

# The 2013-2014 Imperial County Civil Grand Jury



## Final Report

<http://www.imperial.courts.ca.gov/>  
Superior Court of California, County of Imperial

# **Table of Contents**

## **2013-2014 Final Report**

<b>Topic</b>	<b>Page</b>
<b>Cover – Imperial County Court House</b>	<b>1</b>
<b>Letter from Foreman</b>	<b>3</b>
<b>Letter from Presiding Judge, Court Executive Officer, and County Council</b>	<b>4</b>
<b>Pictures</b>	<b>5</b>
<b>Penal Code Section 933.05</b>	<b>10</b>
<b>Civil Grand Jury Overview</b>	<b>11</b>
<b>Investigations</b>	
<b>Calipatria State Prison – Mandatory Annual Inspection / Investigation</b>	<b>12</b>
<b>Centinela State Prison – Mandatory Annual Inspection / Investigation</b>	<b>15</b>
<b>Imperial County Jail – Mandatory Annual Inspection / Investigation</b>	<b>18</b>
<b>Imperial County Juvenal Hall – Mandatory Annual Inspection / Investigation</b>	<b>21</b>
<b>City of El Centro Water/Wastewater/Finance – Follow up</b>	<b>24</b>
<b>Imperial County Behavioral Health Services – General Investigation</b>	<b>26</b>
<b>El Centro Public Works – Complaint (Attachments included)</b>	<b>30</b>
<b>Heffernan Memorial Hospital District – Complaint</b>	<b>45</b>
<b>Appendix A – Responses to 2012-2013 Civil Grand Jury Final Report</b>	<b>50</b>
<b>City of El Centro Response</b>	<b>51</b>
<b>No other responses recorded as received by Civil Grand Jury</b>	



Courthouse  
P.O. Box 2011  
El Centro, CA 92244

## *Imperial County Grand Jury*

June 10, 2014

Hon. William Lehman, Presiding Judge, 2011-2013  
Hon. Poli Flores Jr, Presiding Judge, 2014-2015  
Superior Court of California, County of Imperial  
El Centro, California

Citizens of Imperial County,

Judge Lehman, Judge Flores, and Citizens of The Imperial County,

In accordance with the California Penal Code, Section 933 (a), and in the name of the 2013-2014 Imperial County Civil Grand Jury, it is my privilege to submit our Final Report.

Every year in the month of July, a new Civil Grand Jury of nineteen (19) members plus six (6) alternates is empanelled. This past year I have had the pleasure of being the foreman for some of the most hard working, diverse, intelligent citizens in Imperial County. Together we carried on the task of being our county's watchdog. This panel completed our job with unwavering diligence. We addressed all assigned tasks in front of us plus investigated various citizens complaints presented to the jury.

I want to thank those members of the jury that completed their service on this panel. It was an honor serving with you. This is my second year on the jury, and this year, as it was last year, the court staff (Kristine Kussman and her staff, Estella Munoz and Analisa Cortez), Judge Lehman (June 2013 through December 2013) and Judge Flores (January 2014 though June 2014), plus the County Council Michael Rood (and his office) made our jury panel feel very important and a vital part of the legal system.

I remind all citizens of Imperial County that you are invited to participate as members of future Civil Grand Juries.

Sincerely,

*Roy Caldwell*

Roy Caldwell, Foreman,  
2013-2014 Imperial County Civil Grand Jury



Superior Court of California  
County of Imperial



Office of County Counsel  
County of Imperial

On behalf of our judiciary, jury commissioner staff, and Office of County Counsel, we would like to thank and congratulate the 2013-2014 Civil Grand Jury of Imperial County for its service, commitment, and contributions in making the Grand Jury system a relevant and important part of our local government. It is community members, like the grand jurors and regular trial jurors that help us preserve the principles of democracy in action and public trust in our local government.

The many hours devoted by members of the grand jury have resulted in investigations and recommendations aimed at improving the operations and of services by the agencies audited. Each year, the Court engages in community outreach to promote jury service and ensure that community participation in this important civic duty is not simply seen as a burden or inconvenience, but as an opportunity to participate in our democratic governance process and improve our community.

Demographical data required by Rule 10.625 of the California Rules of Court, for the 2013-2014 Civil Grand Jury reflects the following representation of our community:

**By Supervisorial District**

District 1 = 0, District 2 = 5, District 3 = 11, District 4 = 1, District 5 = 2

**Gender**

Males = 8, Females = 11

**Age**

(18-25) = 1, (26-34) = 3, (35-44) = 2, (45-54) = 3, (55-64) = 5, (65-74) = 5, (75 & over) = 0,  
Not Available = 0

**Race/Ethnicity**

American Indian = 2 Asian American = 0, African American = 0, Hispanic = 4,  
Native Hawaiian = 0, White = 7, Not Available = 6

Again, many thanks to each member of the 2013-2014 Civil Grand Jury for their civic duty and for making a difference.

Sincerely yours,

Poli Flores, Jr.  
Presiding Judge

Kristine S. Kussman  
Court Executive Officer  
Jury Commissioner

Michael L. Rood  
County Counsel



**Honorable William Lehman**  
**Presiding Judge**  
**2012-2013**



**Honorable Poli Flores Jr**  
**Presiding Judge**  
**2014-2015**



**Michael L. Rood**  
**County Counsel**



**Analisa Cortez – Estella Munoz  
Jury Staff Members**

**Imperial County Civil Grand Jury  
Members – 2013-2014  
(Listed by Juror Roster Order)**



**David Crittendon**



**Stephen Benton**



**Roy Caldwell**



**Tom Dineley**



**Avery Moler**



**Jose Flores**



**Gill Rapoza**



**Pepper Pierce**



**Karol McNeer**



**Ariel Walk**



**Mary Calderon**



**Martin Lang**



**Jo Ann Likens**



**Jean Fisher**



**Orlando Johnson**

## **California Penal Code Section 933.05**

### **Covering the Civil Grand Jury**

(a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

(1) The respondent agrees with the finding.

(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

(d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.

(e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.

(f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

# The 2013-2014 Imperial County Civil Grand Jury Overview

## Purpose

The 2013-2014 Imperial County Civil Grand Jury members were drawn from varied places, and walks of life within the county with the combined purpose of service and civic duty. Our duties included investigating and reporting on county and local government entities, as well as the two state prisons within Imperial County. Some of our investigations were routine tours as per an established matrix or by law, while others were holdover investigations made by previous Civil Grand Juries, and some were due to complaints or allegations of misconduct by officials or agencies in our jurisdiction. If during any investigation it was determined that a criminal matter may have taken place, the Civil Grand Jury referred that matter to the appropriate authorities. The Civil Grand Jury does not investigate criminal matters. The Civil Grand Jury also has a lesser-known purpose of investigating to see if they may make recommendations of improving government for efficiency or for cost savings.

## Authority

The Grand Jury is a judicial body of citizens comprised of nineteen (19) members. It acts as an arm of the court and has authority taken from the State Constitution, the California Penal Code, and from the Government Code of California.

## History

Grand Juries were empanelled in some forms in history as far back as the beginning of Western Civilization, which included the Greeks, and later on the early British civilizations. The Commonwealth of Massachusetts, also known as the “Bay Colony,” began using grand juries only 15 years after colonists landed at Plymouth. Most of those were to deal with criminal matters, however the idea of an empanelled body of citizens to aid in the judicial system was a precursor to what eventually became the modern grand jury system. Most states do not have both a civil and a criminal grand jury, with California being among the few to have the former. It has been so since the early years of this state. Not all counties within this state have both civil and criminal juries as does Imperial County.

## Organization

The 2013-2014 Imperial County Civil Grand Jury was made up of nineteen (19) members and six (6) alternate members, who served from July 1<sup>st</sup> through June 30<sup>th</sup>. Its officers included a foreperson and a foreperson pro tempore, who are elected by the other jury members, but approved by the presiding judge. Other officers, who were chosen by the members of the Civil Grand Jury, which included secretary, treasurer, sergeant-at-arms, and a chairperson for each committee. During the course of the term, members were divided into various committees and often have served on several committees. Jurors normally met twice a month for general meetings, and sometimes met several times in a week or month for specific committee functions. No less than twelve (12) members of the Grand Jury approved all investigations, reports, findings and recommendations. All reports are completed and published no later than June 30 of the Grand Jury term. The final reports are published at: <http://www.imperial.courts.ca.gov/>.

## Confidentiality

All jury meetings, discussions, decisions, complaints, documents, investigations, and testimonies received are considered to be confidential, and members may not discuss these matters with others prior to publication of reports.

**Subject of Investigation:**

**Calipatria State Prison**

**Justification:** California State Law mandates that the Civil Grand Jury (CGJ) will inspect all prison and jail facilities on a yearly basis.

**Background:** Calipatria State Prison (CAL) is operated by the California Department of Corrections and Rehabilitation. Construction was completed on CAL in late 1991, and the prison began receiving inmates in January 1992. The original design of the prison was made to house 2,208 inmates, though modifications took place prior to activation so that the prison could hold nearly double that amount, over 4,000. However, the prison population had been reduced to lower numbers by court decisions and the number of inmates at the time of the CGJ tour was approximately 3,500.

A committee of the CGJ inspected the prison using a checklist developed for the prison by the Grand Jury. The check list included the general safety and security of the facility, fire safety, food services, medical services, job training requirements for staff, escape procedures, law library, inmate treatment, investigations, a housing unit, and staff morale. The committee of jurors assigned to this visit toured all areas of the prison. At the time of the visit CAL had 1,140 staff members; this includes about 700 peace officers.

**Tour:** The CGJ toured CAL in October 2013. Prior to the tour, members of the committee met with both the Chief Deputy Warden (CDW) and CAL's Administrative Assistant/Public Information Officer (AA/PIO). The CDW explained that the prison was transitioning in several ways. The warden had come on board in the last several months. Prior to that, the CDW, who had been called out of retirement, had served as acting warden until the new warden was assigned. Both the CDW and the AA/PIO were open and invited questions from the juror members.

The CGJ members were advised that there had been some budget cuts in recent years, which affected the prison. Some vocational programs and community crews had been cut. Some additional cuts were due to the prison realignment bill (AB-109) which went into effect two years earlier. This also meant a reduction in staff members. However, CAL staff advised that there were still rehabilitation programs available to inmates and programs to assist the inmate families. The juror members spoke with the staff member assigned to coordinate the programs which include Shop with a Cop, Angel Tree, NA/AA assistance, chaplains for the inmates, reading programs for children of inmates. Inmates and staff alike do fund raising for the community and there is a community advisory panel made up of people living in the area who provide input on the operation of the prison. In one program, inmates will be used and paid as inmate day labor as the prison, under professional contractors, completes repairs and upgrades on inmates' showers and other areas.

The warden was available at the conclusion of the tour. He was welcoming and made certain that CGJ members had all questions answered. He said he wanted to make sure the jury was able to see any parts of the prison that were desired and that the staff was able to provide a thorough tour. The warden also stated that he was pleased over all with staff at CAL. The AA/PIO and the Investigative Services Unit Lieutenant conducted the actual prison tour in all areas.

**Medical Care:** CAL has an Outpatient Housing Unit (OHU) to see to the needed medical care of inmates. The OHU has an emergency room, X-ray machines, a full complement of medical staff and mental health staff available for inmates. On each part of the prison there is also a satellite clinic for inmates. There is a central dispensary for prescriptions where medication is sent out to the inmates as needed. In the case of an

urgent and serious medical care arising where the OHU is unable to facilitate, inmates are sent out to Pioneers Memorial Hospital and in some cases El Centro Regional Medical Center. In rare cases, inmates may be life flighted to other medical facilities. The CAL OHU no longer houses inmates needing long term care, a change which took place several weeks prior to CGJ visit. Those inmates are housed at the new California Health Care Facility in Stockton.

**Food Preparation/Service:** The CGJ toured the central kitchen where the bulk of inmate food preparation takes place. Staff cooks control the cooking with much of the food preparation done by the inmates. It is a big operation that resembles the type of area one might see on a large military base. Once the food is prepared, it is sent to a quick-chill procedure. Several days later, the food is heated back to serving temperatures at satellite kitchens just before the inmates are served. CGJ members observed that all cooling units operated and those units and the large walk in freezers were kept at the proper temperatures. The prison does not control the specific food or portions served. A state dietitian/nutritionist at a central location determines the basic food need of the inmates. Some inmates will have different meals due to medical or religious reasons. Two hot meals and a sack lunch are provided to inmates daily. Inmates are also allowed to purchase additional food items from the canteen.

**Safety and Security:** CAL is designated as a Level IV (higher custody) prison. They also have a Minimum Support Facility (Level I MSF) and a Sensitive Needs Yard (SNY) for inmates who, for various reasons, cannot be housed with the general population inmates. At the time of the CGJ visit, CAL was in the process of installing and testing a system for blocking illegal cell phone calls. CAL, like all prisons, has issues with inmates obtaining illegal cell phones. Inmates use these contraband phones for purposes such as narcotic sales or assaults on others. Prison staff determined that these illegal phones are detrimental to the well-being of staff and inmates alike. Staff advised that there have been some issues with the cell signal blockers, but they are working to resolve these problems. Illegal narcotic use and sale remain an at CAL, but staff continues to employ approved methods to address those issues.

During the CGJ visit, it was observed that Facility D, the SNY facility, was on a lockdown due to a serious inmate assault on staff members. Staff members advised that the lockdown would be at least until a security search could be made of all areas including inmate cells. Jury members observed that a portable X-ray machine was used to scan inmate property as it was searched. This is a newer tool for CAL.

Staff advised that inmates involved in serious incidents or who are a safety concern are placed in the Administrative Segregation Unit (ASU) pending adjudication. The ASU is a type of a prison within a prison. Inmates are placed there due to issues that would require a higher level of security. All inmates in ASU are placed in restraints anytime they are moved outside of their cell. They have a more limited recreation area and may only be with their own cellmates there, though they can see and hear other inmates easily. There was an observation made by jury members that the staff member in the control booth was extremely busy over-seeing such a large area.

The recreation yards on each Level IV facility were fenced and divided for increased security. CAL has armed towers at critical points and a lethal electrified fence in place for escape prevention. Jury members observed that the gate house at the entrance was now an armed post, where in previous years the CGJ reported that as a need. CAL had just begun a program for a trained dog to be implemented at the prison. During the CGJ tour a staff member and the K-9 were in training. This is also something recommended by previous juries. CAL has its own institutional firefighters, composed of eight inmates and assigned staff members. These Level I firefighting teams also respond to local fires to support fire teams in the communities.

**Training:** All correctional peace officers must complete a state operated academy prior to starting work at CAL. Non-peace officers are given an assortment of training as it relates to their individual assignment. All staff are provided with between 32 to 40 hours of annual in-service training. Some of the training includes prison security, escape prevention, inmate transportation, firearms, and first aid/CPR. Other correctional staff members provide most of the training on grounds.

**Conclusion:** CGJ members determined that CAL is a well run prison. Prison staff members greeted CGJ members regularly as the tour progressed. They were willing to speak freely and answer questions. CGJ members greeted inmates during the tour, and most replied. No inmates were spoken with at length. Jury members observed a good amount of camaraderie among staff members.

**Findings:** The Imperial County Civil Grand Jury observed the following:

- F1** CAL staff was having some problems with cell phone blockers operating correctly.
- F2** There was only one officer in the ASU control booth during the tour. The officer appeared to have a very large area to control alone.

**Recommendations:** The Imperial County Civil Grand Jury recommends the following:

- R1** The prison should continue to work on the cell phone blockers and make a priority to resolve outstanding issues.
- R2** The prison should consider having a second officer in the ASU control booth during the busier times to enhance the operation of that building.

**Response Required:** No response is required as Calipatria State Prison is a state agency.

Subject of Investigation:

Centinela State Prison

**Justification:** California State Law mandates that the Civil Grand Jury (CGJ) will inspect all prison and jail facilities on a yearly basis.

**Background:** Centinela State Prison (CEN) is operated by the California Department of Corrections and Rehabilitation. The prison was opened in October 1993, and the prison began receiving inmates shortly there-after. The original design of the prison was made to house 2,308 inmates, although over the years the prison maximum population has reached nearly 5,100. However, the prison population had been reduced to lower numbers by court decisions and the number of inmates at the time of the CGJ tour was approximately 3,040.

**Overview:** A committee of the CGJ inspected the prison. Jury members were escorted by CEN Community Resource Manager (CRM). General information concerning CEN was provided by the CRM as well as additional information requested by the committee during the tour. The information provided during the tour included, but was not limited to, the general safety and security of the facility, new cell phone blocking system, fire safety, food services, medical services, job training requirements for staff, escape procedures, inmate treatment, investigations, a housing unit, religious and educational accommodations. CEN has approximately 3,040 inmates, 1,170 staff members; this includes approximately 747 peace officers. The annual budget for CEN is \$140 Million, which is approximately \$46,053 per inmate annually.

**Tour:** The CGJ was able to tour CEN during the month of October 2013. There is a new warden had come on board in the last several months. The warden was not available to meet with the CGJ as it was committee day. That was where the warden meets with inmates housed for disciplinary areas to look their future housing needs and to ensure their legal processes have been met. The CRM was very open, accommodating and invited questions from the members of the panel. He advised the jury panel that there was no places that were off limits to us, and that the tour could be conducted as we pleased.

The CGJ members were advised that there had been some budget cuts in recent years, which affected the prison. Some vocational programs had been cut as well as had the community service crews. Some additional cuts were due to the prison realignment bill (AB-109) becoming law two years earlier. This also meant a reduction in staff members and fewer inmates due to their being reassigned to the county jails – throughout the state. However, CEN staff advised that there were still rehabilitation programs available to inmates, and there were programs to assist the families of inmates.

**Medical Care:** CEN has an Outpatient Housing Unit (OHU) to see to the needed medical care of inmates. This unit of the prison accounts for approximately 40% of the prison's annual budget. The OHU has an emergency room, X-ray machines, a full compliment of medical staff and mental health staff available for inmates. This facility is capable of the same basic care practices available in public hospitals and much of the same emergency care as well. There is a central dispensary for prescriptions where medication is sent out to the inmates as needed. In the case of an urgent and serious medical care arising where the OHU is unable to facilitate, inmates are sent out to El Centro Regional Medical Center (ECRMC), to Pioneer Memorial Hospital (PMH) in Brawley in fewer cases, and in some cases Sharps Grossmont in La Mesa. In very less often cases inmates may be life-flighted to other medical facilities.

**Food Preparation/Service:** The CGJ toured the Central Kitchen, where the main preparation of food takes place for inmates. Staff cooks control the cooking, with much of the food actual preparation being done by the inmates themselves. It is a big operation that resembles the type of area one might see on a large military base. Once the food is prepared, it then sent to a quick chill procedure where the food temperature is greatly lowered. Several days afterwards, the food is heated back to serving temperatures at the satellite kitchens just prior to the inmates eating their food. CGJ members observed that the cooling units all operated; those units and the large walk in freezers were kept at the proper temperatures. We also toured the storage room called a “hot room.” This is where food items are stored which inmates might otherwise turn into contraband, such as alcohol. The prison does not control the specific food or portions served. A state dietitian/nutritionist at a central location determines the basic food need of the inmates. There are some differences though. Two hot meals are served daily, and a bag lunch is provided to inmates for lunch. Some inmates have different meals due to medical or religious reasons, such as vegetarian, kosher or other.

**Safety and Security:** CEN is designated as a Level II (medium-higher custody) and a Level III (high custody) prison. They also have a Minimum Support Facility (Level I MSF), and a Sensitive Needs Yard (SNY) for inmates where it has been determined that they can not be housed with the General Population (GP) inmates. At the time of the CGJ visit, CEN was in the process of testing a new system for blocking illegal cell phone calls. This cell phone blocking system is being funded entirely by the company that services the internal pay phones that inmates have access to. CEN, like all other prisons had an issue with inmates obtaining illegal cell phones. Prison staff determined that these illegal phones were detrimental to the well being of staff and other inmates alike. Staff also advised that there have been some issues with the cell signal blockers, but they are working on those problems. Cell phone calls can not be monitored, and inmates use them for different illegal purposes, such as narcotic sales, gang activities or assaults on others both inside and outside the prison system. Illegal narcotic use and sales are still issues at CEN, but staff was employing methods to combat that.

During the CGJ visit, we toured the AD-SEG (Administrative Segregation Unit – ASU). Staff advised the CGJ that inmates involved in serious incidents or have safety concern are placed in the ASU pending adjudication. The ASU is a type of a prison within a prison. Inmates are placed there due to issues that would require a higher level of security. All inmates in ASU are placed in restraints anytime they are moved outside of their cell. They have a more limited recreation area and may only be with their own cellmates there, though they can see and hear other inmates easily. There was an observation made by jury members that the staff member in the control booth was extremely busy overseeing such a large area.

While in the ASU jury members observed that a portable X-ray machine was used to scan inmate property as it was searched. This was a newer tool for CEN. The CGJ also observed that an inmate that was suspected of ingesting some type of contraband (drugs, weapon, etc.) The procedure was to keep this inmate separated in a special cell and remain under constant and direct 24/7 observation for 72 hours, or until they “pass” the contraband.

The recreation yards on each Level IV facility were fenced and divided for increased security. CEN has armed towers at critical points and a lethal electrified fence in place for escape prevention. Jury members observed that the Gatehouse at the entrance was now an armed post, where in previous years the CGJ reported that as a need. CEN has its own institutional firefighters, composed of eight (8) inmates and assigned staff members. These Level I inmate firefighting teams also respond to local fires to support fire teams in the communities.

**Training:** All Correctional Peace Officers must complete a state operated academy prior to starting work at CEN. Non Peace Officers are given an assortment of training as it relates to their individual assignment. All staff members are provided with at least 32 to 40 hours of annual In Service Training (IST). Some of the training includes prison security, escape prevention, inmate transportation, firearms, and First Aid/CPR. Other correctional staff members provide most of the training on grounds.

**Conclusion:** CGJ committee members determined that CEN is a well run prison. Prison staff members greeted CGJ members regularly as the tour progressed. They were willing to speak freely and answer questions. CGJ members greeted inmates during the tour, and most replied. No inmates were spoken with at length. It was noticed that inmates have a great deal rights, benefits and liberties at the taxpayers expense, in comparison to the average lower income citizen.

**Findings:** The Imperial County Civil Grand Jury observed the following:

**F1** Due to state legislative actions and bills, many of the vocational training programs were cut.

**Recommendations:** CEN is a well-run prison, but there are areas where the Grand Jury believes some improvements can be made if it would consider these:

**R1** The prison should seek out any other possible avenues of funding or redirection of existing funds to reinstate the vocational training. This training would assist inmates in getting employment once released and return to being productive members of society.

**Response Required:** No response is required as Centinela State Prison is a state agency.

Subject of Investigation:

Imperial County Jail

**Justification:** California State Law mandates that the Civil Grand Jury (CGJ) will inspect all prison and jail facilities on a yearly basis.

**Background:** The Corrections Division of the Imperial County Sheriff's Office (ICSO) operates the jail. There are approximately one hundred (100) staff members, who work at the two (2) facilities adjoining the main ICSO building. The jail consists of two main sections, the Herbert Hughes Correctional Center (HHCC) that was built in the 1960's and the Regional Adult Detention Facility (RADF), which was built in the 1970's. HHCC houses up to 324 inmates, both male and female, in six (6) separate dormitories. The inmates include sentenced and non-sentenced inmates as well as inmate workers and federal detainees. The RADF was constructed in the late 1970's and houses up to 288 inmates, both male and female, housed in twelve (12) separate modules consisting of 10 to 20 cells per module, also known as pods. There are 612 beds in total available to house inmates.

**Tour:** A committee of the Civil Grand Jury inspected the jail using a checklist recommended by previous Civil Grand Juries, as well as additional information requested by the committee. The checklist included, but was not limited to, the general safety and security of the facility, food services, medical services, job requirements for staff, escape procedures, key and tool control, inmate treatment and staff morale. The committee toured all areas in both portions of the jail facilities. Some staff members spoke directly with inmates. The jail chief, two lieutenants, several sergeants, and other staff members working for at the jail conducted at least parts of the tour for the CGJ. The CGJ members spoke to members of the staff of all ranks as well as medical staff and other non peace officer staff members. All were at least courteous and in general were willing to speak with jury members. No staff members were found to be less than professional and cooperative with jury members. One staff member stated that the jail is very often understaffed. Many staff members are bilingual in English and Spanish, an asset in the Imperial County area. The jury learned that there are language services available for communicating with inmates who speak other languages. The inmate count was 495 on the day of the tour.

**Medical Care:** The jail has medical staff on duty twenty-four hours per day for inmate injuries and illnesses. The county contracts with an outside medical care service at a cost of \$2.6 million a year. When the jury toured the jail medical unit, it was observed that there were only five beds available. The jail has a small number of medical isolation units and at least one padded room for inmates with some mental health difficulties.

**Food Preparation/Service:** The jail serves 50,200 meals per year. Jail staff reported that the cost of each meal was between \$1.22 and \$1.40. Correctional staff serve meals on the pods directly to where the inmates are housed. At the other part of the jail, called the camp, inmates walk to meals in the dining hall. The jury members observed that food preparation area appeared to be clean and sanitary. Some of that area appeared to be worn but very usable. Jury members did not note any kitchen appliances to be deficient. A dietitian/nutritionist evaluates and oversees the food served at the county.

**Safety and Security:** In each part off the jail cameras are installed. Jail staff are assigned with the responsibility of watching the video monitors to increase safety and security. Some cameras can pan, tilt and zoom in on different jail areas, and some of those are new.

Inmate visits are conducted behind a glass partition in some areas at least to reduce the introduction of contraband in the facility. A smaller number of inmates are permitted contact visits in an outside controlled area.

It was observed that some door mechanisms appear to be worn. More than one staff member admitted that at times they have been problematic. None of those doors were leading to the outside that the jury observed, but because this is a secure jail it may lead to further problems even for those on the interior of the jail.

The jail court is now closed. Because of that closure inmates needing to go to court must be transported elsewhere more often, mostly to Brawley. The jury believes this may lessen security. An improvement was made to the jail vans since the last CGJ report. Corrections were made to some and more are anticipated.

### **Miscellaneous:**

Prior to the actual tour, jail staff members gave the jury a PowerPoint presentation of what is hoped to be the future of the jail. There was question and answer exchange between jury members and staff members during that time as well. Questions were answered freely. The jail chief advised the jury that the philosophy of inmate treatment at the jail was changing to become more rehabilitative and not just warehousing them. The jail had a recent ceremony for inmates who had received their high school diplomas. The jail also had new programs to help inmates with general counseling, alcohol and/or drug issues, training for food handling, and life skills. Some of the rehabilitative services are provided by the county and some by volunteer staff. (The topic of volunteer staff will be brought up later and separately in this report.) Jail staff were not able to give precise percentages as to the recidivism rate of inmates having to return to jail. This was attributed to a combination of it not being specifically tracked and to the State of California not giving a clear definition of what constitutes recidivism.

Jail staff discussed the impacts of state assembly and senate bills that became law in recent years. **AB-109** changed the way inmates are housed when sentenced. An inmate realignment program will now determine where inmates are placed. More inmates are now sent to county jails, including the ICJ. Under AB-109 Imperial County expected 93 new inmates that would have previously been housed in the state prisons. But instead they received 107 inmates, at a greater cost to the county. The jail has also determined that the costs of such inmates will likely go up over time. The inmates housed at the jail under AB-109 will be much longer in many cases, including one inmate with up to sixteen years to serve. Previously, inmates were held until they were sentenced to prison or up to a year for county terms. The jail expects that it will cost an additional \$4 million for AB-109 inmates. **AB-900** began in 2007 primarily as something to assist with inmate health care costs for the California Department of Corrections and Rehabilitation (CDCR) but may assist with jail medical costs as well. The county has applied for \$33 million in funding, of which they were awarded \$24 million and are hoping to get an additional \$8.4 million. The jail has a very small medical treatment facility presently and hopes the new funding will alleviate that problem. The same bill would also provide funding for additional beds on the county level, such as Imperial County. **SB-1022** was meant to provide funding for jail expansion and building projects. Jail staff advised the jury that they would like to obtain state funds from this bill for a new satellite jail facility in the Brawley area. It would be a smaller facility for booking inmates arrested in the north part of the county, and for providing services for medical, mental health, and jail food services. They proposed that the county probation department would also use it.

If funding is available, through these bills, the jail staff hope to expand and build as much as funding will allow to better operate the facility safely, including a more secure building on the present site.

**Other:** Grand jury members also interviewed jail volunteers as a part of the annual tour. A complaint from some volunteers was that it takes too long to get cleared to be a volunteer. One volunteer said there was no training for them. Another said there were some groups or volunteers that dominate the time allotted for volunteers and not enough for others who want to help. There was at least one complaint that not all jail staff members are consistent in the handling of volunteers, when they can or can not enter, or when there is a problem in the jail. Staff members were also spoken with on these issues. One staff admitted that there are sometimes miscommunications between shifts at the jail, and not everyone has the information they should in dealing with volunteers. There are volunteer schedules, but all staff do not always have them. A staff member advised that there have been problems with some volunteers or organizations expecting too much for their members as well. Jury members learned that there is much responsibility placed on one staff member for volunteers who also has other responsibilities.

**Conclusion:** CGJ members determined that the ICJ runs very well in general, but some things can be better. There were no major issues noted. Inmates appeared to be well treated.

### **Findings:**

The medical care seems adequate for the time being, but will not likely continue to be so. Jury members expect that with the longer-term inmates now being housed in the jail, serious and long-term medical issues will arise.

- F1** The medical care seems adequate for the time being, but will not likely continue to be so. Jury members expect that with the longer-term inmates now being housed in the jail, serious and long-term medical issues will arise.
- F2** Due to the age of the jail, some door mechanisms and possibly other physical areas that affect security are not what they need to be.
- F3** Jail volunteers are not always communicated with sufficiently and expectations are not always made clear.
- F4** The present jail facility will not likely be able to continue to house and treat inmates in a reasonable manner as the jail population increases under AB-109.
- F5** Some jail staff members appear to very much enjoy their work and want to continue to do a good job.

### **Recommendations:**

- R1** Jail administrators work with county supervisors and administrators to seek the needed funding to ensure that medical care keeps up with the increase of long term inmates.
- R2** All doors, all locks and any other areas of physical security should be examined. Repairs and/or replacements should be made as needed.
- R3** Make it a training issue for staff to work with the volunteers, without risking security, particularly with those who may enhance the rehabilitative process.
- R4** Jail administrators work with county supervisors and administrators to apply for and otherwise seek grants and funding needed for the increased costs of providing adequate housing for more inmates to come.
- R5** Openly recognize when staff members do a good job and do what is needed to retain such staff.

**Response Required:** The Imperial County Civil Grand Jury requires a written response within sixty days of this report being made public.

Subject of Investigation:

Imperial County Juvenile Hall

**Justification:** The Civil Grand Jury (CGJ) is authorized and required to inspect the Imperial County Juvenile Hall (ICJH) annually, as required by the State of California.

**Background:** The ICJH operates under the regulations of the California Standards Authority. The Juvenile Hall detention facility is located directly behind the main building of the Imperial County Probation Department (IVPD). The IVPD administers the Juvenile Division and employs a Chief Deputy to oversee the Juvenile Hall and its staff. The Juvenile Hall Facility Manager conducted a complete tour of the installation for the CGJ committee along with a follow-up meeting to answer additional questions.

**Investigation:** The ICJH Facility Manager maintains a staff of six (6) supervisors, seventeen (17) full time staff and five (5) extra help. The staff has good morale and cohesion, thus keeping the turnover minimal. All staff members are well trained for the many different functions required by their jobs, thus providing the county with a safe and well functioning Juvenile Hall.

The ICJH can house a total of seventy-two (72) minors (Wards) in its facility. The day of our tour/investigation there were sixteen (16) Wards detained, which consisted of thirteen (13) male Wards and three (3) female Wards. The average daily population of Wards for 2013 (year-to-date) was sixteen (16) Wards with each Ward having an average stay of eight (8) days. The facility is divided into two (2) main sections: The thirty-two (32) bed front section and the forty (40) bed rear section. Each section has a command and control center with closed circuit TV monitors used for security and safety purpose. The command and control center was upgraded a couple of years ago and includes touch screen controls and upgraded security measures. The front section has three (3) dormitories, which each dormitory having a day room with couches, books, a large screen TV and a telephone that can be used for collect calling. All dormitories have communal showers which include partitions as modesty panels for privacy. The front section of the building is used to house Wards, except for the occasional times when the population increases and the rear section is needed. In the front section, sixteen (16) of the thirty-two (32) rooms do not have toilets and sinks. These rooms are called “dry rooms” and are used occasionally to house Wards. The front section of the facility contains a medical office staff break area and an Imperial County Behavioral Health office. The front section also contains a dining hall which includes a service bay food distribution area. It has a well-equipped and stocked kitchen which prepares three (3) hot meals and snacks each day for all the Wards. Additionally there is an attached outdoor fenced in area for recreational activities such as basketball, soccer and volleyball.

At ICJH the primary concern is for the safety of the Wards and staff. Each dormitory has a security officer who is assigned to physically check the occupied beds/rooms every fifteen (15) minutes twenty-four (24) per day. Wards attaining eighteen (18) years of age, while at the facility, are separated from the general population as they wait for processing into the adult judicial system. The continued use of pepper spray has reduced the fighting among Wards which is the main source of injuries for both Wards and staff. Wards are thoroughly briefed on the consequences of fighting and are provided a warning about “pepper spray” The warning states that each Ward must get down into the prone position and cover their faces. Pepper spray is only used when Wards refuse to comply with the order to stop fighting. If Wards continue to fight and violate the rules, it will result in a loss of privileges.

A positive reinforcement program is used by ICJH staff to control behavior. Positive points are obtained for each Ward for cooperating by helping with cleaning, food service or extra duties. These points can be used for items at the institution store for small amounts of snacks or other items. This positive reinforcement

program has continued to improve the safety, general physical and emotional well-being of the Wards and staff.

The Kitchen Manager for the ICJH ensures that the meals prepared for the Wards are in compliance with the nutritional guidelines for the Federal Government and the State of California. Each Wards' meals and snacks are closely monitored to assure they are eating healthy food. The Imperial County Health and Fire Departments routinely inspect the kitchen facilities to insure everything is in compliance with standards. ICJH must maintain compliance with the State of California educational standards with all Wards in their care. There are two (2) well equipped classrooms for daily morning and afternoon sessions. Since they are in compliance with educational standards, a High School Diploma and GED educational studies are available. Independent programs are available for Wards that must be segregated from the general population.

A computerized Detention Risk Assessment Instrument (D. R. A. I.) continues to be utilized for evaluating incoming juveniles (Wards). This system has greatly reduced the need for internment for many alleged and/or convicted offenders. The juvenile offender is evaluated based on convictions and offenses. The System determines whether a minor (Ward) can be released to their guardians prior to their court date or placed on probation without internment.

ICJH is using the computerized Massachusetts Adolescent Youth Screening Instrument (M.A.Y.S.I.) to evaluate the mental health status of all admitted Wards into the system. This M.A.Y.S.I. process is used to assess incoming Wards to determine if they need additional screening or care by a mental health professional. Wards making or showing suicidal signs are handled very seriously and are put on suicide watch immediately as Behavioral Health is contacted. The Ward is required to wear self-protective clothing and placed in a special room until cleared by a mental health professional. They are closely monitored and observed by staff every five (5) minutes.

At ICJH, volunteers are a vital component for improving the well-being of Wards. Many religious organizations conduct one on one counseling and group studies/activities. The Grandparents Program, run by Catholic Charities, is especially helpful and productive in helping the Wards with life skill mentoring and tutoring. They set excellent role models for the Wards and are there as someone to just talk to.

Conclusion: The 2013-2014 Imperial Valley Juvenile Hall Committee has determined that the ICJH is an extremely well run facility with only a few issues found, that can be easily corrected.

**Findings:** The Imperial County Civil Grand Jury has found the following:

- F1** The Intake area for incoming Wards does not have private area or office for interviewing Wards. The Behavioral Health Department does have an office that can be used when they are not using it, but should it be occupied when an incoming Ward arrives the interview must be conducted in the front open area with no privacy.
- F2** The fence between the ICJH outside recreational area and the Adult Detention Center does not have blocking slates on the chain link to block visual viewing between areas.
- F3** For Wards placed on suicide watch, the watch is visual and through the window on the door at what they are doing and to see if they are breathing. Additionally, Policy # 707 Section 1 (Prevention) paragraph # 4 states "for extra safety precaution, a suicidal minor should be checked – open door – to see if minor is breathing".
- F4** The control center console is open on both sides, being in the center of the hall. Since it is in the center of the hall with both sides open this allows free access into the dormitories, if no one is at the center console.

**Recommendations:**

- R1** Appropriate the funds to construct a private office that is available at all time for interviewing incoming Wards.
- R2** Install blocking slates in the chain link fence between the ICJH outside recreational area and the Adult Detention Center.
- R3** Policy # 707 Section # 1 (Prevention) paragraph # 4 states “ for extra safety precaution, a suicidal minor should be checked – open door – to see if minor is breathing” We recommend that Policy # 707 Section # 1 (Prevention) paragraph # 4 be revised by changing the word “should” to “shall”.
- R4** We recommend that walls and/or doors be placed on both sides of the control center console to prevent “free” access to the dormitories, if and when the center console is unattended.

**Response Required:** The Imperial County Civil Grand Jury expects consideration of these recommendations and a written response from the Imperial County Probation Department (Imperial County Juvenile Hall) no later than ninety (90) days after receipt of this report.

**Subject of Investigation:**

**City of El Centro Water/Wastewater/Finance**

**Justification:** Last year, the 2012-2013 Imperial County Civil Grand Jury investigated the City of El Centro's Water and Wastewater departments in response to public requests on the announcement of a series of annual rate increases. The grand jury made numerous recommendations; some were in regards to operations while others focused on ways to better communicate with residents. The City of El Centro (hereinafter referred to as "the City") responded in a timely manner and, in their response, clearly outlined why they would not consider a single recommendation made by the jury. The current jury decided to continue an investigation into one aspect of the original report—the City's approach to managing its "uncollectables", the unpaid balances on disconnected water accounts.

**Background:** During the 2012-2013 jury investigation, it was noted that in fiscal year 2012, the City included well over half-a-million dollars in "bad debt" on its expense report. While this was a culmination of four years of uncollectables, it seemed a significant expense for a small city. Reflecting on the issue the previous grand jury recommended the City consider implementing new strategies including requiring valid identifying information such as a Social Security/Federal ID number to open an account, having late fees based upon a percentage of the total bill, requiring a deposit before re-establishing service on a disconnected account, and increasing reconnection fees to actually match the resource expense to the City.

**Uncollectables:** The City suggests its high uncollectables are a direct result of the state of the economy, estimating an annual average of \$142,500 in uncollectables during the height of the recession. In fiscal year 2011-12, the City billed \$17.3 million dollars in water/sewer/trash fees. Uncollectables were \$122,849, or one-seventh of one percent. The motivation the grand jury had to consider this and make its recommendations was because the City's neighbor to the north, the City of Imperial, reported information showing a much lower uncollectables rate—seven-thousandths of one percent—ten-times lower than El Centro. In a meeting with the jury, the City of Imperial clearly outlined their policies for opening accounts and managing uncollectables and the jury relied on these when making recommendations to the City. Current documents provided by the City suggest by fiscal year 2012-13 uncollectables have declined to an average of \$100,000 per year, or one half of one percent. This is encouraging to note.

**Collections Agency:** Uncollectables are regularly turned over to a collections agency. The previous jury reported on a low success rate the City's collections agency seemed to have. A senior City employee noted the difficulty in tracking down delinquent accounts because of their ability to "disappear". The grand jury could see the benefit of having as much identifying information to help the agency track down delinquents even after they leave the area. This City employee did clarify that the City had some success with delinquents circumventing the collections agency and settling directly with the City bringing the total amount recovered since 2010 to \$63,000. However, the City employee also did add that the City does now require identifying information including Social Security or tax id numbers. This information is maintained in-house and new account applicants are checked against a databank for any delinquent amounts. It also has planned a review of their collections agency and will contact other municipalities to inquire of the effectiveness of their collections process. This will be completed in September 2014.

The City also requires a \$40 deposit from non-owner occupied properties (mostly those other than apartment-unit rentals) This seems like a low amount considering information from the City shows the average single-family water/sewer/trash bill will be between \$111-124 per month and a customer can incur at least two-months of unpaid service before shut-off procedures will occur.

**Costs of Re-establishing Service:** Another area the previous grand jury touched on was the human resource cost of the actual turning off/on meters once a delinquent account had been re-established. Given its salary structure, the cost born by the delinquent customer just did not seem to match the cost required by the City and the jury recommended that the City increase reconnect fees to match those costs. Since the report, the City has announced a new proposed water meter project which will incorporate meters that allow remote shut off/on, thus eliminating the need for a representative to actually visit the site and reducing the human resource cost of turning off/on meters of delinquent accounts. The award is scheduled to occur before the end of 2014 with installation completed by May 2015. The remote shut-offs will only be installed on meters of customers who have recurring late payments.

The City also did note the possibility of requiring an additional deposit to restate service on a delinquent account, but said they would have to balance the suggestion against any hardship created by requiring additional money from a customer who has difficulty paying just what was owed from them. It would seem this recommendation might be postponed pending the effectiveness of current measures.

**Conclusion:** Despite their initial position in response to the original grand jury report, it appears the City has revisited policies and has considered changes that might help manage its uncollectable putting them in a better position of steward of public money and trust. It is suggested that a future grand jury revisit this issue to determine if such policies have had the desired impact.

#### **Findings:**

- F1** The City's average annual uncollectables are declining. The City now requires various pieces of identifying information which should help track down delinquent customers and help prevent individuals with prior unpaid balances from opening new accounts.
- F2** The City's collections agency has had doubtful results. Its success rate may improve if the City can provide as much information which will help it track down delinquents.
- F3** With new meters, the City is incorporating strategies to reduce the human resource costs of re-establishing service to delinquent accounts. This reduces placing the cost of the bad behavior of a few on the backs of rule-abiding customers. Aggressively pursuing shut-off procedures on delinquent accounts prevents a customer from incurring a debt which they might later be overburdened to pay.

#### **Recommendations:**

- R1** It is recommended that the City continue to collect identify information from customers and expand its database in every effort to prevent objectionable customers from opening an account in the first place.
- R2** It is recommended that the City continue with its planned review of its collections agency and contacts other municipalities to gain insight into their collections process.
- R3** It is recognized and recommended that the City actively pursues installation of new meters with remote shut off capabilities. It is also recommended that the City aggressively pursue shut-offs (pursuant to existing shut-off procedures).

**Response Required:** No response is required.

**Subject of Investigation:**

**Imperial County Behavioral Health Services**

**Justification:** California State Law mandates that the Civil Grand Jury (CGJ) investigate at least one county operated organization/department in the time each CGJ is empanelled. This panel has selected the Imperial County Behavioral Health Services (BHS) for routine review.

**Background:** The County of Imperial operates the BHS department under the direction of the County Mental Health Director (MHD) who oversees the general operation of the department, including several other department heads. Their web page is at: <http://imperial.networkofcare.org/mh/index.aspx>

**Investigation:** BHS had an annual approved budget (total revenue) of \$47.8 million for the fiscal year 2013-2014. Financial oversight is done via the County Auditor-Controller's office. This information was obtained from the county web site: <http://www.co.imperial.ca.us/Budget/Budget2013-2014/2013-2014FINALADOPTEDBUDGET09-17-2013.pdf> – Page 249. Grand Jury members observed that BHS has had substantial increases in budget from the last two previous years.

The BHS mission statement says that they provide “quality professional services to achieve independence and community integration for individuals suffering from mental illness and substance abuse.” (see budget link above, page 231) The CGJ was interested in learning about these services and what they do for the community at large.

In January of 2014 CGJ members met with the MHD and members of the county BHS. The CGJ asked for an overview of what services they provide in the county. The jury committee found staff to be open and willing to provide information.

Financing for BHS comes from funding programs that are both state and federal. Some of this funding is provided due to a special tax in California that arose out of Proposition 63. BHS staff advised the jury that the county does not provide funding for behavioral health, but relies on state and federal funding.

The BHS main office and building is located centrally in El Centro in a newer three story building. It has the majority of the BHS staff working and/or reporting to that location. It is same location where the people are housed in short-term crisis beds. The crisis beds will be addressed further, later in this report. There were a total of nineteen (19) locations in the county connected to BHS that were operating or waiting to be opened at the time of this report. BHS staff advised the jury that they treat 4,500 patients.

BHS has a full compliment of staff in the mental health field, with the majority of the professionals holding masters degrees or higher. BHS has ongoing training for staff to keep them up on the latest practices in the mental health line of work. There are approximately 250 staff members. BHS does not generally use volunteers in their professional services, though they have done so at times in the past.

Some of the areas of assistance, guidance and other help provided by the BHS included:

- Addiction and Substance Abuse – A high number of mental health patients have these issues that may compound their situation.
- Legal Services & Issues – BHS is called upon at times when someone may face a legal matter in a court of law. BHS would assist in evaluating a client's mental health status to assist the courts in determining what may or should be done in some matters.

- Education & Instruction – BHS sends staff to schools throughout the Imperial Valley to assist with students who may be experiencing behavioral health issues. BHS staff advised that they focus on prevention as much as possible, and referrals for treatment for students as needed. BHS staff provided a list of twenty-seven (27) schools around the county that they had worked with in 2013.
- Support Groups/Therapies – BHS work with several organizations as well as operates their own groups for people needing assistance who have had issues with drug or alcohol abuse. There are groups for victims of crimes and for persons with anger or other behavioral issues. Patients in these groups are separated by needs and to avoid placing victims and the more aggressive patients together. There is an equine therapy (working with horses) service that has shown to be useful to some patients.
- Family & Children – This field included, At Risk Youth, Family Based Services, Family Counseling, Family Preservation Programs, Parenting Education and Parenting Issues
- Crisis/Emergency Services – BHS provides nine short-term beds for those who are considered a danger to themselves or to others.
- Other – BHS works with other groups in the county for a variety of programs. There are times where it is determined that patients might need general medical services, dental services, and some types of therapies not provided as a mental health issue, or it may even be legal matters. Those patients are referred to others who may be able to better assist them.

**Miscellaneous:** Patients who receive assistance from BHS are divided into three main age groups, birth to 14, 14 to 25, and, 25 and older. Each age group has a department head who oversees the patient’s needs. Many of their patients are long term care in each group. Some of the patients have developed the need for mental health care from abusive and/or illegal drug usage.

BHS works with both Imperial County Jail and with Imperial County Juvenile Hall personnel when inmates/wards are referred to them. BHS staff advised that they respond to Juvenile Hall within 30 minutes if there is a ward reported as having a mental health crisis. Staff at Imperial County Juvenile Hall advised the same information during a different investigation. BHS does follow-ups with some inmates/wards as needed, and sometimes assists in placing them in programs that would help them in returning to a normal functioning life upon their release from jail or juvenile hall. They also advised that they had more referral from federal officials such as US Immigration previously, but not so much any longer.

BHS gets referrals sometimes from county social services programs and has on occasion from medical staff. Many of the patients are on Medi-Cal or another government funded program. BHS has a sliding scale to accommodate patients on their ability to pay as much as possible. Some also used private insurance or low cost plans to pay for services. The CGJ was able to find this information at the following two BHS links:

<http://imperial.networkofcare.org/mh/insurance/private.aspx>  
<http://imperial.networkofcare.org/mh/insurance/lowcost.aspx>

**Other:** During the course of this otherwise routine investigation the CGJ learned of an instance of an issue in one of the communities in the Imperial Valley where it became necessary to contact law enforcement. It was believed that the particular person involved had mental health issues. BHS was contacted by the local law enforcement officials for a response, but they did not respond to the scene. Due to this incident, the CGJ chose to look further.

The CGJ took their time and went individually to four different law enforcement agencies/departments in the Imperial Valley. In all cases the jury spoke to administrative personnel familiar with the routines and duties of patrol staff in the field. In general the CGJ was advised of the following by these four agencies:

- Officers in the field often encounter individuals who they believe fall under the California Welfare and Institutions (W&I) Code Section 5150. In short, these are individuals who are considered a danger to themselves or to others due to mental issues. Law enforcement deals with these individuals and when they are not subject to arrest otherwise, must seek other assistance for them. (See this link for the full text – <http://law.onecle.com/california/welfare/5150.html>)
- It does not happen often, but sometimes crisis beds are not available right away when patrol officers need them. There were approximately 8 to 10 instances in the previous two years that there were no crisis beds available for the departments that were interviewed. Room was eventually made however. It took from two to four hours or more when they needed to wait, and one instance, six. All departments said it was cost ineffective to hold onto a 5150 person when the officer could be in the field.
- Sometimes a potential W&I 5150 person must be held by law enforcement longer than desired when they are not under arrest and there is no other place to put them.
- One agency believed BHS should respond to them in the field when there is a mental health crisis, while the others had their own staff to respond.
- On one occasion one agency took a potential W&I 5150 person to San Diego’s BHS on their own when there was no crisis bed available locally.
- Three out of the four agencies stated that they got conflicting information on different days on what was needed to bring in people from the field to go to a crisis bed, including medical screening.
- Three of the four agencies showed concern about their liabilities for holding onto someone who was not under arrest but needed mental health treatment.

**Follow Up:** The CGJ reinterviewed the MHD and other leading BHS staff to gain more input. They also granted a tour of the Crisis Center as per the jury’s request. The jury specifically did not inquire the names or the particular reasons of any of the patients who were present due to confidentiality reasons. There were some patients in the facility when the jury walked through. There are smaller rooms and a larger room where patients stay in the secure facility. Males and females are kept separate, as are adults from minors. Generally there are six adult beds and three for minors. The facility appeared clean and neat, and we observed at least one staff member assigned there at the time of the visit. Patient food is brought in by an outside contract service based on the number of patients. Patients typically remain in the Crisis Center from one to three days, and there are usually four to seven patients on a given day. When longer-term care is needed, arrangements are made with other facilities, very often outside the county. If the care becomes more medical than mental health, patients are taken to where that type of care can be better provided. The Crisis Center is not for medical care, but for the short-term treatment of those who are a danger to themselves or others. Persons such as Alzheimer’s patients are not seen there, and are not generally seen by BHS.

During the follow-up interview the jury discussed the issues brought up by law enforcement personnel without identifying the specific agencies involved. BHS staff reiterated what was spoken of in the first interview. State-wide in California there have been some 1,500 mental health beds cut due to both budgetary reasons and due to actions taken by patients’ rights organizations. BHS staff agreed that there have been times where they were not able to accept a potential W&I 5150 patient when law enforcement agencies had requested them. They also said those time were far and few in-between, and they had always worked hard to assist law enforcement. BHS staff stated that their standards required for admission of patients to the Crisis Center has been consistent, and that perhaps law enforcement personnel did not always understand their requirements, which included getting potential patients screened medically prior to admission. They added that there had been rare occasions where one agency had been told that a crisis bed was available, but because they did not get the potential patient medically cleared quickly enough, another agency had jumped in by acting quicker. BHS staff advised that while they can understand the frustrations felt by law enforcement not wishing to risk any liabilities for those in their custody, they can not be

responsible for those not in the BHS facility. They also advised that potential patients to the Crisis Center may come from other avenues including walk-ins.

BHS staff advised that they are not equipped for long term patient care. It would take a full care psychological facility able to treat the full gambit of long term medical/psychological needs. BHS advised that it would require a very large number of staff and a much larger facility to do that. The funds for such a place are not available in Imperial County. Another similar facility in Riverside County that held thirty beds had shut down recently due to funding issues.

When asked, BHS staff advised that their agency is not designed to respond to a law enforcement related crisis in the field. There is no response team. They also mentioned the difficulty in increasing the types of services they do, due to budget concerns. BHS staff advised that they now use a local facility within the county and they are working to increase that number which may free up a crisis bed on occasion.

**Research:** The CGJ committee did research with legal council concerning the possible liabilities of a law enforcement agency/department holding a potential W&I 5150 patient too long. No recent cases were found, and it was believed that while it was possible, it should not be a liability if normal procedures were adhered to.

**Conclusion:** CGJ members determined that BHS is a generally good department. We believe they are functioning well in for the most part. The jury's only real concern was a lack of communication between law enforcement and them. There were no major issues noted.

#### **Findings:**

- F1** BHS provides a good outreach and preventative care program for schools. They also work with other agencies in a similar way.
- F2** There is a lack of good communication between BHS and law enforcement agencies/departments here in the Imperial Valley. It is possible that neither completely understands the functions and priorities of the other to come to good understanding.
- F3** The BHS presently has nine (9) crisis beds. The greatest number of times that works out to be an adequate and serviceable number, but some times it does not seem sufficient.

#### **Recommendations:**

- R1** It is recommended that BHS continue the outreach programs and be certain that they are made available to any and all schools willing to be a part of it.
- R2** Without the CGJ placing fault, it is recommended that BHS should seek out the administrators of the various law enforcement agencies/departments. We believe it would be beneficial to set up as many meetings as needed to work out any misunderstandings they may have about each other's duties and needs. We believe a better working arrangement can be accomplished. BHS may consider offering to provide training to law enforcement.
- R3** It is recommended that the BHS consider the feasibility of providing a few more crisis beds, or coming to other arrangements for those few times where providing a crisis bed would work out better sooner than later.

**Response Required:** The Imperial County Civil Grand Jury requires a written response from BHS within ninety (90) days of this report being made public.

**Subject of Investigation:**

**El Centro Public Works – Street Projects**

**Justification:** Imperial County Civil Grand Jury (ICGJ) received a citizen complaint, dated 8/22/13. It was in the form of a typed letter and was signed “Concerned Citizen”. The complaint alleges that the City of El Centro Public Works, herein referred to as ECPW, has for a number of years bid street projects with the intention to limit the bids to one contractor. The complaint states that this has been done by requiring the bidder to list projects that are specific in both time and location. It is also stated that ECPW changes the project specifications so that only one contractor can do the work. The complaint makes allegations of anti-trust, price fixing, bid rigging, and market allocation schemes that have been ongoing since 1997.

The complaint also points ICGJ’s attention to an ongoing civil case within the California Superior Court in Northern California, case No.: 34-2010-00087135. Please note that the civil case is a separate matter from this investigation and was only referenced by ICGJ for information which aided in this investigation. ICGJ did not study the details of this case in great depth, as it was decided to focus on the local aspects of the complaint. Neither the City of El Centro nor this ICGJ investigation is referenced in this civil case, so far as we are aware.

Provided along with the complaint letter were the following documents:

- A blank copy of the prequalification form from the bid documents for ECPW’s SLPP 2013 Street Rehabilitation Project, document is titled, Designation/Certification of Asphalt-Rubber and Aggregate Membrane Contractor and/or Subcontractor(s). See Attachment A at the end of this report.
- A blank copy of the form titled, Representative ARAM Projects, which is the list of projects requested in the above Designation/Certification document, from ECPW bid documents for SLPP 2013 Street Rehabilitation Project. See Attachment A at the end of this report.
  - (Designation/Certification of Asphalt-Rubber and Aggregate Membrane Contractor and/or Subcontractor(s) and associated Representative ARAM Projects, herein referred to as “prequalification forms”)
- An executed copy of the “Proposal Bid Form”, for ECPW SLPP 2013 Street Rehabilitation Project, submitted and signed by Aggregate Products Inc., dated 8-13-13. This is the pricing sheet turned in by said contractor for SLPP 2013 Street Rehabilitation Project. The total value of this proposal bid form is \$2,070,192.50.
- A copy of an Imperial Valley Press newspaper article titled, “Repavement Project in El Centro Approved”, written by Krista Daly. The published date of this article is unknown as it was photo copied. The article discusses the El Centro City Council Meeting in which the SLPP 2013 Street Rehabilitation Project was approved. Highlighted within the article was “The SLPP Streets Rehabilitation Project is expected to cost \$2,277,211.75”.

**Background/ Overview:** The focal point of this complaint is the pavement rehabilitation system Asphalt Rubber Aggregate Membrane, here-in referred to as ARAM, and ECPW’s alleged practice of awarding contracts to only one contractor to provide this specific type of pavement rehabilitation system. The ECPW has been using ARAM on street improvement projects since at least 2005. ARAM appears to be ECPW’s pavement rehabilitation system of choice for street improvement projects, as it has been utilized on 10 out of 14 total projects since 2005.

The complaint allegations are such that these schemes are in place to take advantage of public transportation funding by limiting fair market competition on public owned street and highway

improvement contracts. These allegations are not limited to ECPW but also Cal-Trans and various other cities, counties, and public agencies throughout California, as mentioned in the complaint.

The related civil case alleges that two contractors, International Surfacing Systems, herein referred to as ISS, and Manhole Adjusting Inc., herein referred to as Manhole, are at the center of such schemes. Make note ICGJ found that Manhole Adjusting Inc. and Aggregate Products Inc., herein known as API, are two companies under the same ownership.

### **Committee Investigation:**

- **El Centro Public Works Interview #1:** ICGJ committee requested an interview meeting with City of El Centro's Director of Public Works/City Engineer and ECPW's Senior Engineer on February 13, 2013. Also present was El Centro's Public Works Maintenance Supervisor, although he was not requested by ICGJ to attend. ICGJ explained that the reason for this interview was a citizen complaint received by the ICGJ regarding ECPW street projects. The following is a summary of ICGJ's Interview #1:
  - ICGJ asked how ECPW determines the pavement rehabilitation systems they use on projects. ECPW staff explained the different pavement rehabilitation systems used within the city. There are more or less 4 major pavement rehabilitation systems used which are; full depth reclamation, slurry seal, ARAM, and True-Pave. The difference in these types of systems was explained in minor detail. More explanation was given on full depth, slurry seal, and true-pave than was given on ARAM. ARAM was explained as almost a type of slurry seal.
  - ICGJ asked how ECPW determines pavement rehabilitation projects locations, how a specific pavement rehabilitation system is determined for each project, and how they prioritize these projects. ECPW explained a consultant was hired to help develop a long term paving plan. This consultant used a trailer towed behind a pickup truck to gather data on all of the streets within the city. Street surfaces were evaluated by specialized equipment mounted on the trailer that measured the conditions of the roadway surface. Once all the data was collected it was entered into computer software along with input on variables from ECPW, such as preferred rehabilitation system and budget. This software then used the combined data to help ECPW develop a 5 year paving plan priority list based on street conditions, rehabilitation types, and cost. ECPW explained that they used the most long term cost effective pavement rehabilitation system for each situation.
  - ICGJ asked what funding sources are used for the projects, and who is responsible for oversight of expenditures to ensure compliance with the funding source. ECPW explained that Measure D Bond accounted for \$13 - \$14 million of the transportation funding. Other funding sources were CMAQ, and traffic impact fees. It was explained that El Centro Finance Department and funding source audits were responsible for oversight of expenditures to ensure compliance with the funding source. It was not asked nor stated when the last audit occurred.
  - ICGJ asked if any third party consultants are utilized by ECPW in developing the engineered plans and specifications for projects. ECPW explained that most of the plans and specs are developed in house. It was stated that there has been outside consultants used from time to time on some of this work but the majority is done in house. This was not discussed in any more detail.

- ICGJ asked what ECPW's bid process for such projects is and does the type of pavement rehabilitation system play a role in the bidding process. ECPW explained the code for bidding follows division 5 purchasing system. This division 5 system was not explained nor did ICGJ ask detail about it. ECPW did explain that in the bid package was a prequalification requirement for ARAM and True Pave projects. Contractors are required to submit an experience list of projects for these specific types of work. ECPW said this was required because the specification for this work is very specific and that they wanted to insure that they were getting contractors that had experience. This was not discussed in any further detail.

ICGJ did not during this interview get into details or ask questions directly relating to the use of ARAM nor did we discuss the civil case.

Also requested was a copy of the following documents within 15 business days:

- Copy of Procurement Division Bidding Policies
- List of all pavement rehabilitation projects 2005 – present, to include the following:
  - Road sections (project limits)
  - Date began and completed
  - List of bidders per project and highlighted awarded bid
  - Copy of bid packages
  - Copy of addendums
  - List of future projects for next five years and type of rehabilitation considered

On March 11, 2014 ICGJ submitted an additional information request via a public records request. This additional information included: list of projects that have ARAM as a bid item, names of consulting firms or persons that assisted the city in preparing contract specifications, contract change order documents, and a list of future projects for the next 5 years.

- **Documents Requested:** ECPW provided project documentation for all pavement rehabilitation project since 2005. The above referenced documents were requested initially at the meeting on February 13<sup>th</sup> and the follow up public records request was made on March 11<sup>th</sup>. The documents were not provided to ICGJ until April 8<sup>th</sup>. This report should note that in addition to the documents not being provided within the timeframe requested, not all the documents/information ICGJ requested were provided. Information not provided was a list of future projects with type of rehabilitation system considered, a copy of El Centro's Procurement Division bidding policies, and any bid documents from contractors not awarded a project.

ICGJ thoroughly reviewed the all of the documents and created a summary matrix, see Attachment B to this report. ARAM appears to be ECPW's pavement rehabilitation system of choice. The documents provided showed that ARAM has been used on 10 out of 14 projects since 2005, as previously discussed. In terms of contract dollars, a total of approximately \$26 million has been spent on street improvement projects, out of which \$20 million has been on projects that specified the use of ARAM. Please make note that not all of the dollars for any particular project are spent entirely on ARAM, as ARAM is only a portion of the contract. But also note that all of the contract dollars for any one particular project are spent with only one prime contractor and its subcontractors. In order to become this successful prime contractor on an ARAM project you must meet the specific criteria called out for in the prequalification forms. Manhole has been named as the ARAM contractor/subcontractor on all but one of the ARAM projects since 2005. The one

ARAM contract that did not get awarded to Manhole went to ISS and had one of the lowest contract values since 2005.

Manhole/API has been awarded contracts for ECPW even when they were not low bid. For instance, Manhole/API was awarded a project named “2010 Roads Rehabilitation Project, Measure D Bond Phase I”. Manhole/API placed 4 out of 5 on the low bid list for this project. The price of the low bid was \$4,694,712 and Manhole/API price was \$5,080,619, a difference of \$386,907, yet they were still awarded the contract.

- **El Centro Interview #2:** The intent of ICGJ on interview #2 was to specifically gain a better understanding of ECPW’s use of ARAM on a majority of their pavement rehabilitation projects. Immediately prior to the interview, outside of City Hall, the EC Public Works Director approached one of the ICGJ members. He stated that he had already been questioned by both the FBI & the California Department of Justice regarding ECPW’s use of ARAM and that he was “getting tired of it”. The ICGJ member stated that ICGJ was unaware of anything regarding these two agencies or their investigations and that ICGJ was only investigating the complaint that was received. The following is a summary of ICGJ’s Interview #2:
  - ICGJ asked when ECPW started using ARAM & on what particular project was it applied. ECPW said that they “probably” started using ARAM in 2005 and that Euclid Street was the first project.
  - ICGJ asked why ARAM was the preferred pavement rehabilitation system. ECPW explained some of the technical aspects behind why ARAM is chosen. They said that it was the most cost effective system, the process was faster, and that ARAM handled reflective cracking better than other systems.
  - ICGJ asked if there are other agencies that are using and/or recommending the use of ARAM or is someone else within the City of El Centro was suggesting the use of ARAM. The Public Works Director stated that back before they started using ARAM in 2005 the El Centro City Manager took them up to the City of Brawley to look at a recent ARAM project. They liked what they saw and they decided to start using it in El Centro. ECPW also stated that Calexico, Brawley, Imperial County, and Cal Trans have used ARAM. There was reference made to Shawn when Cal Trans was mentioned. ICGJ did not follow up on “Shawn” during this interview but did find later that there is a Shawn from Cal Trans that is linked to the use of ARAM and referred to in the related civil case.
  - ICGJ asked again if a third party consultant was used in writing the ARAM specification. ECPW told us that it was “mostly” done in house. There was other information provided by ECPW following this question justifying their use of ARAM. Information including discussion of the Pavement Management System from 2007, technical talk regarding the rubber used in ARAM being 50% comprised of rubber from tires, and that this rubber is being diverted from being disposed of in landfills.
  - ICGJ asked who was the author of the prequalification forms requiring past experience that is very specific to time and location, and what was the reasoning for this prequalification. ECPW stated that they were unsure as to who the author was or as to the origins of the prequalification form. Make note that this form has been used in ECPW bid documents since 2005 and has been slightly modified a few times since 2005. ECPW said that it could have been given to them from City of Brawley but were not certain. ECPW also stated that

the reasoning behind this specific prequalification was to get qualified experienced contractors that have performed the work and that the previous experience had to be compatible with the climate.

- ICGJ asked about the 2010 Roads Rehabilitation Project, and why Manhole/API was chosen to perform the work even though they placed 4 out of 5 on the low bid list, being \$386,970 higher than the low bidder. It was simply stated that the other 3 contractors did not meet the qualifications to perform the work. ICGJ then asked if ECPW believed that Manhole/API was the only contractor qualified to apply ARAM and they answered yes.
- ECPW explained that Manhole/API at one time had a patent on the specialized equipment needed to apply ARAM. They stated that this patent has since expired which should allow for more contractors to bid the work. Comment was made by ICGJ that they still had the prequalification forms keeping other contractors from being qualified. This comment was not addressed. ECPW also discussed other information regarding other projects, technical aspects behind the different systems of pavement rehabilitation associated with ARAM, aggregate sizes and application temperatures.
- ICGJ asked if ECPW has analyzed the actual cost of ARAM in comparison to other systems, not what they are paying for it via contracts, but the true cost of the system. ECPW stated that they have not.
- ECPW also told us that they have a video clip of another contractor (ISS) who applied the ARAM in Northern California and that it failed horribly. ICGJ stated that we would be interested in seeing the video.
- **Follow-up Questions:** The following questions were sent via email to ECPW on May 6<sup>th</sup>.
  - Please confirm if 2005 was or was not the first time that ARAM was used on a City of El Centro street surfacing project. If it was not, please provide the date, location, contract value, and contractor used for the first application of ARAM in El Centro.
  - During the interview you were unsure as to the origin of the pre-qualification requirement or “Designation / Certification of ARAM Contractor and / or Subcontractors”, that has been included in all specifications for El Centro’s ARAM projects. We would like you to please confirm where this language originated. Who wrote this paragraph / specification / pre-qualification language? When and who provided it to El Centro for use in contracting / bidding documents, and who within El Centro approved it for use?
  - In order to confirm that a bidder is in fact “considered responsive”, does El Centro make contact with the other agencies that contractors list as “Representative ARAM Projects”, per the above referenced certification? As this should be done to confirm that they do indeed meet the “performance criteria” that is called out in this section of the specification. If contact is not made with the listed agencies, do you confirm in any way that a contractor meets the “performance criteria” prior to awarding a contract?

The reason for this follow up question being asked was because while investigating the representative projects listed on one of the prequalification forms submitted by Manhole/API for the 2013 SLPP Street Rehabilitation Project, ICGJ found that in fact Manhole/API did not meet the performance criteria as

Project No. 2 listed, Route 8, 11-275904 does have a significant amount of binder migration to the surface. This was found by ICGJ and can be seen in the right hand lane by anyone driving Interstate 8 from Dogwood Road west bound towards San Diego. An internet search of the Cal Trans website shows that Manhole/API was the contractor on this project. See Attachment C.

After multiple attempts to get answers to these questions, ICGJ never received a response to these follow-up questions from ECPW.

**Conclusion:** Public contracts are, as required by public contracting code, to be put out for formal bid in order to ensure compliance with competitive bidding statutes as a means of protecting the public from misuse of public funds, to provide all qualified bidders with a fair opportunity to enter the bidding process, and to eliminate favoritism, fraud, and corruption in awarding of public contracts, per section 100 of the California Public Contract Code.

During interview #1 ICGJ was told that consultants were sometimes used in assisting with specifications but were later told in an email from ECPW that no consultants were used and that all specifications were developed in house. The information provided by ECPW has been inconsistent regarding this matter.

Also found during the course of this investigation there were multiple ARAM projects that bid in both City of Brawley and City of Calexico that used the exact same prequalification forms in the bid documents. The ICGJ did not investigate either of these cities with regards to ARAM due to time constraints.

During interview #2, it was asked about the origin of the language in the prequalification forms. ECPW told ICGJ that they were unsure of who the author of these prequalification forms was. ECPW has also during this investigation stated claim to have created all bid documents and specifications in house. It was also stated by ECPW that they could have received the prequalification language from the City of Brawley. Because these same exact pre qualification forms were used by other local cities, this would lead one to believe that they did not originate within ECPW. ICGJ told ECPW that they could get back to us with this information regarding the origins of the prequalification forms. ICGJ even sent a follow up question mentioned above, which ECPW never answered.

California Anti-Trust Laws have specific language on violations with similarities to what is seen in this investigation, examples such as horizontal price fixing, bid rigging, and monopoly. These anti-trust laws state that a private business found to be in violation is liable to its victims for trebled damages up to three times the amount in which victims are injured. These anti-trust laws also state that the District Attorneys can bring actions for anti-trust offenses against a private business. These trebled damages could have the potential to be a major contributor to local public transportation funds and could also help boost the local economy. These matters are also investigated by the following:

Antitrust Law Section  
Attorney General's Office  
300 S. Spring St. Ste. 1702  
Los Angeles, CA 90013  
Tel.: 213-897-9295 or 800-952-5225  
E-mail: [piu@doj.ca.gov](mailto:piu@doj.ca.gov)

**Findings:**

- F1** ECPW's use of the prequalification forms used in bid documents for all ARAM projects appears to have been written in a manner in which only one contractor can meet the requirement. This is because the prequalification requirements are so specific in terms of the representative projects location and timeframe. This may limit fair opportunity and the competitive nature of the bidding process. It may violate requirements set forth in the California Public Contract Code, section 3400 (b).
- F2** There is enough information found to give the appearance that proper procedures were not followed. California has applicable laws for such things which may have been violated.

**Recommendations:**

- R1** ECPW should eliminate use of or change the language in the prequalification forms on ARAM projects to allow for fair and equally competitive bidding practices that comply with California Public Contract Code, specifically Section 3400.
- R2** ECPW should ensure that they are not in violation of California or other laws which may apply in these matters.

**Response Required:**

The Imperial County Civil Grand Jury requires a written response within 90 days of the publication of this report.

**Note to the reader:** The following pages of attachments are included as parts of this report.

**THIS FORM MUST BE INCLUDED AND FULLY COMPLETED WITH THE BID OR THE BID SHALL BE CONSIDERED NON-RESPONSIVE.**

**DESIGNATION/CERTIFICATION OF ASPHALT-RUBBER AND AGGREGATE MEMBRANE CONTRACTOR AND/OR SUBCONTRACTOR(S)**

Bidder proposes to have the ARAM installed by:

---

This section shall be completed even if the apparent low bidder plans to produce and install ARAM with its own forces. Name of Contractor and/or Subcontractor(s) shall be the actual company(ies) applying the binder and aggregate.

For any bid to be considered responsive, performance criteria must be demonstrated on five (5) separate projects performed by the same contractor or subcontractor(s) designated above, and with equivalent aggregate and binder proposed for the ARAM in this bid. Two (2) years shall have elapsed since completion of the ARAM surface on each project, and the projects shall be located in Southern California inland of at least one (1) coastal mountain range or be a minimum twenty-five (25) miles from the nearest point on the Pacific Ocean coast. To be considered a valid representative project, bidder must submit the name of the project, owner agency, agency representative's name and phone number, and a list of streets with limits totaling at least one (1) mile (based on full width) in length for each project and the date the project was actually performed. A project will be considered a valid representative project if an asphalt emulsion spray application was originally placed with or without an application of sand, within fifteen (15) calendar days of the application of ARAM. Any other cover coat or course on the ARAM will cause the ARAM to be considered invalid as a representative project. ARAM on all projects must show insignificant raveling (loss of rock) and insignificant flushing (binder migration to the surface) at time of inspection by the Agency. Bidder shall verify any proposed representative projects prior to listing a subcontractor with such projects, or the bid will be considered non-responsive. If the Bidder cannot list in the space provided five (5) projects that meet the criteria specified herein that were performed by the proposed ARAM contractor or subcontractor(s), the bid shall be considered non-responsive.

A13-0237



	PROJECT NAME	Bid Amount	Final Amount	Notice to Proceed DATE	Notice of Completion DATE	Type	Contractor	ARAM SUB	ARAM Qual. Spec. Pg	Comments
1.-	2005 STREET OVERLAY PROJECT - \$779,268.99	\$2,103,702.49	\$2,151,588.63	6/21/2005	7/17/2006	ARAM	Griffith	Manhole	84	ARAM @ \$4.30/SY
2.-	OVERLAY REHABILITATION PROJECT 2006 - \$1,196,964.10	\$1,196,964.10	?? Could not find in docs provided	3/12/2007	5/30/2007	ARAM	API	Manhole	82	API Not low, low bidder listed as SUB, addendum not provided, ARAM @ \$5.50/sy
3.-	2006 RSTP ORANGE AVENUE IMPROVEMENTS - \$258,074.46	\$258,074.46	\$271,135.23	12/19/2007	2/8/2008	R&R AC				
4.-	2006 DOGWOOD AVE. IMPROVEMENTS PHASE 2 - \$320,041.00 (\$84,676 on CO)	\$320,041.00	\$429,145.51	4/29/2008	8/5/2008	ARAM	Imperial Paving			No specs provided, No ARAM sub listed, No ARAM Qualification req., CO shows different OG amount than Bid. ARAM @ \$7.25/SY Manhole listed as adjusting SUB
5.-	2007 OVERLAY STREET REHABILITATION - \$1,357,309.94	\$1,357,309.94	\$1,638,153.30	3/20/2008	7/11/2008	ARAM	API	Manhole	94	API Only bidder, EC Staff authorized for additional 15% w/o Counsel app., CO's 2.4 requested by other city dept's
6.-	2009 ENGINEERED PAVING MAT INTERLAYER OVERLAY - \$2,099,071.90 AND SLURRY SEAL ON DESIGNATED STREETS IN THE CITY 1,955,153.15	\$2,099,071.90	\$2,246,048.15	8/13/2009	1/8/2010	ARHM, Tru-Pav, Slurry Seal	Hazard			No Qual. Statement for ARHM, but did request representative project list. OG contract price on CO don't match Bid
7.-	2010 IMPERIAL AVE IMPROVEMENTS - \$771,278.00	\$771,278.00	\$793,856.96	7/27/2010	11/23/2010	ARAM/ARHM	Hazard	Manhole	126	API listed on I pre-qual sheet, Manhole listed on other pre-qual sheet, ARAM @ \$6.70/SY. API did not bid as prime.
8.-	ADAMS AVE IMPROVEMENTS - \$665,260.00	\$665,260.00	\$674,610.00	8/30/2010	1/6/2011	ARAM	Pyramid	ISS	129	CO document show different OG amount than bid, FED Aid project, ISS listed on
9.-	MEASURE D BOND PHASE I 2010 ROADS REHABILITATION PROJECT - \$5,080,619.41	low>\$4,694,712.30 \$5,080,619.41	\$5,201,451.21	3/22/2011	6/30/2011	ARAM/ARHM	API	Manhole	107	API not low 146T5 or \$386K above low, CO1 & invoice date nearly 30 days after NDC date.
10.-	MEASURE D BOND PHASE II 2011 ROADS REHABILITATION PROJECT - \$5,588,195.00	\$5,588,195.00	\$5,714,966.05	3/20/2012	8/10/2012	ARAM/ARHM	API	Manhole	110	Continue to see ARAM @ \$5/SY
11.-	IMPERIAL AVE IMPROVEMENTS ORANGE AVE. TO Ocotillo DR. - \$696,625.00	\$696,625.00	\$1,101,400.00	8/12/2013	9/3/2013	ARHM, Tru-Pav	Hazard			A&R and Manhole both listed as subs for utility adjustment. CO added entire SB lanes (not in original scope)
12.-	SLPP 2013 - \$2,070,192.50 STREETS REHABILITATION PROJECT (IN PROGRESS)	\$2,070,192.50	\$2,163,783.42	9/30/2013	Active	ARAM	API	Manhole	104	ARAM @ \$5/SY
13.-	EL DORADO COLONIA PHASE 2 EL DORADO COLONIA PHASE 3	\$2,058,567.70	\$2,058,567.70	7/18/2006	11/16/2007	New AC	Granite	N/A	N/A	
				8/4/2009	11/16/2009	New AC	Pyramid	N/A	N/A	
14.-	DOGWOOD AVENUE IMPROVEMENTS STATE ST. TO INTERSTATE 8	\$1,695,166.95		2/1/2010	12/6/2010	R&R AC	Granite	N/A	N/A	No CO or Add. provided
15.-	TOWNCENTER INDUSTRIAL DEVELOPMENT -EDA (8TH ST)			7/24/2012	4/5/2013	New AC	Hazard	N/A	N/A	
										\$25,641,670.26
										\$19,964,519.18

Attachment B

**THIS FORM MUST BE INCLUDED AND FULLY COMPLETED WITH THE BID OR THE BID SHALL BE CONSIDERED NON-RESPONSIVE.**

**DESIGNATION/CERTIFICATION OF ASPHALT-RUBBER AND AGGREGATE MEMBRANE CONTRACTOR AND/OR SUBCONTRACTOR(S)**

Bidder proposes to have the ARAM installed by:

MANHOLE ADJUSTING INC.

This section shall be completed even if the apparent low bidder plans to produce and install ARAM with its own forces. Name of Contractor and/or Subcontractor(s) shall be the actual company(ies) applying the binder and aggregate.

For any bid to be considered responsive, performance criteria must be demonstrated on five (5) separate projects performed by the same contractor or subcontractor(s) designated above, and with equivalent aggregate and binder proposed for the ARAM in this bid. Two (2) years shall have elapsed since completion of the ARAM surface on each project, and the projects shall be located in Southern California inland of at least one (1) coastal mountain range or be a minimum twenty-five (25) miles from the nearest point on the Pacific Ocean coast. To be considered a valid representative project, bidder must submit the name of the project, owner agency, agency representative's name and phone number, and a list of streets with limits totaling at least one (1) mile (based on full width) in length for each project and the date the project was actually performed. A project will be considered a valid representative project if an asphalt emulsion spray application was originally placed with or without an application of sand, within fifteen (15) calendar days of the application of ARAM. Any other cover coat or course on the ARAM will cause the ARAM to be considered invalid as a representative project. ARAM on all projects must show insignificant raveling (loss of rock) and insignificant flushing (binder migration to the surface) at time of inspection by the Agency. Bidder shall verify any proposed representative projects prior to listing a subcontractor with such projects, or the bid will be considered non-responsive. If the Bidder cannot list in the space provided five (5) projects that meet the criteria specified herein that were performed by the proposed ARAM contractor or subcontractor(s), the bid shall be considered non-responsive.

A13-0237

**Representative ARAM Projects**

Name of Project No. 1 RTE 115, 11-287404 Date Completed MARCH 2008  
Agency CALTRANS Agency Contact [REDACTED]  
Phone (760) [REDACTED] Approx. Length of ARAM (Full width) 40.55 LAWE MILES

Name of Project No. 2 RTE 8, 11-275904 Date Completed SEPT. 2007  
Agency CALTRANS Agency Contact [REDACTED]  
Phone (760) [REDACTED] Approx. Length of ARAM (Full width) 12 LAWE MILES

Name of Project No. 3 RTE 79, 11-261004 Date Completed AUGUST 2006  
Agency CALTRANS Agency Contact [REDACTED]  
Phone (760) [REDACTED] Approx. Length of ARAM (Full width) 10.2 LAWE MILES

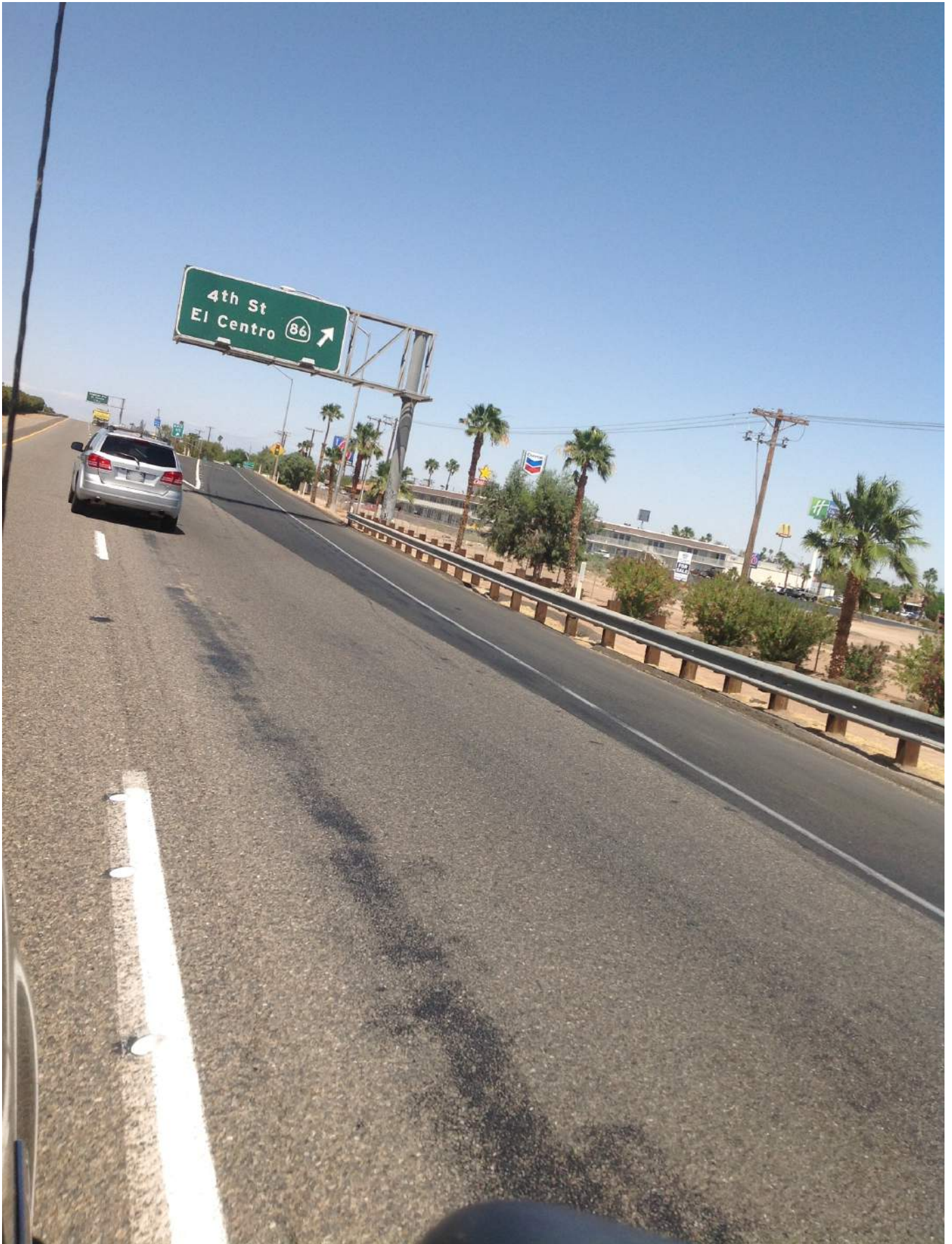
Name of Project No. 4 FAR 08300405 Date Completed APRIL 2006  
Agency US NAVY CHINA LAKE Agency Contact [REDACTED]  
Phone (760) [REDACTED] Approx. Length of ARAM (Full width) 9.38 LAWE MILES

Name of Project No. 5 RTE 79, 11-247304 Date Completed MARCH 2004  
Agency CALTRANS Agency Contact [REDACTED]  
Phone (760) [REDACTED] Approx. Length of ARAM (Full width) 22.44 LAWE MILES

[REDACTED] President 8-13-13  
Signature of Bidder Title Date

**END OF CONTRACTOR'S CERTIFICATION OF QUALIFICATION FOR LICENSE CLASSIFICATION**

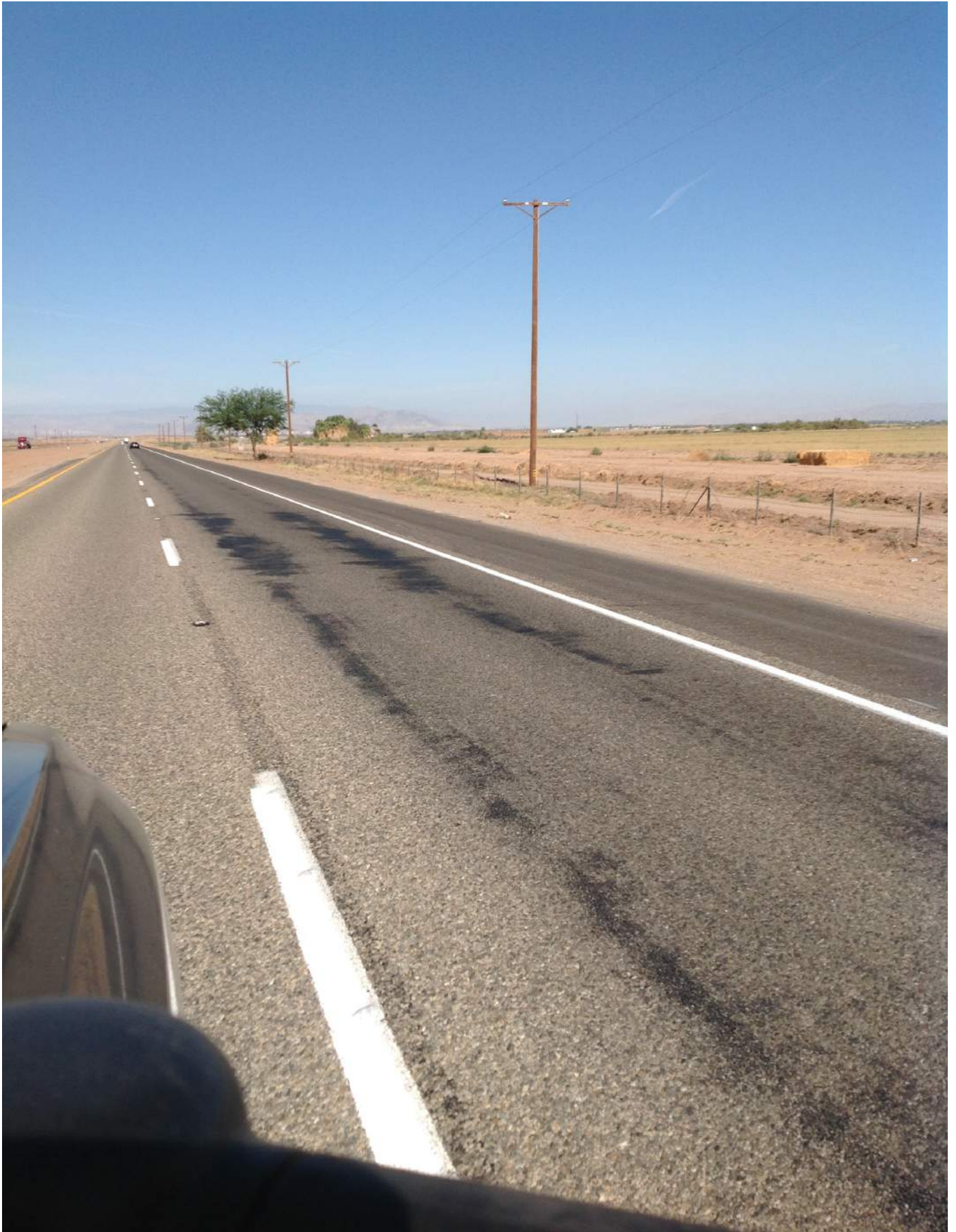
A13-0237



Attachment C Picture 1



Attachment C Picture 2



Attachment C Picture 3

**Subject of Investigation:****Heffernan Memorial Hospital District**

**Justification:** The Imperial County Civil Grand Jury (ICGJ) is authorized to investigate citizen complaints concerning originations and departments that are funded by public tax funds. The Heffernan Memorial Hospital District, sometimes also referred to as the Heffernan Memorial Hospital District (HMHD). The HMHD is a tax-funded entity.

**Background:** The 2012-2013 ICGJ panel received a complaint concerning the HMHD. Allegations included the misuse of funds. The 2013-2014 ICGJ panel has elected to follow up on the work completed by the previous jury. The present panel did find that HMHD was in non-compliance from the prior year. The current jury also received a citizen complaint regarding the MegaPark LLC land purchase involving HMHD.

The HMHD is a health care district that closed its acute care hospital in 1998. Since that time HMHD has consisted of a publicly elected five (5) member board. They have no health care facilities and no staff to assist them with efforts to bring quality healthcare services and education to the City of Calexico and neighboring communities.

➤ **HMHD's Vision Statement:**

“Become a leading healthcare organization in Imperial County by being a good steward of our finances, a catalyst for the delivery of new and enhanced healthcare services, a consistent supporter of health and wellness, and a reliable health care resource for district residents.”

➤ **HMHD's Mission Statement:**

Partner successfully with health care providers to enhance the quality and breadth of health care services available to district residents and nearby communities.

Promote, support, and provide health care services related primarily to disease prevention, health education, and wellness.

Selectively provide financial support for health care initiatives that are consistent with the District's vision and mission.

Maximize the value derived from each taxpayer dollar spent through the careful planning and implementation of all board approved initiatives. Conservatively manage the organization's assets and resources to ensure the long term financial viability of the organization.

**Investigation:** The ICGJ conducted research, gathered records and interviewed people in relationship to this investigation. Some of the following is what was learned.

The HMHD board has elected to contract various services including an attorney, bookkeeper, and a clerk. All board members receive a stipend of \$500 a month plus expenses including travel meals and personal health insurance. The attorney is being paid per hour and varies month to month with a monthly paid average of \$9,200. The bookkeeper is paid an average of \$1,000 a month. The board clerk is paid a stipend of \$600 a month. The HMHD calls a board meeting twice a month and their meetings are located in a building owned by HMHD. This building is also used for other civic organization meetings when not in use by HMHD.

**Expenses:**

- Administration Fees: Records show 94% of the district's budget is consumed by administrative fees. These fees included providing health insurance for board members, payments to local florists, dining-out, travel and training, office supplies, association dues, and consulting fees.
- Board & Member Expenses: Meal payments made to members both in town and on trips out of Imperial county. Some meal expenses were discovered to be local and were not explained. There were travel payments, including extra stipends, made to members for travel out of Calexico. The HMHD had elected to cover each member with full medical health care. That care averages \$17,000.00 per member per year.
- Building costs: Landscaping maintenance \$650.00 per month.
- Miscellaneous: These included several various fees for florist payments. (Flowers were ordered on a regular basis with no explanation given as to the reason for them.) Utilities, office supplies, consultant fees, association fees
- Charitable Donations: Several donations were made. One included \$2500.00 for a board member's grand-daughter's softball team (more information below).
- Health care related items: Community Flu Shots, City of Calexico Recreation Wellness Program, American Heart Society, Alzheimer's Association, Breast Cancer Screening, and the Cancer Resource Center.

The HMHD had claimed an ambulance purchase for the Calexico Fire Department. The records the jury committee located showed this to be true, but records also showed that HMHD was reimbursed for that cost.

There were Third Party grants received from California Healthcare Foundation, Alliance Healthcare Foundation, National Volunteer Caregiving Network.

The HMHD is connected to the local Joint Powers Association (JPA) in Calexico. The JPA was established for the purpose of insuring the funds collected from sales tax bond would be distributed by the HMHD board, consistent with the board's mission statement. This board consists of two (2) Hospital District Board Members and two (2) Calexico City Council Members and the City of Calexico attorney Frank Oswalt, who acts as the attorney for JPA. JPA received funds via a temporary sales tax bond to be used for the implementation of the HMHD vision and mission statement.

Mega Park LLC: The unsecured property purchase from MegaPark LLC derived from funds from the JPA purchase Agreements \$500,000 to Phil Heald and note to escrow with the knowledge that it was going to be spent on the EIR (Environmental Impact Report) in order for MegaPark LLC to purchase the property from its prior owners and proceed with the property purchase with HMHD.

- A. During the original investigation of the MegaPark land deal with HMHD, the HMHD board explained that they were approach by MegaPark partners and were "wined and dined and treated like they were on a trip to Disneyland". The HMHD board, was convinced by these actions that the "purchase was perfect for the citizens of the district."
- B. Funds spent by the HMHD derived from funds in the JPA: These funds were collected in the bond measure that was voted in by the citizens in the HMHD. The funds were distributed to Phil Heald as the controlling partner in Mega Park LLC. The ICGJ committee found no evidence of any effort from the HMHD to follow up on the ownership of the property. The jury requested all paper work from the sale. The ICGJ committee was not able to see evidence from what was presented that the purchase of the property was ever recorded, or that the property was ever intended to be transferred to HMHD ownership. That left questions as to what may have actually transpired.

## Heffernan Memorial Hospital District finances.

- A. In investigating the funds allocated to HMHD, this jury found an average annual cash flow exceeding \$750,000.00 in property taxes. These funds are to be distributed to the district following the HMHD mission statement. Although all documents that were requested were not delivered to the jury, we did receive the bank statements from the past five years. After going over these documents, the jury found that an average of 94% of all funds are spent on board stipends, staff, overhead, consultants and legal fees. These expenditures are not in line with the mission statement of HMHD. Based on the information provided, only a small percentage is spent on anything medical each year.
- B. Funds are being spent on staff, personal health care of board members, and trips. Plus there was evidence of the board making personal loans of public funds on at least one occurrence. The documents provided information of board members that receive a monthly stipend, also showed on numerous occasions their being issued income with checks for what was described as “extra work”. Jury members attended board meetings that lasted approximately forty-five minutes which did not seem to be overly taxing to the board members.
- C. In other documents reviewed, there is evidence that the board took numerous advances for trips, and then put in for reimbursements for travel, food, and mileage. This was so even though the district rented cars and advances were given. No evidence was given to the ICGJ that receipts were turned in for these expenses, when we requested accounting paperwork from the board. In the month of March 2012 alone, \$1330.00 was the total for a meal at a **local** restaurant.
- D. HMHD mission statement states “the board will act to promote health care in the district with no staff” still we find the board carries a bookkeeper, and clerk. These positions are paid at \$950.00 and \$600.00 respectively. They have been on the payroll for the five years this jury committee looked into the books. That totals \$57,000.00 for a part time bookkeeper. The total for a board clerk over the five years is \$36,000.00. Again the meetings we attended were 45 minutes long. At an extra long meeting of an hour, that is an average of \$300.00 per hour. Again the mission statement indicates “**no paid staff**”.
- E. The jury committee asked the board the amount of money the district had in the bank. None of the members provided a reasonable answer. The two members that offered an answer were one (1) to two (2) million dollars off. The attorney was able to respond with a better answer, but still wasn’t sure. The explanation given was that the funds were moved from account to account to “follow higher interest rates”. However, the committee found the accounts were often changed for no real rhyme or reason. The bank records that the jury reviewed showed that the banks that were offering the highest rates were the accounts that hold the lowest amounts. This was not keeping up with the statements of the HMHD board.
- F. There was no real reason given for the multiple bank accounts. In the research the committee did, it did not see that having multiple bank accounts have any purpose other than to cast a shadow of doubt on the accounting practices of this board.
- G. The average monthly expense for legal representation is over \$9000.00. The jury committee was not able to get a good job description of what the legal rep does for the board. The legal representative’s bill was as low as \$4,000.00 per month and up to \$18,000.00 for other months. The ICGJ only looked into the five years of these records but was not able to determine the reasons for these variances.
- H. The jury investigation led to a meeting with Mayor Hodge and the attorney for the JPA that handles the distribution of sales tax bond funds, Mr. Oswalt. The meeting informed us of the parameters of distributing these funds. The jury was informed that all health care projects brought to the JPA have been approved. The JPA did not approve funds for some items including the rehab of the city swimming pool. However, the HMHD board approved \$10,000.00 even after it was turned down by the JPA. The JPA had denied the pool request because they felt it did not meet the “healthcare”

definition. The committee found other “donations” that were approved by the HMHD board that fell out of the “healthcare” definition. One such donation included \$2500.00 for a board members grand daughters softball team.

The jury committee noted that not all records were turned over to the jury by the HMHD in a timely manner. It was also noted that all appointments for meetings with those involved with the HMHD were moved and/or changed by them. There was some cooperation by them, but not a sufficient amount to convince the jury that the HMHD was willingly cooperative.

There is also some evidence that previous board members were not satisfied with the practicality of continuing with HMHD. A local newspaper article quoted a then board trustee as “board is treading water and not producing anything”. That member proposed dismantling the HMHD back in 2001. It was said then that the HMHD was paying for lawyers and security, and that some wanted to “drain the money that we don’t have.” The hospital itself has not been open for a number of years.

See: [http://articles.ivpressonline.com/2001-12-04/board-members\\_24203782](http://articles.ivpressonline.com/2001-12-04/board-members_24203782)

### **Findings:**

- F1** The HMHD’s dealings with MegaPark LLC has left the appearance of improprieties of handling tax generated money for purposes that are not fully understood.
- F2** The complaint that began this investigation was due to an allegation of misuse of \$500,000.00 over land to be developed. These funds were given to the president of Mega Park LLC. A purchase agreement was presented to the board. Conflicting dates on this agreement and the lack of concrete ownership make this document hard to follow.
- F3** HMHD spent approximately 94% of its budget for the past five (5) years on board stipends, staffing expenses, legal fees, and questionable donations instead of on medical/healthcare as is the intended purpose of this district.
- F4** The HMHD has the appearance of participating on questionable banking and other financial practices.
- F5** There seems to be no practical present reason for continuing with the operation of the HMHD and lack of being an actual viable healthcare operation as it is.

### **Recommendations:**

- R1** HMHD open up all books and records related to the MegaPark real estate dealings to the public, with a copy of such to the next years’ ICGJ panel (2014-2015) for consideration of further review. These would include evidence of legal property transfers and records made.
- R2** HMHD should provide a full and detailed explanation as to where and how the funds were actually spent, who received what money, and who has what rights to the property in question presently.
- R3** HMHD should explain why they spent such a high percentage of tax payer funding on things not directly related to healthcare, and take immediate steps to resolve questionable spending practices, if they are to remain to be a public hospital/healthcare district.
- R4** HMHD voluntarily open themselves up to a forensic audit of all banking, and all other financial record keeping for the last five (5) years.
- R5** The HMHD board voluntarily dismantle itself.
  - a.** The HMHD turn over all records to the Imperial County - California Association of Local Agency Formation Commissions.
  - b.** The HMHD should freeze all assets and turn them over to the Imperial County Auditors’ Office for review and necessary payments to vendors, and other legal bills.

- c. All property to be turned over to the City of Calexico, so further use of the facilities can continue as needed.
- d. Arrangements should be made so that Pioneers Health Care District could continue operating the urgent care facility at the former Calexico Hospital until other arrangements can be made by other agencies.

**Response Required:** The Imperial County Civil Grand Jury requires a written response from HMHD within ninety (90) days of this report being made public.

## **Appendix A**

### **Responses to 2012-2013 Civil Grand Jury Final Report**



September 4, 2013

Lee A. Buckingham  
Foreman  
Imperial County Grand Jury  
P.O. Box 2011  
El Centro, CA. 92244

RE: Grand Jury Report Response– City of El Centro / Water & Wastewater Departments

This letter is in response to the Imperial County Civil Grand Jury 2012-2013 Official Final Report recommendations regarding the City of El Centro water & wastewater departments.

Before addressing the Findings and Recommendations of the Grand Jury Report, certain corrections or clarifications to statements made in the section titles are provided.

**Background**

Paragraph 1, 4<sup>th</sup> line. States “water rates will increase an average of 4.4% each year...” The correct percentage is 3.4% for water rates. See Exhibit A (Water Rates, 2012-2016) and Exhibit B (Wastewater Rates, 2012-2016).

Paragraph 2, 2<sup>nd</sup> line. States in part “...flat monthly service charge of \$3.14...” This should be \$3.11 and “...plus \$3.31..” should be \$3.28.

Paragraph 3: The purpose of comparing of the water rates for the City of Imperial and City of Coachella is unclear. The City of Imperial charge per 1,000 gallons (\$3.90) is higher than the adopted El Centro water rate in 2016. The use of the Coachella rate is difficult to compare since the Coachella system uses ground water which only requires chlorination and no further treatment. All of the cities in Imperial County are dependent on Colorado

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River water which requires extensive water treatment to include settlement, clarifier and filtration as well as chlorination. The additional treatment adds to the cost of delivering potable water. Lastly, the monthly flat fees for these two cities are over 300 percent higher than El Centro's.

### **Imperial Irrigation District**

This section of the report briefly describes the previous increase in the cost of raw water delivered by the IID to the City of El Centro. What was not presented in this section was the intense discussions between all of the cities in Imperial County prior to the initial implementation of the increased fee. Further, at the time of the IID rate increase, the City of El Centro water rates were not increased, rather, the City was able to absorb the increase by reducing personnel costs at the water treatment plant.

### **Debt and Capital Improvement**

Page 2, Paragraph 3. In this paragraph there is a discussion concerning the planned construction of the Southern Pump Station that is to replace three sewer pumping stations. While the identity and number of pumping stations is correct, the Buena Vista station is incorrect. The third pump station is the 4<sup>th</sup> Street and Wake pump station. Each pump station is unique in its purpose and capacity. The 4<sup>th</sup> Street pump station is over 20 years old and is due for replacement. The Legacy pump station was an interim solution and built by the developer. In addition the developers paid wastewater capacity fees for the new Southern Pump Station. The Southern Pump Station is not an interim solution but will address a significant portion of the development east of 8<sup>th</sup> Street and south of Interstate 8 including the current residents. As new development occurs, additional capacity fees will be collected to pay into the El Centro wastewater collection system. As for a comment by an unidentified City representative responding to the claim that a developer received a concession from the City Council, the assertion and comment are unsupported by the record. The developers for the Countryside I & II and Legacy Ranch not only paid for their capacity fees that included a new pump station but built interim pump stations. During the development review process for each development, the approved planning and zoning documents require the developer to construct the interim pumping station and pay the capacity fees.

Page 2, Paragraph 4. The report indicates a concern that the cost of the sewer and manhole replacement program was not specifically identified. During the bond issuance process, the projects that were specific such as the Southern Pump Station and upgrades at the wastewater treatment plant were identified in the bond documents. Specific sewer line lines and manhole replacements were not identified due to the complexity of the sewer collection system. Some parts of the sewer collection system are over 50 years old and require extensive work while other parts of the system require only section

replacement due to ground shifting and earthquakes. Most recently, over 100 manholes were rehabilitated at a cost of \$1,000,000. As projects are bid and contracts are awarded, the City will be able to determine what funds are available for the balance of the replacement work.

### **Wastewater Treatment Facility**

The El Centro wastewater treatment plant is located on La Brucherie and the Central Main Drain. The facility has been located at this site since the 1950s. The development to the north in the City of Imperial was developed in the 1990s through the 2000s. The development approvals by the City of Imperial acknowledge the existing wastewater treatment plant. The plant is permitted by the California Regional Water Quality Control Board. The plant is operated in conformance with that permit. In addition, the City of El Centro has added odor mitigation equipment to assist in controlling odors from the headworks station. Further, the requirements for odor and discharge at this facility are the same as required at the City of Imperial wastewater treatment facility.

### **Employees**

Employee wages, hours and working conditions are required to be negotiated between the City and the bargaining unit under the Meyers-Milias Brown Act (MMBA). At the current time, the water treatment plant operators and the wastewater treatment plant operators are under two (2) separate Memorandums of Understanding (MOUs), therefore the benefits can be different.

### **Bad Debt**

The City of El Centro practices the procedures identified in our Accounting Policy Manual. Specifically the section entitled "Accounts Receivable Management" is the policy that the City of El Centro uses for collection of past due accounts. (See Exhibit C (Accounts Receivable Management)). Our current practice is that we do not require Social Security numbers to establish utility accounts. (See Exhibit D (Legal requirements to provide your Social Security number)).

### **Payment Options**

When the online payment option was adopted, the City Council approved that the fees charged by the provider of service would not be passed on to the customers using the online option. The City was to absorb all fees. This was done to encourage participation in this program in an effort to reduce lines at City Hall.

### **Public Information**

The average monthly water consumption to a single family residence in 2012 was 14,960. The average monthly cost for water only to a single family residence in 2012 was \$47.42 (14.96 units x \$3.17 = \$47.42). A water rate increase of 3.4% would equate to a monthly increase of \$1.61 per month. (See Exhibit E (Water Consumption Report)).

### **General Comment**

Page 4, Paragraph 1. The statement concerning investigative process states that "second layer employees" at Public Works Department displayed resistance and questioned grand jury identities. Also stated was a high ranking City finance employee disputed the authenticity of a grand jury member's credentials. The City of El Centro has had very good relations with past grand juries and its members. Any misunderstanding is regretted and it is the practice of City staff at all levels to cooperate with the requests by the grand jury members.

The initial contact by a grand jury member was with the City Clerk and Finance Departments. Unfortunately, the member did not initially identify himself representing as the grand jury nor was he displaying his credentials. This concern was compounded by an incident that occurred the previous week when an individual approached the City Clerk staff and declared he represented the Governor's office and demanded documents related to the water system. After further review, it was determined that the individual was not a representative of the Governor. The individual left before law enforcement could be notified. The misunderstanding with the grand jury members was quickly resolved with a meeting between the Chairman of the grand jury and the City Manager. Once credentials were established and it was determined that the grand jury had called for the investigation, all accesses were provided. The City of El Centro appreciates the commitment and effort of the grand jury and its members. While not required, it is suggested that future grand juries follow its past practice of beginning its investigations with a meeting with the chief executive officer of an agency. That practice has worked well and insured that subordinates in the agency are notified of their responsibilities in order to avoid any misunderstandings.

### **Responses to Recommendations**

The responses are labeled consistent with the Grand Jury Report: Finding 1: F1 Recommendation 1, R1

#### **F1/R1**

The cities and the water districts have been in ongoing discussions about not only the price of raw water but also electricity. Not only have the newly-

elected Imperial Irrigation District board members been informed of the differential in price but so have previous board members.

## **F2/R2**

The finding discusses the issuance of bonds and makes assertion that the regional pumping station (also known as the Southern Pump Station) only benefits a portion of the City system. The financing of the Southern Pump Station was not part of the 2012 water/wastewater rate study but part of the 2006 rate study. To attempt to single out this pump station from the rest of the system ignores that there are numerous pumping stations around the City which all rate payers pay for in the rates.

The water and wastewater rates and capacity impact fees were developed and approved as provided by Proposition 218, specifically Article XIII D, Section 6(a)1. The grand jury report only examined the rate for the use of the system and failed to consider the capacity impact fees. These capacity fees were developed and approved to insure that new development pays their fair share for the existing system and any new equipment. The methodology used is the Equivalent Dwelling Unit (EDU). Exhibit F (EDU Water-Sewer Capacity Fees) sets out the number of EDUs for each type of construction. The EDU fee is set out in the attached Exhibit G (Water & Sewer Connection Application). All developments including government are required to pay these fees.

Exhibit G (Water & Sewer Connection Application) is the application for all new construction that requires a new or expanded water or wastewater connection. As presented, all of the costs for the connection are paid for by the developer/builder. In addition, the developer/builder must pay for their share of capacity of the entire system. For example a new, three-bedroom, single-family house will require the following payment:

### **Wastewater**

4" sewer connection: \$2,000 (deposit, actual costs are charged but the deposit is a typical charge).

Wastewater Capacity Fee: 1 EDU, \$7,174

### **Water**

3/4" water service: \$2,000 (deposit, actual costs are charged but the deposit is a typical charge).

Water Capacity Fee: 1 EDU \$6,149

Since the adoption of the new capacity fees in 2009, all of the fees have been paid and none were waived or not collected.

**F3/R3**

The City appreciates the comment concerning the communication of public works projects to the public. The City utilizes several forms of communication which include the following:

Council Meetings are recorded and streamed on the internet on the City's homepage; projects and their approval are available for viewing on the City of El Centro website.

City website: [www.cityofelcentro.org](http://www.cityofelcentro.org) is used to post documents such as the adopted water/wastewater/drainage master plans which describe all potential projects required in the future.

Social Networking: The City utilizes Facebook, "El Centro Events," [www.facebook.com/ElCentroCA](http://www.facebook.com/ElCentroCA) to provide information on City events and projects. The site allows photographs to be displayed and to receive and respond to comments and questions. There are over 5,000 regular visitors to this site. The Facebook account is also linked to our City of El Centro Twitter account and simultaneously posts the information. Our Facebook site also refers readers to the El Centro website for additional information. (See Exhibit H (Facebook screen shots)).

Community Newsletter: The community newsletter is published three times a year and is available on the City's website. A copy of the most current newsletter is attached. (See Exhibit I (Spring-Summer 2013 Community Newsletter)).

Mayor's State of the City Address: Handouts are provided of completed and scheduled projects and are also available on the City website. (See Exhibit J (Completed Projects 2012) and Exhibit K (Scheduled Projects 2013-2014)).

Press Releases: Regular press releases are issued concerning City programs and policies.

Publicized Ground Breaking and Dedication Events: These events are publicized to inform the public on the progress of the City's projects.

**F4/R4**

The City is mandated by California State statute (the MMBA) to participate in collective bargaining with organized bargaining units. Compensation and benefits are established by a MOU for each unit. The primary bargaining units impacting water and wastewater rates are the Water Treatment Operators and Wastewater Treatment Operators. To a lesser extent, members of the Teamsters unit are also associated with the water distribution system and the

wastewater collections system. The MMBA requires good faith bargaining with regular negotiations for compensation, benefits and rules on working conditions. During each bargaining cycle, the Human Resources Department evaluates the compensation and benefits and receives direction from the City Council as to possible changes to the MOU. The negotiations take into consideration the current economy as well as the goal of recruiting and retaining the licensed operators.

**F5/R5**

The audited financial statements for all of the City funds have been available on the City's website. The full reports for 2008 through 2012 have been on the website. The 2013 audit is now under way and is expected to be completed by December 2013. Exhibit L is an extract of the 2012 audited statements for the water and wastewater funds. The full report has been available at <http://www.cityofelcentro.org/finance>. The City does not separately present fund financial statements since the entire audited report including notes is integral to understanding the statements.

**F6/R6**

Our current practice is that we do not require social security numbers to establish utility accounts. We believe this is an acceptable practice.

**F7/R7**


When the online payment option was adopted, the City Council approved that the fees charged by the provider of service would not be passed on to the customers using the online option. The City was to absorb all fees. This was done to encourage participation in this program in an effort to reduce lines. The City does explore other options annually during the budget process.

**F8/R8**

The billing statement has been reformatted to itemize the monthly service charge, in a good faith disclosure to rate payer. This change was implemented in May 2013. (See Exhibit M (Utility Bill)).

The City of El Centro Council and employees strive to make all City operations transparent for its residents. The City of El Centro appreciates the grand jury's enthusiasm and interest in furthering transparency and accountability in local government.

Sincerely,



Ruben A. Duran  
City Manager, ICMA-CM

**END**