUGGESTED A CLASSIFICATION CHANGE FOR MRS. ARDIS, I KNEW THAT IT WOULD HAVE TO BE SUBMITTED THROUGH THE PERSONNEL DEPARTMENT AND COVER THE CHANNELS OF THE CHAIN-OF-COMMAND. I WOULD APPRECIATE YOUR ACTION TO NOT DELAY HER STEP INCREASE OR HER MERIT AWARD. I HAVE PROVIDED MONIES FOR BOTH IN MY SECOND HALF BUDGET. PLEASE REVIEW MY REQUEST, AND IF YOU FEEL, AS I DO, THAT THESE INCREASES HAVE BEEN EARNED AND ARE JUSTIFIED, THEN PROCESS THE FINANCIAL REMUNERATION OUTSIDE THE REVIEW OF RECLASSIFICATION.

RESPECTFULLY SUBMITTED,

ROBERT G. FISHER
FOREMAN 1996-1997
CIVIL GRAND JURY



Superior Court of the State of California

COUNTY OF STANISLAUS

P.O. BOX 3488
MODESTO, CALIFORNIA 95353

MICHAEL A. TOZZI
EXECUTIVE OFFICER/CLERK OF THE COURT

TELEPHONE
(209) 525-8348

March 5, 1997

Robert G. Fisher,
Civil Grand Jury Foreperson
P. O. Box 3387
Modesto, CA 95353

Dear Mr. Fisher:

What follows responds to your request for: 1) a special merit increase, 2) manager status, and 3) a change of job title for Marnie Ardis.

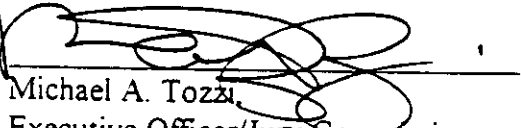
A similar request for a special merit request was made by Dick Barhite, Foreperson for 1995-96, in February of 1996. In his request he cited the numerous duties assigned to Marnie and the exemplary job she does. I reviewed that request personally with Marnie and explained my reasons for not approving the increase.

I have not changed my position regarding a special merit increase at this time. I have, however, requested a study be performed by the County Personnel Department (see attached) pursuant to your request for management status and title change for the position. Eileen Melson will respond and made her recommendations in writing.

There is no doubt in my mind about the excellent job Marnie has done and is doing. We are lucky to have such talent, dedication and intelligence. Granting the position management status or reclassifying it to the "staff coordinator" series may be the answer. A positive recommendation re: management benefits or a reclass, in any event, would require additional appropriation to cover ongoing costs which is why we need the study.

Please call should you have further comment or question.

Very truly yours,


Michael A. Tozzi,
Executive Officer/Jury Commissioner

cc: Judge Hugh Rose, Judge John Whiteside and Eileen Melson

TO WHOM IT MAY CONCERN:

The undersigned is a Certified Shorthand Reporter duly licensed by the State of California, CSR No. 6668.

During the last ten years, I have been reporting and transcribing Stanislaus County Grand Jury proceedings at the request of Stanislaus County.

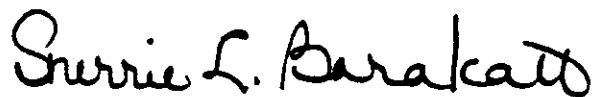
In preparing my billing for services rendered, I have from time to time included on the bill a brief reference to the specific Grand Jury proceeding for which the services were rendered.

This was done simply to facilitate my own internal record keeping and was not done as a consequence of any request from any county official or employee.

These bills were then sent by me to the secretary of the Grand Jury for payment and were paid in due course by the Stanislaus County Auditor.

I declare under penalty of perjury that the foregoing is true and correct to the best of my information and belief.

Executed at Modesto, California, this 20th day of August, 2002.



Sherrie L. Barakatt