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MENTAL HEALTH DEPARTMENT FAILS ADOLESCENTS

INTRODUCTION

In Fresno County, severely disturbed adolescents receive minimal health services. Treatment at the onset of their mental illness is more cost effective than treating their problems as adults.

PURPOSE OF THE INVESTIGATION

The Health Committee investigated two areas that adversely affect our mentally ill youth:

- Inadequate services at Juvenile Hall
- The complete lack of inpatient care for critical cases

SUMMARY

Our investigation indicated that the lack of services for the severely disturbed adolescents was primarily due to insufficient funds. This is very short sighted. A few dollars spent now would save many dollars in the future.

INVESTIGATION

I. INPATIENT SERVICES

1. In December 2002, Cedar Vista Hospital closed the only adolescent inpatient facility in Fresno County.
2. There are NO inpatient beds in Fresno County available for adolescents who have attempted suicide or have life-threatening illnesses such as: schizophrenia, bi-polar disorders, abnormal depression, autism and other disabling conditions.
3. Youth with the highest risk of causing injury to themselves or others require inpatient psychiatric hospitalization.
4. Child and Family Services Department now contracts for inpatient facilities located outside Fresno County. In 2005, two hundred twenty (220) adolescents were hospitalized in other counties at a cost of \$868,728.

5. Inpatient treatment requires family counseling. Transportation for the families to these distant locations, often create insurmountable problems.
6. In 2002, a task force was formed for the purpose of addressing this problem. The Kaweah Delta Hospital (KDH) in Visalia offered to provide adolescent inpatient services for the surrounding counties of Fresno, Merced, Madera, Kings, Tulare and Mariposa.
7. KDH has a self-contained mental health hospital with an excellent twenty-two bed wing especially designed for adolescents.
8. A meeting has been scheduled in Fresno between KDH and representatives from the six counties, to formulate a plan, whereby each county would directly contract with KDH for inpatient services. Partnership is required to sustain this plan.
9. To date, Fresno and four other counties have signed Letters of Intent to explore the offer of contracts with KDH. A target date for implementation has been set for August 2006.
10. The proximity of Visalia enhances the opportunities for family counseling.
11. The Surgeon General reported, “ that more than one in five U.S. children have a mental or addictive disorder that causes impairment”. The National Center for Mental Health and Juvenile Justice found that 20% of disturbed youth have a serious mental disorder.
12. Untreated mental illness is the leading cause of mental disabilities associated with certain crimes and suicide, imposing high costs on state and local government. Billions of dollars are paid for emergency care, long-term nursing care, unemployment, housing, juvenile justice, jail and prison costs.
13. With early effective treatment, recovery from mental illness is possible for most adolescents.

II. JUVENILE HALL

14. There is a daily average of 265 youth incarcerated in the Fresno County Juvenile Hall.
15. Data from the National Center for Mental Health and Juvenile Justice in 2005, suggests that 65-100% of incarcerated youth have a diagnosable mental disorder, 20% with a serious disorder. The Fresno County Probation Department, which supervises the local facility, states these statistics are slightly higher for Fresno.

16. Severely disturbed adolescents are diagnosed as being so disturbed they require medication.
17. An average of 40 severely disturbed teenagers are housed each day in Juvenile Hall.
18. Only one child psychiatrist is assigned to Juvenile Hall for eight hours per week taking care of an average of 40 severely disturbed youth. Many of these adolescents are in Juvenile Hall because there is nowhere to send them for treatment.
19. The Probation Department has initiated a staff-training program that utilizes specific behavioral techniques for helping emotionally disturbed youth. It is not designed to address the severely disturbed juvenile.
20. Doctors of psychology can provide psychiatric counseling. Only medical doctors are permitted to diagnose and prescribe medication for the severely disturbed.
21. Crimes committed by severely disturbed youth are often related to their inability to control their actions. Incarceration usually exacerbates their problems.
22. The response to the 2004-05 Grand Jury recommendation for 24 hour mental health services for incarcerated youth, stated that a wraparound team (includes family/group counseling) would be provided, but there was no provision for psychiatric help for seriously disturbed juveniles.
23. The new Juvenile Hall provides an excellent wing especially designed for mentally ill teenagers. The Board of Supervisors has not proposed any additional psychiatric staff for the new facility.
24. Monies are available through grants, fellowships and the Federal Children System of Care to cover the cost of more psychologists and child psychiatrists.

FINDINGS

- F1. There are no facilities for inpatient adolescent mental health care in Fresno County. #1 & 2
- F2. Adolescents who are a risk to themselves and others require hospitalization. #3
- F3. Fresno County contracts for hospitalization of youth at distant locations. #4

- F4. Family counseling is problematic for many who have to travel long distances. #5
- F5. KDH in Visalia has an excellent facility for the hospitalization of adolescents with severe mental illness. #7
- F6. Fresno County can contract with KDH for adolescent inpatient care, if other central valley county partners join in to share the cost. #8
- F7. Fresno and four other counties have signed a Letter of Intent to contract for inpatient care at KDH. #9
- F8. Untreated mental illness is the leading cause of dysfunctional adolescent behavior. #12
- F9. Early diagnosis and adequate treatment can alleviate these behaviors. #13
- F10. An average of 40 severely disturbed youth reside in Juvenile Hall each day. #18
- F11. The staff training program as currently designed is not adequate for the severely disturbed. #19

CONCLUSIONS

- C1 Child psychiatrists are needed to diagnose and prescribe a treatment program for severely disturbed.
- C2 The provision for a child psychiatrist, eight hours per week, to address the needs of about 40 severely disturbed adolescents, is grossly inadequate.
- C3 Adequate services for the severely mentally disturbed youth in Fresno are woefully lacking.
- C4 Providing for these youth should be a top funding priority.
- C5 Funds expended at the onset of psychiatric problems are the most cost- effective solution.

COMMENDATION

The Probation Department is to be commended for the special staff training program that has been initiated, to teach the youth at Juvenile Hall better coping skills, which will help reduce recidivism.

RECOMMENDATION

- R1 That the new Juvenile Justice Center have one full-time child psychiatrist and two full-time child psychiatric psychologists and twenty-four hour emergency service.
- R2 That the Board of Supervisors expend sufficient monies from their general fund and explore all possible federal grant awards to provide mental health services for the severely mentally disturbed juveniles.

REQUEST FOR RESPONSES

Pursuant to Penal Code §933.05, the Grand Jury requests responses as follows:

Fresno County Board of Supervisors
Dr. Gary Zomalt, Department of Child and Family Services

Please be reminded that the responses from elected officials are due within 60 days of the release of this report and 90 days for others.

Sources: The Fresno Bee
Department of Child and Family Services
University of California at San Francisco Medical School in Fresno
Kaweah Delta Hospital Administration and Staff
Fresno Mental Health Board
Congressman Henry Waxman Report – 2005
Juvenile Court Judge
Fresno County Probation Department
Fresno County Mental Health Services Act (MHSA)
Three-Year Plan 2005-2008
Hospital Consultants

The committee attended the Fresno Mental Health Board meeting and toured Kaweah Delta Hospital.

PEER PRESSURE AND THE TEENAGE DRUG EPIDEMIC

WHEN JUST SAYING “NO” IS NOT ENOUGH

INTRODUCTION

Drug abuse is epidemic in Fresno County. Parents, families and communities are torn apart by the illegal use of drugs by their young. The Community Health Committee recognizes the need for a program that responds to the negative effects of peer pressure.

PURPOSE OF THE STUDY

This investigation looked for resources available to high schools for the prevention of drug use among teens.

SUMMARY

To determine the scope of teenage drug abuse and the effects of peer pressure, the Health Committee examined national, state and local surveys, attended a drug abuse seminar, interviewed school administrators and found a prevention program with a high rate of success.

I DISCUSSION

The Health Committee recognizes that drug abuse is epidemic with our youth, who desperately need a program which gives them more clout than to just say “NO”!

A. A national survey of high school students found the following results:

1. Drug use negatively affects student achievement.
2. Regular drug use may lead to early sexual activity.
3. Drug use is associated with an increased risk of suicide.
4. The earlier that drug use begins, the more likely it will be a lifelong problem.
5. Youth who are heavy alcohol consumers are more likely to use drugs.

- B. The Fowler High School Healthy Kids Survey of 2004 showed the following:
 - 1. 8% of seventh grade students were using or had used drugs
 - 2. 21% of ninth grade students were using or had used drugs
 - 3. 48% of eleventh grade students were using or had used drugs
 - 4. That 93% of students surveyed believed use of drugs was harmful.
- C. San Clemente High School reported the following:
 - 1. The percentage of students that were offered drugs at school was 45%.
 - 2. The percentage of students that were offered drugs off campus was 62%.

II EFFECTS OF PEER PRESSURE

- A. Adolescent psychologists report that:
 - 1. Teenagers are highly susceptible to peer pressure.
 - 2. Teenagers ego systems are in a fragile state of development.
 - 3. Adequate parenting does not always overcome the negative suggestions of peers.
- B. A relatively new program, VOLUNTARY DRUG TESTING PROGRAM (VDTP), which is readily available at no cost, is helping many students to say "NO" to offers of drugs. Locally, four high schools are using this program: Fowler, Kingsburg, Clovis and Washington Union. Parents agree for their student to participate in random testing. The results of a positive test are sent directly to the parent with suggestions for help. The names of these students are NEVER given to the school.

III POSITIVE ASPECTS OF VDTP

- A. San Clemente High School in Southern California has offered VDTP for the past four years.
- B. Their recent survey showed the following results from the program:
 - 1. 60% responded that VDTP did prompt a conversation about drugs

2. 26% responded that VDTP reduced the frequency of drug use and among freshmen it was 40%
 3. 26% responded that they used VDPT as a reason to say “NO” to drugs
 4. 48% responded that VDTP made it easier to avoid using drugs when confronted by peer pressure
 5. 57% responded that they wanted the program to continue
 6. Participation has increased significantly from 924 in 2002 to 1607 in 2005.
- C. During the past four years, the participation in the VDTP at San Clemente High School has increased significantly each year.
- D. The principal and athletic director stated the program has had a positive effect on student attendance, dropout rates and academic achievement.
- E. The American Civil Liberties Union has reviewed the program and found no legal grounds to challenge it.

IV ADMINISTRATIVE ASPECTS OF VDTP

- A. The school participation is limited to the following:
1. Explaining the program to parents and students
 2. Obtaining the parent-student consent form
 3. Providing a test site
- B. No legal liability for the school district
- C. The Fresno County Office of Education will assist in obtaining grants from the state and federal programs for “Safe and Drug Free Schools”.
- D. The National Student Assistance Association provides a “how to” booklet entitled “What You Need To Know About Starting a Student Drug-Testing Program”. They can be reached at 1-800-257-6310 or visit their web site at <www.nasaa.us>.

V THE COST OF DRUG ADDICTION

- A. If a student starts using drugs in high school and becomes an addict, society not only loses their ideas and energy, but pays a huge price for treating their physical problems and a greater price for their criminal acts, often necessary to support their habit.
- B. The cost of incarceration in Juvenile Hall is \$170 per day.

FINDINGS

- F1 Drug use negatively affects student achievement.¹
- F2 Regular drug use may lead to early sexual activity.²
- F3 Drug use is associated with an increased risk of suicide.³
- F4 The earlier drug use begins, the more likely it will be a lifelong problem.⁴
- F5 Youth who are heavy alcohol consumers are more likely to use drugs.⁵
- F6 Drug use and experimentation with drugs is prevalent in high schools.⁶
- F7 Teenagers are highly susceptible to peer pressure.⁷
- F8 The “Voluntary Drug Test Program” (VDTP) is a successful random drug testing program.⁸
- F9 VDTP prompts conversation about drug usage between parents and students.⁹
- F10 VDTP reduces frequency of drug use among participants.¹⁰
- F11 VDTP has a positive effect on academic achievement and drop out rates in high schools.¹¹

¹ I A 1
² I A 2
³ I A 3
⁴ I A 4
⁵ I A 5
⁶ I B & C
⁷ II A 1
⁸ II B
⁹ III B 1
¹⁰ III B 2
¹¹ III D

- F12 There are no legal obstacles to the VDTP.¹²
- F13 Grants are available for the cost of testing.¹³
- F14 The office of Fresno County Schools can assist in obtaining grants and implementing the program.¹⁴
- F15 Four Fresno County schools are successfully using VDTP.¹⁵
- F16 San Clemente High School has had four years of positive success in the VDTP.¹⁶
- F17 The cost of drug treatment and incarceration is enormous.¹⁷
- F18 Preventing the onset of drug use is the most effective and cost-effective measure.¹⁸

CONCLUSIONS

- C1 Drug use has many detrimental long-term effects.
- C2 Prevention saves lives and taxpayer money.
- C3 The Voluntary Drug Testing Program has proven to be a successful prevention Program.
- C4 The VDTP can be cost-free.
- C5 Help is available to start a VDTP.

COMMENDATIONS

The Office of the Fresno County Schools is to be commended for their efforts in addressing the drug epidemic rampant in the Fresno County High Schools.

The Fresno County high schools of Fowler, Washington Union, Kingsburg and Clovis are to be commended for their implementation of the VDTP.

¹² III E IV B

¹³ IV C & D

¹⁴ IV C

¹⁵ II B

¹⁶ A, B, C, D

¹⁷ V A & B

¹⁸ V A

RECOMMENDATION

R1 The Health Committee of the Fresno County Grand Jury recommends that the Voluntary Drug Testing Program be instituted in every Fresno County high school by the 2007-08 school year.

REQUEST FOR RESPONSES

Pursuant to Penal Code §933.05, the Grand Jury requests responses within 60 days of the receipt of this report:

RESPONDENTS

BOARD OF TRUSTEES
CARUTHERS UNIFIED SCHOOL DISTRICT
NO. 1 TILLER ST.
CARUTHERS, CA 93609

BOARD OF TRUSTEES
CENTRAL UNIFIED SCHOOL DISTRICT
4605 N. POLK AVE.
FRESNO, CA 93722

BOARD OF TRUSTEES
COALINGA-HURON UNIFIED SCHOOL DISTRICT
657 SUNSET ST.
COALINGA, CA 93210

BOARD OF TRUSTEES
FIREBAUGH-LAS DELTAS UNIFIED SCHOOL DISTRICT
1976 MORRIS KYLE DR.
FIREBAUGH, CA 93622

BOARD OF TRUSTEES
FRESNO UNIFIED SCHOOL DISTRICT
2309 TULARE ST.
FRESNO, CA 93721

BOARD OF TRUSTEES
GOLDEN PLAINS UNIFIED SCHOOL DISTRICT
22000 NEVADA ST.
SAN JOAQUIN, CA 93660

BOARD OF TRUSTEES
KERMAN UNIFIED SCHOOL DISTRICT
151 S. FIRST ST.
KERMAN, CA 93630

BOARD OF TRUSTEES
KINGS CANYON UNIFIED SCHOOL DISTRICT
675 W. MANNING AVE.
REEDLEY, CA 93654

BOARD OF TRUSTEES
LATON UNIFIED SCHOOL DISTRICT
P.O.BOX 248
LATON, CA 93242

BOARD OF TRUSTEES
MENDOTA UNIFIED SCHOOL DISTRICT
115 MCCABE AVE.
MENDOTA, CA 93640

BOARD OF TRUSTEES
PARLIER UNIFIED SCHOOL DISTRICT
900 NEWMARK AVE.
PARLIER, CA 93648

BOARD OF TRUSTEES
RIVERDALE JOINT UNIFIED SCHOOL DISTRICT
3086 W. MT. WHITNEY
RIVERDALE, CA 93656

BOARD OF TRUSTEES
SANGER UNIFIED SCHOOL DISTRICT
1905 7TH ST.
SANGER, CA 93657

BOARD OF TRUSTEES
SELMA UNIFIED SCHOOL DISTRICT
30036 THOMPSON AVE.
SELMA, CA 93662

BOARD OF TRUSTEES
SIERRA UNIFIED SCHOOL DISTRICT
29143 AUBERRY ROAD
PRATHER, CA 93651

APPENDIX A

PROCEDURES EMPLOYED

The Health Committee:

1. Attended a drug seminar hosted by MENTAL HEALTH SYSTEMS, INC. The speakers included a nationally known Medical Director of a drug treatment center, The coordinator of the National Methamphetamine & Chemicals Initiative, a Fresno County Superior Court Judge and the administrator of the Fresno County Alcohol & Drug Program.
2. Met with the Community Health Committee of the Fresno Madera Medical Society
3. Interviewed the following:
 - a. Fowler Unified School District
 - b. Office of the Fresno County Schools
 - c. Fresno County Office of Education Drug Program
 - d. Office of Fresno County Probation Department
 - e. A Juvenile Court Judge
 - f. Psychologists specializing in adolescent drug treatment
4. Reviewed the following documents:
 - a. "CUSD Starts Drug Testing" Clovis Independent Newspaper, 2-17-06
 - b. Fresno Bee Editorials
 - c. Fowler High School Drug Survey, Spring 2004
 - d. San Clemente High School VDTP Report, Fall 2005
 - e. California Adolescent Health Collaborative Newsletter, 10-22-05
5. Obtained statistics from the following sources:
 - a. Fresno County Juvenile Hall
 - b. www.nsaa.us
 - c. www.fcoe.k12.ca.us

**THE
COUNTY OF FRESNO COMMITTEE**

FRESNO COUNTY CORONER

Final Report

INTRODUCTION

Pursuant to previous Grand Jury recommendations and the Board of Supervisor's (BOS) acknowledgement of the necessity of a new coroner facility, the 2005/2006 Fresno County Grand Jury investigated the facilities of the existing County Public Administrator-Coroner-Public Guardian (County PA-Coroner-PG). In the course of the investigation, the Grand Jury visited the offices and interviewed several County officials.

FINDINGS

- F1 In March 2003, the Board of Supervisors approved the establishment of a capital project for a new PA-Coroner-PG facility.
- \$1.3 million had been appropriated to partially fund the project.
 - \$500,000 was taken back by the BOS and placed in the general fund to be used for other purposes.
 - The BOS at one time suggested the University Medical Center basement as a possible location.
 - There have been discussions regarding co-location of the crime lab and public health services at a new County PA-Coroner-PG facility.
- F2 In March 2006, Fresno County officials approved selling revenue bonds that can only be used for new buildings.
- F3 The current facility was built in 1948 and has been occupied by the PA- Coroner-PG since 1980.
- The building has 2 levels with approximately 13,100 sq. ft.
 - The current staff numbers 40.
 - Minor renovations have been done to upgrade the existing facilities, however, expansion at this location is not feasible.
 - The electrical and telephone systems are at their maximum capacity.

- The existing building does not meet Federal/State American's with Disabilities Act (ADA) requirements. No alterations have been made to comply with these mandated regulations.
 - o County management took steps to accommodate an employee with ADA limitations by converting a downstairs area to an office space. Portable cooling and heating devices were brought in for temperature control.
 - o The building is not wheel chair accessible.
 - o There is no ADA parking.
- The mobile morgue unit scheduled for delivery in August 2006, is too large and heavy to navigate over the existing canal bridge entrance.

F4 There are concerns regarding working conditions and safety issues.

- The first level ground floor offices are occupied by the PA-PG.
- The second level office area is occupied by the Coroner and accessible only by stairs.
- Ceiling sprinklers are installed in the work area. However, if a fire were to occur in the stairwell leading to the second level, there is no alternative exit for employees and the visiting public.
- There is no heating or cooling in the ground floor work area.
- The building is not properly ventilated and odors from the morgue on the ground floor permeate all work areas.

F5 The Needs Assessment and Architectural Design are complete.

- The new facility will be 62,000 sq. ft. and accommodate up to 72 staff.
- Land acquisition has not been done. Several sites have been identified. Costs have increased on some sites of interest and some have been sold.
- A morgue of this size could be used as a regional facility in case of a national disaster or other types of catastrophic events.
- The refrigerator storage space for bodies will increase from 50 to 200.
- The disposal of waste has at times been an issue of discussion. Organs, body parts, and the like are properly disposed of per existing state

regulations and do not enter the sewer system. Other types of disposable wastes from the morgue are similar to normal household waste that runs through the sewer lines.

CONCLUSIONS

- C1 The PA-Coroner-PG function has outgrown the current facility.
- C2 Expansion at the present location is not an option.
- C3 ADA compliant facilities must be addressed.
- C4 The continuing growth of Fresno County requires a larger and more technically advanced state of the art facility.
- C5 A new facility is urgently needed.

RECOMMENDATIONS

The 2005-2006 Fresno County Grand Jury recommends that:

- R1 Construction of a new state of the art Coroner's office, morgue, and autopsy suite be given top priority by the Fresno County Board of Supervisors.
- R2 Construction should not be contingent upon the co-location with other public health offices.
- R3 This project requires immediate resolution and action.

REQUEST FOR RESPONSES

Pursuant to Penal Code § 933.05, the Grand Jury requests responses as follows:

Fresno County Board of Supervisors: R1, R2, and R3

Please be reminded that the responses from elected officials are due within 60 days of the receipt of this report and 90 days for others.

FRESNO COUNTY'S PENSION PLAN FRESNO COUNTY GRAND JURY 2005-2006

INTRODUCTION

The Fresno County Retirement Plan (the Plan) is an employee's dream and an employer's nightmare. The Plan's \$2.338 billion trust fund is invested on behalf of the members of the Plan. If investment returns exceed projections made by the Actuary with the concurrence of the Retirement Board, the Retirement Board decides how to distribute the "excess earnings" to the retirees. The Board of Supervisors (BOS) is then pressured by the retirement association, employees, retirees and the 23 bargaining units to make those temporary distributions permanent. If investment returns fall short of the actuarial projection, the County is required to fund the "unfunded actuarial liability" that is, add more money to the retirement fund.

A simplified example:

If the Plan's fund were to generate 1% above the projected returns for a period of 5 years, it would generate in excess of \$116,000,000 for the benefit of the members of the Retirement Plan over and above their guaranteed pensions. Conversely, if the Retirement Fund underperforms by 1% for 5 years, it would cause a shortfall in excess of \$100,000,000. Most of this liability is the County's (as opposed to the employees).

As the Fund becomes larger even modest shortfalls in investment returns produce a larger and larger liability in terms of absolute dollars. That is, 1% of \$100 is \$1 whereas 1% of \$1,000,000 is \$10,000.

REASON FOR INVESTIGATION

Recently there have been several very large corporations that have been forced to lay off workers and/or restructure their benefit plans because they could no longer afford their Defined Benefit Pension Plans and rising healthcare costs. Grand Juries from other counties have recommended that all California Grand Juries investigate the costs of their respective Defined Benefit Pension Plans. Fresno County officials, themselves, listed the indebtedness caused by the Plan as one of the County's challenges. For these reasons, we decided that it would be prudent to investigate the Plan and its impact on the taxpayers of Fresno County.

It should be noted that employees are required to contribute to the Plan. Our investigation, however, focused on the cost to Fresno County and its taxpayers.

BACKGROUND

Fresno County offers its employees a defined benefit retirement plan. In a defined benefit plan the retiree will receive a *guaranteed* pension amount which is based on final compensation, length of service and age at retirement.

The basics of the Fresno County Retirement Plan were established under a state law, “The County Employees’ Retirement Law of 1937” the Act), the stated purpose of which was “...to recognize a public obligation ...to employees who become incapacitated by age or long service and its accompanying physical disabilities...”.¹ The Act requires the establishment of a retirement board which has the fiduciary duty as trustee to administer the retirement plan.

The Board of Supervisors has the authority to change benefits within certain parameters of the law. The benefits as currently offered are a result of the basics required by the Act including Cost of Living increases, negotiated enhancements such as lowering the retirement age or counting various types of overtime and the “Ventura Settlement”. Unvested, i.e., not permanent, benefits are granted by the Fresno County Employees Association Retirement Board (Retirement Board) as a result of “excess earnings”. Fresno County retirement benefits are the most generous in the State²

Since 1998, the County has had to borrow 3 times to cover its pension obligations. In 1998, the County borrowed \$184,910,000. In March of 2002, the County partially refinanced its Pension Obligation Bonds (POBs) and increased the debt to \$328,405,000. In March of 2004, once again the County borrowed and refinanced. This time it borrowed \$402,000,000. As of June 30, 2004, the County’s obligation was 98% funded³ and the County’s outstanding Pension Obligation Bonds totaled \$546,064,000⁴. As of December 15, 2005, the total amount of principle and interest of the County’s Pension Obligation Bonds is \$1.18 billion (\$1,180,215,000).⁵

RESOURCES

The Grand Jury extensively investigated the Plan. The resources examined included County elected officers, County employees, Retirement Board Members, Annual reports of the Plan and the County, actuarial reports and analysis, Marin County Grand Jury Report and extensive use of the internet.

¹ County Employees Retirement Law of 1937, Title3 , Article 1

² Corroborated testimony

³ FCERA Actuarial Valuation as of June 30, 2004, page 1

⁴ Fresno County Annual Report as of June 2004, page 11

⁵ Spreadsheet provided by a County official

FINDINGS

- F1 In March 2004, the Board of Supervisors issued \$402,000,000 in POBs⁶ to “fund” or cover the promised benefits to those who participated in the County’s retirement plan *at that time* and to partially retire previously issued Pension Obligation Bonds.
- The POBs are general obligations of Fresno County.⁷
 - The POBs account for 70% of the County’s debt as of June 30, 2004⁸.
 - The POBs are scheduled to be paid off over a 30 year period.⁹
 - The last payment which is due 2034 is a balloon payment of approximately \$62,500,000.¹⁰
 - The total liability of the POBS is \$545,852,000 in principle and \$634,363,000 in interest as of December 15, 2005.¹¹
 - This amounts to roughly \$1,361 per person living in Fresno County. (1,180,000,000 /867,000).¹²
- F2 Fresno County has budgeted \$77,587,680¹³ for employer retirement contributions for 2005-06.
- \$52,607,936 is for the current year’s obligation.
 - \$24,979,744 to be placed in a “sinking fund” (savings account) for debt service on the POBs.
 - Thus the County’s 2005-06 contribution of \$77.6 million is about 55% of property taxes (\$142,791,000)¹⁴ collected for Fiscal Year 2004-05.
- F3 In 1997, there was a lawsuit in Ventura County the outcome of which would have affected all California counties’ retirement plans. In 2000, the Fresno County Board of Supervisors signed an agreement¹⁵ with our local bargaining units.
- This agreement is known as “the Ventura Settlement”.
 - At that time the Fresno County Retirement Fund was reported to have excess earnings of \$288,000,000.¹⁶

⁶ County of Fresno, Taxable Pension Obligations Bonds, Series 2004, Prospectus dated March 10, 2004, front cover

⁷ Prospectus, front cover.

⁸ Fresno County Annual Report as of June 30, 2004, page 11

⁹ Prospectus, page 14

¹⁰ Prospectus, page 14

¹¹ Spreadsheet provided by the Auditor/Controller

¹² U.S. Census Bureau, @quickfacts.census.gov

¹³ Per Memorandum from a County official

¹⁴ Fresno County Annual Report FY 2005, page 7

¹⁵ Settlement signed Oct 20, 2000 and Nov. 7, 2000

¹⁶ Testimony of County official

- At the time of the settlement the estimated cost of the benefits granted was \$288,133,000.¹⁷
 - Using an actuarial report as of June 1998 and no projections of the impact of increased benefits, the Board of Supervisors granted increased benefits for life for those who were covered by the agreement.
 - Included in the agreement are “retirees, deferred retirees, beneficiaries, and employees who are members of the FCERA...”¹⁸
 - The liability produced by the Ventura Settlement as of June 30, 2004 was \$534,837,413.¹⁹
- F4 A 1995 Amendment to the 1937 Act requires that the Board of Supervisors “*make public* (our italics) at a regularly scheduled meeting of the board, all salary and benefit increases that affect either or both represented employees and nonrepresented employees.”²⁰
- F5 On May 7, 2003, the Board of Supervisors sued the Retirement Association over the calculation of final pay.²¹
- This calculation was known as “The Fresno Method”.
 - The Board of Supervisors has prevailed and final pay is now calculated as “...average annual compensation earnable by a member during any year elected by a member...or...requires that any year elected by a member be a period of 365 consecutive days.”²²
 - This ruling is being appealed by the Fresno Deputy Sheriffs Association.²³
- F6 Safety members have greater pension benefits than general members.
- Included in the Safety Member Category are all “sworn officers” and firefighters. For a complete list refer to: www.fcera.org and search on Active Members, Member Handbook, Membership.
 - Fresno County currently allows its safety members to retire at age 50 with 5 years of service or any age after 20 years of service.²⁴ Fresno County includes in “final pay” such items as selected types of overtime, pay in lieu of vacation, uniform allowances and standby pay. For additional examples of items included in final pay for purposes of pension benefit computation refer to: www.fcera.org and search on Board of Retirement, Agendas, April 19, 2006, Item 13, Exhibit 1.

¹⁷ Settlement signed Oct 20, 2000 and Nov. 7, 2000

¹⁸ Settlement signed Oct 20, 2000 and Nov 7, 2000, Section 5.

¹⁹ Memo from County official dated Feb 20, 2006

²⁰ Law, Article 2.7, Paragraph 31515.5

²¹ Court case 03 CE CG 01569

²² Court case 03 CE CG 01569, Judgment, page 3, Section 1

²³ Testimony

²⁴ Retirement Handbook Insert, Table 2

F7 The composition of the Board of Retirement appears to be in violation of the 1937 Act because we read the intent of the Act to utilize the expertise of persons who are not affected by the outcome of the decisions other than as a taxpayer. Retirees are affected by the decisions of the FCERA board. The Act requires that the retirement board shall consist of:

- County treasurer
- Four “shall be qualified electors of the county who are not connected with the county government in any capacity, except one may be a supervisor, and shall be appointed by the board of supervisors”²⁵
- Two general members elected by the general members
- One safety member (and one alternate safety) elected by the safety members
- One retired member elected by the retired members

F8 Assemblyman Keith Richman, MD of the 38th State Assembly District representing parts of Los Angeles and Ventura counties has introduced Assembly Constitutional Amendment No. 23.²⁶ This amendment offers a new retirement plan for public employees.

Some of the features are:

- New plan affects only employees hired after July 1, 2007
- A Defined Benefit feature which defines such factors as final salary, normal retirement age and safety officers
- A Defined Contribution feature which would function much like a 401 (k) which offers such features as portability, self investment and ability to pass on in an estate

F9 We repeatedly heard excuses for past decisions that one would not expect of individuals vested with this level of public trust.

F10 Fresno County currently offers a two tiered retirement plan.

The Tier I formula is:

- A. General Members
 - At age 55 the formula is $\text{earnable compensation} \times 2.5\% \times \text{years of service}$.
- B. Safety Members
 - At age 55 the formula is $\text{earnable compensation} \times 3.275\% \times \text{years of service}$.

The Tier II formula is:

²⁵ Law, Article 3, Paragraph 31520.1

²⁶ Assembly Constitutional Amendment No. 23, Introduced September 8, 2005.

- A. General Members
 - At age 55 the formula is $\text{earnable compensation} \times 2.0\% \times \text{years of service}$.
- B. Safety Members
 - At age 55 the formula is $\text{earnable compensation} \times 3.0\% \times \text{years of service}$.

CONCLUSIONS

- C1 The retirement benefits as currently defined are forcing Fresno County further and further into debt. In the past 8 years Fresno County has gone from *zero* pension debt to \$545,852,000 (principle only). Based on this rate of acceleration, the County will be facing insurmountable debt in the near future.
- C2 The decision making, negotiating and administering of the Plan has been done largely by people who stand to benefit. The current Retirement Board make up is 6 members who do benefit and 3 who do not benefit. The members of the Board of Supervisors all benefit unless they choose to opt out.
- C3 Benefits are being extended or accrued to individuals who are not members of the class defined in the Ventura Settlement.
- C4 We find no documentation that shows that the Board of Supervisors is complying with the law as described in Finding F4 (publication of impact of salary and benefits increases).
- C5 The Board of Supervisors is being asked to make decisions that require knowledge of a complicated law, understanding and evaluating actuarial reports and financial statements.
 - Some of its long term and major impact decisions have been made with outdated actuarial reports.
 - It has made increases in retirement benefits permanent assuming the stock market would continue to make positive advances.
 - These decisions have very large and long term financial consequences for the citizens of Fresno County.
- C6 The Defined Benefit Plan and the way it is currently administered is a problem for the state and the counties and is recognized as such.

RECOMMENDATIONS

- R1 The Board of Supervisors must engage an outside, independent firm to conduct a Fiduciary Audit of the Plan. This audit is not a financial audit but

rather one that investigates the internal administration of the Plan including, but not limited to, compliance with the law and the Ventura Settlement. The audit will also review Plan documents and ensure that proper disclosures have been made to employees and retirees.

- R2 The Board of Supervisors must hire the services of outside, independent pension administrators, financial professionals and attorneys who are not associated with *city, county or state* government to advise it on all decisions regarding pensions.
- R3 The Board of Supervisors must require current actuarial information for its decision making.
- R4 After June 30, 2007, Fresno County must offer new hires the Tier 2 retirement plan only.
- R5 The Board of Supervisors must notify the bargaining units that the County will not increase any retirement benefits.
- R6 The Board of Supervisors must seek outside legal counsel to explore the feasibility of renegotiating the Ventura Settlement.
- R7 The Board of Supervisors must comply with the law as to the number of appointees to the Retirement Board who are not connected with the County Government.
- R8 FCERA must require continuing pension management training for its Board members and chief administrator.
- R9 The FCERA Board must not grant any benefits from “excess earnings” unless they are fully funded, i.e., enough money is set aside to pay that benefit through the life expectancy of the youngest person granted that benefit *or grant only one-time lump sum distributions*.
- R10 The Board of Supervisors must actively support legislation to amend the California State constitution to modify retirement benefits from a Defined Benefit Plan to a Defined Contribution Plan or a mixture of the two. An example of such legislation is a proposed constitutional amendment ACA 23 which was introduced by Keith Richman. For a complete text of the amendment go to www.leginfo.ca.gov and search on aca 23.

REQUEST FOR RESPONSES

Pursuant to Penal Code Section §933.05, the Grand Jury requests responses as follows:

From the Board of Supervisors: R1 through R7 and R10.

From the FCERA Board of Retirement: R8 and R9

Please be reminded that the responses from elected officials are due within 60 days of the receipt of this report and 90 days for others.

**THE
EDUCATION COMMITTEE**
