

**CITY OF MODESTO OVERSPENDING
WHAT'S HAPPENING NOW?
Stanislaus County Civil Grand Jury
Case #19-02C**

SUMMARY

The 2018-2019 Stanislaus County Civil Grand Jury (SCCGJ) investigation into overspending by the City of Modesto was prompted by a citizen complaint. Several factors contributed to the City of Modesto finding itself in this situation including understaffing, lack of training, underutilization of internal computer systems and lack of adherence to policies and procedures. Understaffing began as a result of the 2008-2009 recession. Several positions were not filled when vacated. Additionally some management and department head positions were filled only on an interim basis. Staff who were assigned with purchasing goods and services, or creating contracts, were not fully trained to understand both the limits and conditions of their responsibilities. Finally no internal alerts were utilized within the City of Modesto's Oracle Computer System to signal approaching termination dates and monetary limits of contracts. SCCGJ also found that City of Modesto staff did not follow the City Municipal Code or the city's purchasing manual when monitoring or getting authorization for contracts. This was a practice that had continued from 2012-2017. Some contracts were paid after termination dates. Others were paid exceeding the limits established by the Municipal Code, without City Council resolution.

BACKGROUND

Between September 2017 and May 2018, the *Modesto Bee* ran a series of articles outlining overspending by the City of Modesto. A citizen complainant asked the grand jury to investigate these issues as a misuse of taxpayers' money.

SCCGJ's investigation was to determine whether or not the City of Modesto was properly reviewing and monitoring contract spending and continues to do so.

METHODOLOGY

SCCGJ reviewed the following documents from the City of Modesto:

- Modesto City Charter
- Modesto Municipal Code
- Modesto City Council agenda reports
- Memo from Public Management Group dated January 23, 2018
- A PowerPoint presented to the Modesto City Council on January 23, 2018 entitled "Review of Purchasing/Contracting Practices & Recommended Corrective Action"
- Modesto City Council Resolution No. 2018-48 through 2018-54 dated January 23, 2018
- City of Modesto finance committee report dated February 9, 2018
- City of Modesto -"Independent Accountants' Report on Agreed upon Procedures for the Year Ended June 30, 2017" prepared by Hudson, Henderson & Company, Inc. dated February 21, 2018

- City of Modesto - Contract Compliance – “Independent Accountants’ Report on Agreed upon Procedures for the Year Ended June 30, 2010” prepared by Hudson, Henderson & Company, Inc. dated June 28, 2018
- “Report of Investigation – Finance Contracts Matter, City of Modesto, California” by Armistead Research and Investigative Services dated August 30, 2018

SCCGJ interviewed personnel from the City of Modesto.

SCCGJ visited the City of Modesto Finance Department and reviewed the Oracle Computer System.

DISCUSSION

News articles in the *Modesto Bee* published between September 13, 2017 and May 21, 2018 alleged several instances of overspending within the finance department and the purchasing division of the City of Modesto. The purpose of this investigation was to determine whether the City of Modesto has taken the necessary steps to ensure that taxpayers’ money is spent within the parameters of the Modesto Municipal Code (MMC).

The purchasing system is a division of the finance department and has the responsibility to supervise purchasing action (MMC § 8-3.201 Organization).

Pursuant to the City of Modesto Municipal Code § 8-3.202 General Responsibilities and Duties, the Department is responsible for contracting goods and services needed by the city from qualified persons, at reasonable prices, and to ensure quality of the purchases. MMC § 8-3.102 states that no contract involving an expenditure in excess of \$50,000 may be authorized or executed without City Council approval. Contracts may not be divided into smaller dollar amounts in order to circumvent monetary limits requiring authorization by the City Council.

After the 2008-2009 financial crisis, understaffing in both the finance department and purchasing division contributed to overspending in contract payments. Several positions were not filled when vacated, or filled only on an interim basis, including some management and department head positions. Additionally the number of staff positions within the City of Modesto were inadequate to meet the workload of entering and monitoring contract information in the Oracle Computer System.

In order for the city to function financially from 2012-2017, practices within the purchasing division ignored requirements of the City Municipal Code. Some contracts were paid past expiration dates, and/or beyond their monetary limits. The Oracle Computer System was not being used properly to monitor contract limits. Staff was neither adequately trained nor supervised in using this system. The purchasing procedures manual had not been revised since March 2007, and the purchasing manual had not been revised since July 2009. Staff was neither trained nor required to read and follow standardized written policies and procedures.

According to the August 30, 2018 investigation by Armistead Research, it became apparent that personnel were unclear regarding whose responsibility it was to oversee purchasing contracts. According to Municipal Codes § 8-3.102, §8-3.103 and §8-3.202, oversight of contracts for

public works differs from that of contracts for purchasing and services. Diverting from standard practice, contracts were not being approved according to Municipal Code.

After the discovery of the contract irregularities, action was taken by the finance department, the purchasing division, and the City Manager to rectify the situation. Staffing was increased and monthly meetings were being held by the finance department to improve training and contract compliance. On January 23, 2018 Modesto City Council adopted a total of seven (7) resolutions (Nos. 2018-48 through 2018-54). Resolutions described actions to be taken to amend contract limits, terms of contracts, or to authorize the Purchasing Manager to increase amounts on blanket purchase orders. Adoption of these resolutions also ratified past expenditures that exceeded the City Manager's financial authority. The City Council approved new annual purchase agreements that included past expenditures and/or increased expenditure limits. Some contract dates were extended to September 30, 2018 to provide time for negotiating new contracts.

SCCGJ's investigation found that change has occurred within the City of Modesto's financial practices. City of Modesto staff is now properly trained. Supervisory and managerial staff maintain accountability for approving all purchases.

The Oracle Computer System is now being fully utilized as a tool for entering, monitoring, and reporting the status of all contracts. Tracking information consists of vendor names, dollar limits, expiration dates, and City Council resolution numbers, if authorization is required. Safeguards are in place to protect from overspending or paying on expired contracts.

SCCGJ observed a demonstration of how information is entered and tracked in the Oracle Computer System. SCCGJ was provided with a copy of the control document given to each division in preparation for monthly meetings between division heads and the finance department. At monthly meetings all contracts are reviewed to assure accuracy and to make staff aware of contracts due for review or renewal. All City of Modesto purchasing contracts have future expiration dates. Alerts are in place within the Oracle Computer System giving early notification of contract dollar limits being reached. Reminders are issued by the system 90 days before contracts are due to expire.

SCCGJ's investigation found that issues which caused the underlying problems in the past years are being substantially addressed.

SCCGJ's investigation found the City of Modesto has demonstrated its recognition of past financial problems. The city hired a consulting firm to provide an independent review of past purchasing practices. The firm made observations and recommendations for corrective action. Based on recommendations the City of Modesto has hired additional staff for the finance department and purchasing division. Staff receives monthly training on proper procedures. Revised purchasing and policy manuals are being drafted. Additionally, an investigative firm hired by the city determined no malfeasance by staff.

On February 5, 2008 citizens of Modesto passed Measure M, "Increase Accountability in City Hall Measure of 2008". A majority vote was required, and the measure passed with over 78% of voters approving. This measure established the "Office of City Auditor". Pursuant to Modesto Municipal Code §902.1, the City Council shall appoint the City Auditor who shall serve at its pleasure. "The City Auditor shall be certified according to standards comparable to a Certified

Public Accountant or Certified Internal Auditor at time of appointment.” The City Auditor is charged with conducting audits of all fiscal transactions and accounts kept by the city and issuing reports and recommendations to the City Council after each audit. This position was not filled for the majority of 9 years since voters passed Measure M and revised the Code. In September, 2008 the first city auditor was hired after the passage of Measure M. The position was vacated in March 2010 after only eighteen (18) months. In 2011 an external firm was contracted for the purpose of conducting performance audits, rather than financial audits, through mid-2017. In April 2018, an internal city auditor was hired by the Modesto City Council, and the position was vacated in December 2018, after only eight (8) months. The City of Modesto has not had an internal auditor since the position was vacated in December 2018.

FINDINGS

- F1. Several high-level and interim positions within the City of Modesto have now been filled.
- F2. The number of staff positions within the City of Modesto currently meets the contract monitoring needs of the city.
- F3. Staff now receive monthly training regarding standardized policies and procedures.
- F4. The purchasing procedures manual has not been revised since March 2007.
- F5. The purchasing manual has not been revised since July 2009.
- F6. The City of Modesto’s purchasing division now has safeguards in effect with regard to contract approvals.
- F7. The City of Modesto’s purchasing division now enters and monitors contract information within the Oracle Computer System.
- F8. The position of City Auditor remains vacant as of the date of this report.

RECOMMENDATIONS

- R1. The City of Modesto should continue to maintain adequate staff who will enter specific contract information and generate reports using the Oracle Computer System.
- R2. The finance department should continue to conduct monthly meetings to assure contract compliance.
- R3. As required by the Modesto City Charter and the Modesto Municipal Code, regular meetings with all city division heads should occur to ensure that contracts nearing monetary or time limits are reported to the Modesto City Council.
- R4. Both of the Purchasing Division’s written policy and procedures manuals should be finalized by September 30, 2019.
- R5. Staff responsible for purchases and contracts should follow the City of Modesto policy and procedures manual and the Modesto Municipal Code.
- R6. Purchasing and finance department staff should receive specific orientation and refresher training regarding utilization of the Oracle Computer System.
- R7. The Modesto City Council should begin the process of recruiting and hiring a new City Auditor as required by Modesto Municipal Code §902.1, no later than September 30, 2019.

REQUEST FOR RESPONSES

Pursuant to Penal Code §933 and §933.05, the Stanislaus County Civil Grand Jury requires responses as follows:

- Modesto City Manager.....F1 - F7, R1 - R6
- Modesto City Council.....F8, R7

APPENDIX

- Modesto Municipal Code §2-3.402
- Modesto Municipal Code §8-3.102
- Modesto Municipal Code §8-3.200
- Modesto Municipal Code §8-3.201
- Modesto Municipal Code §8-3.202
- Modesto Municipal Code §2-3.401
- Modesto Municipal Code §902.1
- Modesto City Charter
- Modesto City Council Agendas
- Modesto City Council Minutes
- Modesto City Council Resolutions 2018-48 through 2018-54
- Measure M
- Independent Accountant's Report, Hudson, Henderson & Company, Inc.
- A PowerPoint presented to the Modesto City Council on January 23, 2018 entitled "Review of Purchasing/Contracting Practices & Recommended Corrective Action"
- Review of Modesto's Purchasing Practices by Public Management Group
- Report of Investigation - Finance Contracts Matter, City of Modesto, California by Armistead Research and Investigative Services

REFERENCES

Modesto Bee Articles:

- *'We Will Fix This' – A Modesto City Manager Apologizes for \$2.2 Million Error*, September 13, 2017
- *Modesto Should Get Busy Finding a City Manager*, September 26, 2017
- *\$2.2M in Overspending is not Modesto's Only Mistake*, October 14, 2017
- *Modesto has Found 11 Instances of Overspending*, October 25, 2017
- *For the Third Time, City of Modesto Staff Spends More than it's Supposed To*, November 13, 2017
- *Modesto Brings Forward More Examples of Overspending*, November 27, 2017
- *Modesto Spent More Than Agreements Allowed 45 Times*, December 24, 2017
- *What Role did 'Group Think' and 'It's Not My Job' play in Modesto's Overspending*, January 21, 2018
- *Modesto Says it Will Fix Culture that Led to \$16M in Overspending*, January 24, 2018
- *New Agreement Could Tell Whether Modesto has Fixed its Problem Purchasing Practices*, May 21, 2018

**2018-2019 STANISLAUS COUNTY CIVIL GRAND JURY
STANISLAUS COUNTY SHERIFF'S CITIZEN COMPLAINTS
CASE #19-01C**

SUMMARY

Stanislaus County Civil Grand Jury (SCCGJ) received a complaint describing mistreatment of some residents in the City of Patterson by Stanislaus County Sheriff's deputies. Allegedly the residents' concerns were not handled well by Sheriff's staff.

SCCGJ's investigation researched the citizens' complaint process of the Stanislaus County Sheriff's Department (SCSD). SCSD's policies related to citizens' complaints were reviewed. The policies instruct SCSD staff to accept all complaints and promptly forward them to Administration/Internal Affairs. SCCGJ's investigation found SCSD staff was inconsistent in the application of this policy. Some residents felt intimidated by the complaint process and would not file a complaint.

SCSD's investigations of citizen complaints filed in Patterson were thorough and appeared to come to fair and just conclusions. SCCGJ's review of these investigations did not reveal any indications of mistreatment of residents or discourteous service.

GLOSSARY

SCCGJ – Stanislaus County Civil Grand Jury

SCSD - Stanislaus County Sheriff's Department

BACKGROUND

SCSD contracts with the cities of Hughson, Patterson, Riverbank, and Waterford to provide law enforcement services. In 1998 the City of Patterson Police Department was consolidated into the SCSD. This resulted in the formation of Patterson Police Services under the direction of the Stanislaus County Sheriff's Department. The deputies working in the contract cities are employees of the SCSD.

California Penal Code §148.6 instructs law enforcement agencies to require complainants read and sign the following advisory: IT IS AGAINST THE LAW TO MAKE A COMPLAINT THAT YOU KNOW TO BE FALSE. IF YOU MAKE A COMPLAINT AGAINST AN OFFICER KNOWING THAT IT IS FALSE, YOU CAN BE PROSECUTED ON A MISDEMEANOR CHARGE. In Chaker v. Crogan, 428 F.3d 1215 (9th Circuit, 2005) the 9th Circuit Court of Appeals ruled the language in California Penal Code §148.6 admonishing complainants was unconstitutional and should be removed from citizen complaint forms.

In the process of this investigation SCCGJ reviewed SCSD policies, visited administrative offices, field offices, and interviewed sheriff's staff. Formal complaints filed with SCSD were also reviewed.

METHODOLOGY

SCCGJ used the following methodology to investigate the complaint:

- SCCGJ requested and obtained copies of the Sheriff's Department policy on Personnel Complaints (citizen complaints to SCSD).
- SCCGJ visited three field offices and the administrative office of SCSD and requested complaint forms along with procedures for filing a citizen's complaint.
- SCCGJ reviewed websites of Hughson, Patterson, Riverbank, and Waterford for links to the SCSD Citizen Complaint forms.
- SCCGJ interviewed Sheriff's staff and the complainant.
- SCCGJ reviewed filed citizen complaints regarding SCSD activities in Patterson.

DISCUSSION

SCCGJ received a complaint on May 1, 2018 alleging the SCSD committed civil rights violations and engaged in a pattern of discrimination against the Latino community in Patterson. Most of the complaint fell outside the purview of the SCCGJ. The complaint also alleged an absence of a complaint procedure pursuant to California Penal Code §832.5 which requires each law enforcement agency to establish a procedure to investigate complaints and to make a written description of the procedure available to the public. The complaint further alleged:

- SCSD staff are not trained in complaint procedures
- SCSD staff are not bilingual
- translation services are not available
- complaint forms are not available in Spanish
- request for complaint process are met with intimidation, hostility and denial.

SCCGJ requested and obtained a copy of SCSD's policies related to citizen complaints. Sheriff's Policy 1020.4.2 states:

All complaints will be courteously accepted by any Department member and promptly forwarded to Administration/Internal Affairs. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone.

Document Review

SCCGJ visited the SCSD offices in Hughson, Modesto, and Patterson. At the Patterson Police Department (SCSD sub-station) the jurors requested and received a Citizen's Complaint form. The form was not available in Spanish. The staff member offered the jurors the opportunity to schedule a time to meet with the lead officer to discuss any complaints. The form contained language that is prohibited under the 9th Circuit Court of Appeals ruling in Chaker v. Crogan (2005). The citizens' complaint form provided by SCSD in Patterson was not consistent with the form on the SCSD website.

At the SCSD office in Hughson the jurors were offered a Citizen Complaint form and a Traffic Complaint form. The jurors requested a copy of the Citizen Complaint form; however, they were told the form could not leave the SCSD Hughson office. The jurors were informed they could report complaints in person or online, but the staff member was unable to locate the complaint form online. Additionally, the Citizen Complaint form was in English only. The

jurors were informed that a Spanish interpreter could be located to assist in completing a complaint if needed.

The complaint form is not directly found in either English or Spanish on the websites of the police departments in Hughson, Patterson, Riverbank or Waterford. Only by following multiple links between the municipal police department websites and the SCSD website can a Citizen Complaint form be located in both languages.

At the SCSD administrative office in Modesto the jurors were provided with a printed English Citizen Complaint form. The form was not available in Spanish nor was a Spanish interpreter available. Citizen Complaint forms in both English and Spanish are available on the SCSD website and both forms are compliant with the 9th Circuit Court of Appeals ruling in Chaker v. Crogan. The complaint forms are located within the Administration section of the website.

SCCGJ reviewed nine formal citizen complaints with the SCSD that were filed in the City of Patterson starting January 2017 through June 2018. SCCGJ did not identify any pattern of unfair treatment based on the complaints filed or in the conclusions of the SCSD investigations.

Interviews

On January 18, 2019 the complainant was interviewed by SCCGJ. The complainant stated the SCSD intimidates individuals from filing complaints. Citizen complaint forms were not available in Spanish nor was a Spanish interpreter available when requested. The complainant stated the SCSD was not responsive to requests addressing complaints.

On December 17, 2018 a SCSD staff member was interviewed by SCCGJ. The SCSD staff member confirmed Citizen Complaint forms are available in all SCSD offices and Spanish translation is available if needed. Complaints are accepted verbally or in writing. Individuals submitting a complaint receive a response from the SCSD, usually within 30 days. SCSD staff were not certain if all staff have been trained on the complaint procedures.

FINDINGS

- F1. SCSD has an established complaint procedure that complies with California Penal Code §832.5.
- F2. Established complaint policies and procedures are inconsistently followed at SCSD field offices.
- F3. SCSD office in Hughson office staff impedes the citizen complaint process by limiting the access to the paper form.
- F4. Citizen Complaint forms were available in English only at all SCSD offices impeding complainant access.
- F5. Electronic access to SCSD Citizen Complaint forms is not readily available on the websites of Hughson, Riverbank, Patterson and Waterford.

F6. SCSD Citizen Complaint forms not compliant with the 9th Circuit Court ruling in Chaker v. Crogan are still in use at the SCSD office in Patterson.

RECOMMENDATIONS

- R1. SCSD staff should apply the citizen complaint policies and procedures consistently.
- R2. SCSD should improve public access to citizen complaint forms by making them readily available both online and in offices in English and Spanish.
- R3. Cities of Hughson, Patterson, Riverbank, and Waterford should update police department website homepages to include direct links to SCSD citizen complaint forms.
- R4. All SCSD offices should purge all citizen complaint forms not compliant with the 9th Circuit Court of Appeals ruling in Chaker v. Crogan.

REQUEST FOR RESPONSES

Pursuant to Penal Code sections §933 and §933.05, the grand jury requests responses as follows:

From the following elected county officials within 60 days:

- Stanislaus County Sheriff, F1- F6, R1, R2, and R4.
- City of Hughson, F3, F5, R2, R3
- City of Patterson, F5, R3, R4
- City of Riverbank, F5, R3, R4
- City of Waterford, R3, R4

INVITED RESPONSES

- Stanislaus County Board of Supervisors
- City of Hughson Police Chief
- City of Patterson Police Chief
- City of Riverbank Police Chief
- City of Waterford Police Chief

DISCLAIMER

Case #19-01C is issued by the 2018-2019 Stanislaus County Civil Grand Jury with the following exception: two grand jury members recused voluntarily due to a perceived conflict of interest. The recused grand jurors were excluded from all phases of the investigation, including interviews, deliberations, voting, and in writing and approval of this report. None of the information included in this report was obtained from the excluded grand jurors as a means of mitigating a potential bias to the integrity of this report.

**2018-2019 Stanislaus County Civil Grand Jury
Stanislaus County Facility Tour and Election Polling Place Report
Case 19-08GJ**

The 2018-2019 Stanislaus County Civil Grand Jury (SCCGJ) conducted its annual detention facility inspections, as required by California Penal Code §919(b). The inspections included Stanislaus County Probation Department’s Juvenile Hall (JH), Juvenile Commitment Center (JCC), the Stanislaus County Sheriff’s Detention Center, Re-entry & Enhanced Alternatives to Custody Training Facility (REACT), and Day Reporting Center (DRC).

SCCGJ conducted physical inspections of each facility between October 9, 2018 and February 12, 2019.

GLOSSARY

BSCC	Board of State and Community Corrections
DRC	Day Reporting Center
JCC	Juvenile Commitment Center
JDF	Juvenile Detention Facility
JH	Juvenile Hall
REACT	Re-Entry & Enhanced Alternatives to Custody Training Facility
SCCGJ	Stanislaus County Civil Grand Jury
SCSD	Stanislaus County Sheriff’s Department
SDC	Sheriff’s Detention Center

**Stanislaus County Juvenile Detention Facilities (JDF)
October 9, 2018**

SCCGJ toured both the Stanislaus County Juvenile Hall (JH) and Stanislaus County Juvenile Commitment Center (JCC). Both facilities house youth who committed offenses prior to their 18th birthday. The JH was built in 1977 and houses up to 158 pre-adjudicated youth. The Maximum Security Unit was added in 2000, and Girls Unit was added in 2003. The JH provides a safe and secure environment for youth pending juvenile court appearances. The JCC was built in 2013 and houses up to 60 post-adjudicated youth. The goal of the JCC is to change the delinquent habits, attitudes, behaviors of youth and to guide them toward a more productive and pro-social lifestyle. Changes are accomplished through education, training, and counseling services.

Youth at the JDF are provided with a safe and secure environment. The facility appears to be adequately staffed with qualified, experienced personnel. The staff are engaged with the youth and are professional in their performance of duties. The youth receive education, counseling, and medical services. The facility is clean and well-maintained. The JCC kitchen prepares the food for the facility. Youth are provided a menu of varied nutritious items. The kitchen was very clean and can serve a population in excess of the capacity of the JCF. A vegetable garden and greenhouse have been added as a learning activity for the youth.

The Probation Department's monthly report to the Board of State and Community Corrections (BSCC) for September 2018 reported the Average Daily Population for the JCF was 79 youth. Sixty-four youth were in the JH and fifteen youth were in the JCC. The Probation Department is seeking additional uses for the excess capacity. Currently a game room is available as a reward to youth who have demonstrated positive behavior.

**Re-Entry & Enhanced Alternatives to Custody Training Facility (REACT)
November 13, 2018**

The Re-Entry & Enhanced Alternatives to Custody Training Facility (REACT) opened May 21, 2018 and houses low-risk adult offenders. Inmates in REACT have the opportunity to participate in programming that will prepare them for successful re-entry into the community. A total of 42 educational and treatment programs have been developed for inmates and are available on a rotating basis. On the day SCCGJ toured REACT 145 inmates were housed in the facility. The housing capacity of the facility is 292 inmates; however, the current population is limited due to lack of staff. Inmate visitations are currently conducted by video.

**Day Reporting Center (DRC)
February 12, 2019**

The Day Reporting Center (DRC) offers a wide variety of services to adult offenders under the jurisdiction of the Stanislaus County Probation Department. The overall goal of the facility is to reduce the likelihood of recidivism. The facility is operated in partnership with the probation department, sheriff's department, Behavioral Health and Recovery Services (BHRS), and Community Services Agency (CSA). The DRC provides classes in life skills, domestic violence prevention, substance abuse prevention, GED preparation, computer skills, and employment searching. Some of the course providers include Sierra Vista, Learning Quest, LCA Leadership, and Nirvana.

Upon arrival at the DRC participants are screened for sobriety and appropriate attire. Individuals who are intoxicated or wearing gang clothing are not allowed to participate in programming for that day. DRC does not charge participants for classes.

Sheriff's Detention Center, East (SDC)
February 12, 2019

SDC is a state-of-the-art facility providing safe and secure housing for individuals detained in Stanislaus County. SDC is a new addition to the Sheriff's detention facility with a capacity of approximately 500 inmates. SDC has a comprehensive medical clinic that will limit the need to transport inmates for outside medical services. SDC operates a mental health housing unit and a mental competency program to assess inmates' trial readiness. The central kitchen prepares the food for all of the Sheriff's detention facilities. As with other facilities inmate visitations are currently conducted by video.

Election Observations – November 6, 2018

SCCGJ made November 6, 2018 election day precinct visits at approximately two dozen polling places plus the registrar's office in downtown Modesto. Jurors intentionally selected many smaller rural polling places that might be overlooked or inconveniently located for observers. Each visitation was approximately thirty minutes duration. Overall the polling places appeared well organized with friendly, professional-acting poll workers/volunteers.

General observations:

- Most signage was posted in both English and Spanish with a few exceptions
- Voting instructions were in English only
- Translator available but one did not show up for work that day leaving non-English speakers to rely on their own resources
- Automark available but set in "off" mode or lacked a cartridge at some sites
- Voter turnout was steady and heavier than expected
- Steady stream of mail-in ballots were dropped off
- Procedure for handling provisional ballots seemed to cause confusion among workers
- Some sites ran out of provisional ballots

Specific to Registrar's office:

- Exceptionally long line for provisional voters up to ninety minute wait
- Strict adherence to Observer Panel Procedures and Rules
- Signature verification of vote-by-mail ballots performed by volunteers who lacked formal training
- Large number of ballots delivered to Clerk-Recorder's office via "ballot harvesting"
- Ballot harvesting, a term applied to people who collect others' filled out absentee ballots and turn them in to election officials, is legal in California

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.
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**Burbank-Paradise Fire District
Board of Directors Vacancy
2018-2019 Stanislaus County Civil Grand Jury
Case #19-12GJ**

SUMMARY

The 2018-2019 Stanislaus County Civil Grand Jury (SCCGJ) initiated an investigation into the vacancy on the Burbank-Paradise Fire District Board of Directors (BOD). The position has not been filled by appointment or election since the vacancy occurred in February 2018. The purpose of this investigation was to determine: (1) who is responsible for filling the open board seat, (2) why the board seat has not yet been filled, and (3) how the vacant board seat will be filled.

Due to inaction by either the BOD or the Stanislaus County Board of Supervisors (BOS), this position still remains vacant. The next available election cycle for this board seat is March 3, 2020.

GLOSSARY

BPFD	Burbank-Paradise Fire District
BOD	Burbank-Paradise Fire District Board of Directors
BOS	Stanislaus County Board of Supervisors
SCCGJ	Stanislaus County Civil Grand Jury
RV	Stanislaus County Registrar of Voters

BACKGROUND

Burbank-Paradise Fire District (BPFD) was organized in 1942 and is an all-volunteer fire department. BPFD is an independent district in which voters elect a five-member board of directors, as stated in its bylaws. Each independent district has a five-member governing board which has corporate power (the ability to make decisions and get things done) and tax powers (the authority to raise money). BOD is responsible for complying with state laws and accepted governance practices.

At the time of this investigation, SCCGJ confirmed a board member had resigned on February 20, 2018. Currently the BOD is functioning with four elected board members.

METHODOLOGY

SCCGJ conducted interviews and reviewed pertinent documentation and regulations pertaining to the current BOD vacancy.

Documentation was received and reviewed as follows:

- Email correspondence from the BOD to Stanislaus County Counsel
- Letter sent from BOD to the Stanislaus County Registrar of Voters (RV)
- Letters from the BOS to two potential candidates regarding the vacancy
- BOD meeting agendas for 2018
- BOD meeting minutes for 2018

SCCGJ also reviewed California Government Codes §1779 and §1780.

DISCUSSION

The SCCGJ investigation confirmed that on February 20, 2018 a vacancy occurred on the BOD. On February 21, 2018, BOD sent an email to the Stanislaus County Counsel's office regarding the vacancy. According to Government Code §1780, BOD had fifteen days to notify RV of the vacancy; however, a letter was sent to RV thirty-one days after the board seat became vacant. BOD had sixty days to hold an election or appoint a person to the vacant board seat. If no one was elected or appointed within the time constraints for doing so, BOD was to notify BOS of the vacancy.

On March 21, 2018, BOD notified RV it would decide how to fill the vacancy at the next board meeting. BOD failed to address the issue. Due to guidelines and time constraints, BOS had thirty days from April 21, 2018 to appoint a person to the vacancy. BOS did not receive notification of the BOD vacancy until May 15, 2018. The deadline for BOS to fill the BOD vacancy was May 21, 2018. As a result BOS did not have adequate time to review applicants and make an appointment to BOD.

BOS received letters from two individuals who were interested in serving on BOD.

All dates to appoint or to call for an election were missed by BOD.

Chronology of Events
Burbank-Paradise Fire District Vacancy

DATE	EVENT, TRANSACTION or OCCURRENCE
2/20/2018	Resignation of a BOD member
2/21/2018	BOD notified Stanislaus County Counsel's office of the resignation
3/7/2018	Last day to notify RV of vacancy
3/21/2018	BOD notified RV of vacancy and that BOD would decide how to fill the vacancy
3/22/2018	RV received letter of vacancy from BOD
4/6/2018	Last day for BOD to post notice of vacancy (G.C. §1780 (d)(1))
4/21/2018	Last day for BOD to fill vacancy by appointment
5/14/2018	First application received from a citizen within the district to fill vacancy
5/15/2018	Second application received from a citizen within the district to fill vacancy
5/15/2018	Last BOS meeting before deadline to fill vacancy by appointment
5/18/2018	BOS received BOD notice of vacancy dated March 21, 2018
5/21/2018	Last day for BOS to fill vacancy by appointment
5/23/2018	BOS notified applicants the vacancy needed to be filled by election
6/29/2018	Last day for BOD to call for the vacancy to be placed on the November 6, 2018 ballot

FINDINGS

- F1. On February 20, 2018 a board member resigned from the BOD.
- F2. BOD did not notify RV of the vacancy within the required fifteen-day period.
- F3. March 7, 2018 was the last day for the BOD to notify RV of the vacancy; however, BOD did not notify RV until March 21, 2018.
- F4. BOD did not fill the vacant board seat by appointment nor did it request RV to call for an election within sixty days per Government Code §1780.
- F5. BOD did not notify BOS of the vacant board seat within thirty days per Government Code §1780.

RECOMMENDATIONS

- R1. BOD and BOS should obtain guidance from the California Special Districts Association regarding the process and required timelines for filling board vacancies.
- R2. BOD should obtain training from RV regarding process and timelines to meet election requirements in preparation for the March 3, 2020 ballot.
- R3. BOD should appoint a person to fill the board vacancy for the remainder of 2019 and until the next official election on March 3, 2020.

REQUEST FOR RESPONSES

Pursuant to Penal Code §933 and §933.05, the grand jury requests responses from the following governing entities within 90 days:

- BURBANK-PARADISE FIRE DISTRICT BOARD OF DIRECTORS
- STANISLAUS COUNTY BOARD OF SUPERVISORS

BIBLIOGRAPHY

CALIFORNIA GOVERNMENT CODE §1779

§1779. Special districts; filing vacancies on appointed governing boards; failure to fill within 90 days

CALIFORNIA GOVERNMENT CODE §1780

§1780. Special districts; vacancies in elective offices of governing board; election dates; term
California Special Districts Association, www.csda.net/special-district/

DISCLAIMER

This report of case number 19-12GJ of the Burbank-Paradise Fire District Board of Directors is issued by the 2018-2019 Stanislaus County Civil Grand Jury with the following exception: a member of the grand jury volunteered to recuse due to a perceived conflict of interest. This grand juror was excluded from all phases of the investigation, including interviews, deliberations, voting, writing, and approval of this report. None of the information included in this report was obtained from the excluded grand juror as a means of mitigating a potential bias to the integrity of this report.

**2018-2019 Stanislaus County Civil Grand Jury
Participation in the Annual Financial Audit Report
For the Fiscal Year Ended June 30, 2018
Case # 19-21GJ**

SUMMARY

In accordance with California Penal Code Section 925, civil grand juries are required to investigate and report on the operations, accounts, and records of the departments or functions of the county. Therefore the 2018-2019 Stanislaus County Civil Grand Jury (SCCGJ) reviewed the Stanislaus County Audit Report dated June 30, 2018. The audit was completed by Brown Armstrong Accountancy Corporation and presented on March 19, 2019.

GLOSSARY

CAFR	Comprehensive Annual Financial Reports are a set of US government statements comprising the financial report of a state, municipal, or other governmental entity that complies with the accounting requirements published by the Governmental Accounting Standards Board.
OMB	Office of Management and Budget - federal agency that oversees The United States budget and monitors federal spending.
SCCGJ	Stanislaus County Civil Grand Jury.
The Single Audit	The Single Audit is a rigorous organization-wide audit or examination of an entity that expends \$950,000 or more of federal funds received for its operations. This Single Audit is also known as the Office of Management and Budget (OMB) A-133 Audit.
Unmodified Opinion	The auditor's opinion of a financial statement given without reservation. Such an opinion basically states that the auditor finds the entity followed all accounting rules appropriately, and the financial reports are an accurate representation of the entity's financial condition.

BACKGROUND

The June 30, 2018 Stanislaus County Audit Report addresses the Comprehensive Annual Financial Reports, as well as the Single Audit Report. The 2018 CAFR is intended solely to describe the scope of financial internal control testing and to assure the county's financial

statements are error free. The audit includes a sampling of departments and programs within Stanislaus County. This audit report received an unmodified opinion.

The Single Audit addresses compliance with Office of Management and Budget A-133, which applies to the county's major federal programs. All programs in this report received an unmodified opinion; therefore, no corrective actions were recommended by Brown Armstrong Accountancy Corporation. The audit samples included the following: Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), Highway Planning and Construction, Foster Care Title IV E, and the Medical Assistance Program.

Audits conducted of the following agencies and programs resulted in unmodified opinions and to financial statements and internal controls:

- Health Services Agency.
- Inmate Welfare.
- Regional 911.
- Insurance Fraud Program
- North County Corridor Transportation Expressway Authority.
- Stanislaus Animal Services Agency.
- City County Capital Improvement and Financing Agency.
- Tobacco Endowment Investment Fund.
- Public Guardian Agreed Upon Procedures
- Treasury Oversight.*
 - Unmodified Opinion for Report on Internal Control over Financial Reporting
 - *There was one finding on the Treasury's compliance regarding its Investment Policy. The Treasury was back in compliance within 74 days.

METHODOLOGY

Members of the SCCGJ 2018-2019 attended the Entrance Audit Conference on August 6, 2018, and the Exit Audit Conference along with county department heads on March 19, 2019.

Representatives of Brown Armstrong Accountancy Corporation provided copies of the Agenda and supporting documents for the Audit Entrance and Exit meeting to the SCCGJ

members in attendance. SCCGJ used data from the supporting documents in its audit investigation.

FINDINGS

F1. The audit affirmed that the Auditor-Controller is accurately reporting the financial condition of the county.

F2. The audit disclosed that established financial controls are working effectively.

F3. The exit interview disclosed that the Auditor-Controller consistently reviews internal controls to insure they continue to be effective.

F4. The auditor-controller responded appropriately to all questions posed.

COMMENDATIONS

C1. The SCCGJ commends the Auditor-Controller management team for their competent financial management.

INVITED RESPONSES

Stanislaus County Auditor-Controller

Stanislaus County Board of Supervisors

APPENDIX

NEW ACCOUNTING PRONOUNCEMENTS - *Statement No. 75 Accounting and Financial Reporting for Postemployment Benefits other than Pension Plans*

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