

FY 2007-08

MANDATE STUDY

An Analysis of the Use of
of General Fund Subsidies
in the Financing of
622 County Functions and Programs
Costing \$3.1 Billion

Prepared for:
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August 18, 2006

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August 18, 2006

To: Peter Kutras, Jr.
County Executive

From: Roger Mialocq *RM*
Management Audit Manager

Subject: FY 2007-08 Mandate Study

The FY 2007-08 Mandate Study provides a detailed analysis of all major County functions, programs and services that are financed directly or indirectly by the General Fund. This analysis was based on the Adopted FY 2006-07 County Budget, which totaled \$3.9 billion and included \$2.1 billion of General Fund resources. The purpose of this report was to determine the amount of General Fund subsidy by function or program for all County departments, including internal service and enterprise funds, that are subsidized by, or provide services to General Fund departments. General Fund subsidy was determined by deducting each department's revenues earned as a result of its business activities from the total amount of its FY 2006-07 adopted budget in order to arrive at the amount of General Fund subsidy needed to balance its budget. Departmental revenues were considered earned if they were attributable to the department's operations, and would no longer be received if the department discontinued operations.

A total of 42 budget units were included in the analysis. The final report includes 585 major County functions, programs and services that were identified, described in this report, and determined to be mandated or non-mandated pursuant to law. The determination of the mandated versus non-mandated status of each function was made by the Office of the County Counsel. An additional 37 administrative and support service functions were classified as required bringing the total number of non-mandated, mandated and required functions to 622. A total of 479 programs and functions with a General Fund subsidy of \$1.17 billion were identified. This total includes 343 mandated programs with an FY 2006-07 General Fund subsidy of \$996.0 million, and 136 non-mandated programs with a General Fund subsidy of \$206.4 million.

The introduction of the report contains information intended to describe the key assumptions and definitions that pertain to the 622 major County functions

included in the report. For each budget unit, the report provides you with the following information:

- A list of all mandated and non-mandated functions, including a general description of each function/program and the approximate cost and authorized staffing at the current service level, revenues attributed or generated to that function/program, and the amount of General Fund subsidy.
- A functional organization chart, identifying all major mandated and non-mandated functions currently performed by each department
- A legal assessment of the reported mandates for each function by the responsible deputy in the County Counsel's Office.

As you know, the compilation of this report in 38 days, from July 12 to August 18, required the full cooperation and coordination of all County departments. Without this combined effort the production of this report would not have been possible. As you and your staff review this report, we are available at any time to respond to questions and assist you in any way possible. We would also like to acknowledge the efforts of the County Counsel's Office, for their assistance and contribution to this report. Lastly, the ISD Printing Services did another great job in the design and production of this massive report. To all of these County staff go our sincere thanks and appreciation.

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130	Human Res/Labor Relations	410	Public Health
132	Risk Management	412	Mental Health
135	Fac & Fleet-Fleet Mangt Div	414	Children's Shelter/Cust Hth Svcs
140	Registrar of Voters	417	Alcohol and Drug Services
145	Information Services (ISD)	418	Community Outreach Services
148	Revenue (DOR)	502	Social Services – Adm & Sup Svcs
168	Affordable Housing	503	Social Services –Fam/Chldrn Svcs
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INTRODUCTION

Project Description

As a part of the County's efforts to prepare for an estimated \$161 million deficit in the projected FY 2007-08 budget, the County Executive requested the Management Audit Division's assistance to determine the County's current General Fund subsidy requirements for each major County function and program. This Phase I Mandate Study provides the amount of General Fund subsidy for each function and program, and is the first step in developing key strategies to assist the Board of Supervisors in addressing the projected \$161 million deficit for FY 2007-08. Although the exact approach of the Phase II portion of the FY 2007-08 Mandate Study has not yet been determined, it will probably include some bench marking and other analytical methods to identify potential specific reductions in service levels, including projected cost savings and a description of the service impacts at the reduced levels.

Scope

The scope of the FY 2007-08 Mandate Study included all elements of the County's projected \$3.9 billion budget, financed directly or indirectly by General Fund monies, in order to arrive at the General Fund subsidy. Focusing on Object One and Object Two expenditures, salaries and benefits and services and supplies cost figures from the previous FY 2005-06 study were updated to reflect amounts authorized by the FY 2006-07 adopted budget.

Some revenues were allocated to functions and programs because they were directly responsible for generating the revenue. Other revenues were allocated because the revenues are restricted to a particular department(s) or functions (i.e. State Mental Health Short-Doyle revenue, SB90 revenues, SB 813 Supplemental Property Tax Administration revenue and Public Safety Sales Tax revenues are examples). Object Seven inter-departmental reimbursements were allocated to functions/programs in cases where the reimbursements were from non-General Fund departments, or if the revenues directly resulted from the function/program provided. These revenues represent reimbursements that would not be received if the function/program were eliminated. After the amount of Departmental revenues and reimbursements were determined, the General Fund Subsidy was calculated for each function, based on the difference between its departmental revenues and expenditures.

The updated analysis was to be performed within approximately six weeks, resulting in the issuance of a final report by August 18, 2006. This analysis was conducted between July 12, when the FY 2006-07 adopted budget figures by department were provided by the Office of Budget and Analysis, and the study deadline on August 18.

Based on this scope, a total of 42 budget units were included in the analysis. As a result of the combined efforts of these departments, a total of 585 major County functions, programs and services were identified and described in this report and determined to be mandated or non-mandated pursuant to law. An additional 37 administrative and

support service functions were classified as required. Nearly all of the functions, programs and services are funded partially or wholly with General Fund resources. Of the 622 major County functions, programs and services that were identified, 186 were determined to be non-mandated, 399 are mandated and 37 are required for departmental administration and support.

Methodology

In order to meet the deadline of August 29, 2006 when the Mandate Study is scheduled to be discussed on the Board of Supervisors agenda, a final report deadline of August 18, 2006 was established. Due to the short time period to complete this analysis and the complexity of the project, the methodology developed by the Management Audit Division required the active assistance of all County departments. Departments were asked to: (1) update their existing major departmental functions, programs and services and define new functions, programs, and services when applicable, (2) supply documentation of pertinent federal State and local laws, (3) appropriately designate each function as mandated or non-mandated, and (4) provide organizational, cost, workload, and revenue information. Management, fiscal and program staff of each department worked continuously with Management Audit staff as we analyzed all of the information provided by the departments, prepared functionally based organization charts, and calculated the estimated amounts of General Fund subsidy currently budgeted in the FY 2006-07 adopted budget for non-mandated functions, and mandated functions being performed.

In addition to the above tasks, the Office of the County Counsel was asked to update, if necessary, the independent assessment of the legal mandates of each department it had previously conducted in 2005. The Deputy County Counsel assigned as the legal counsel for each General Fund department reviewed the law to determine the scope of each department's current legal responsibilities, and prepared a written assessment of the pertinent legal mandates. In cases where no updated information on legal mandates was provided by County Counsel, a copy of the 2003 or 2004 analysis has been provided in this report.

Information to be Provided by the Final Report

The product of this analysis includes the following information:

- List of all mandated and non-mandated functions performed by all General Fund departments, including a general description of the legal basis for the mandate, the approximate cost of the current service level, the revenues attributed to the functions, and the General Fund subsidy amount.
- Description of each major departmental function, program or service, including the FY 2006-07 adopted budget and authorized staffing.

- Functional organization charts for all General Fund departments, identifying all major mandated and non-mandated functions currently performed by each department and associated positions.
- Legal assessment of the reported mandates for each function in all General Fund supported departments by the responsible lawyer in the County Counsel's Office.

Assumptions and Qualifications

- 1) Due to limitations of time, the information provided by departments was accepted to be accurate without audit.
- 2) The cost estimates in many cases are approximations, based on average departmental position costs and the proportionate allocation of object two services and supplies costs.
- 3) The level of administrative and support services staffing for any department is subject to determination by the Board of Supervisors in accordance with Government Code Sections 29063 and 29068, whether the department's direct service functions are mandated or non-mandated, and whether or not some positions within any Department's administrative and support function are specifically mandated by law, including elected officials.
- 4) The Object 7 reimbursements were used to offset a function's costs in order to arrive at the General Fund subsidy, when the function was directly responsible for the revenues, and when the source of reimbursement would no longer be received if the function were eliminated.
- 5) The SB90 claims in the FY 2006-07 adopted budget are included by the applicable departments as revenues in the functions/programs to which the reimbursements pertain, even though most of these revenues were centrally budgeted in the Controller-Treasurer budget.
- 6) The final determination of whether a function is mandated or non-mandated was made by County Counsel, even in cases where there were disagreements.
- 7) Most departments did not have functional organizational charts. Therefore, in most instances it was necessary to convert existing organizational charts to a functional presentation.

Definition of Terminology

- Administrative and Support Services:
Departmental central staff and services and supplies costs that are required to provide the direct service functions and programs performed by the department, whether non-mandated, mandated or a combination. These costs commonly include management, budget, accounting, personnel, information systems,

analytical and other similar staff resources. Administrative and support service costs may also include such costs at lower levels in the organization, such as divisional or sectional administration and support services.

- FY 2006-07 Adopted Budget:

The total expenditure budget amount for each program and each budget unit is based on a report provided by the Office of Budget and Analysis to the Management Audit Division on July 19, 2006. This report provides the FY 2006-07 adopted budget for each department as of that date. The adopted budget represents the estimated costs to provide services in FY 2006-07 at the levels they are currently provided, taking into account cost increases for personnel and services and supplies. In selected instances, at the direction of the Office of Budget and Analysis, the July 19, 2006 adopted budget amounts provided to the Management Audit Division were amended to account for final corrections and adjustments to the FY 2006-07 budget that were not yet reflected in OBA's budgeting system.

In addition, the total budget presentation in this report fully accounts for inter-departmental expenditures, rather than netting such expenditures, because they are provided at the request of another budget unit and reflect costs typically budgeted as an Object Two services and supplies cost in that budget. Although this overstates the total County-wide expenditure budget, for purposes of this report, program scrutiny is improved by examining gross rather than net budgets. As an example, the County Counsel net budget is \$6.2 million, versus a gross budget of \$20.5 million. Therefore, the gross budget amount was used for all budgets.

This presentation of gross-level expenditures also more accurately acknowledges and reflects the importance of the fact that when one County department buys services from a second department, the first department is generally using discretionary General Fund resources to do so. Therefore, when client departments buy fewer services from support services departments, support services departments are required to make reductions in staffing or other expenditures to account for the reduction in business they are receiving. Consequently, if budget reductions are made in a department that provides services to other departments, it may be necessary to make a corresponding reduction in the budget of the department purchasing the services, and vice versa.

- General Fund Resources:

Revenues of the General Fund, including restricted and unrestricted revenues, and the accumulated fund balance, which in total comprise the monies available to pay for General Fund expenditures.

- **General Fund Subsidy:**
The General Fund subsidy is the amount of funds necessary to supplement departmental revenues in order to equal the total cost of the departmental expenditure budget.
- **Mandated Functions:**
Any function that the County must perform pursuant to the requirements of federal, State and local law, including the County Charter and the County Ordinance Code.
- **Non-Mandated Functions:**
Any function that the County performs on a discretionary basis that is not required by federal, State or local laws. Discretionary functions may be funded by any funding source, including non-General Fund monies, restricted General Fund monies, and unrestricted General Fund discretionary monies. Non-mandated functions can also be reduced or eliminated at the discretion of the Board of Supervisors.

Summary Schedules and Appendix

The report includes six summary schedules. Summary Schedule 1 is a summary of General Fund subsidies by department and budget unit. Summary Schedule 2 is a summary of General Fund Subsidies by function ranked from highest to lowest. Summary Schedule 3 is a summary of General Fund subsidies of non-mandated functions and programs. Summary Schedule 4 is a summary of General Fund subsidies by mandated functions and programs. Summary Schedule 5 is a schedule of General Fund subsidies of departmental administration. Summary Schedule 6 provides a table that summarizes non-mandated, mandated and administrative staffing by each of the 42 budget units in the Mandate Study.

Report Organization and Format

The FY 2007-08 Mandate Study is organized as follows:

- All 42 departmental budgets are presented in budget unit numerical order beginning with budget unit 106 Clerk-of-the-Board and ending with budget unit 921 Valley Medical Center.
- Each departmental section of the report includes (1) the Management Audit Division Report, (2) a functional organization chart, (3) a written legal analysis by the Office of the County Counsel, either the FY 2003-04 analysis or an updated analysis, if the County Counsel chose to provide one.
- The Management Audit Division written report for each department includes a summary box that identifies the FY 2006-07 adopted budget and staffing and the General Fund Subsidy for non-mandated, mandated, and administration and support functions.

Following the summary box is the Departmental Description, which includes a general description of the department's responsibilities, specific reference to legal mandates and general budget and staffing information.

Following the departmental description is the FY 2006-07 Adopted Budget by Program/Function table. This table lists each mandated and non-mandated function identified by the department, and includes the FY 2006-07 adopted budget cost, staffing and revenue of each, the General Fund subsidy level of each, and the percentage of expenditures that were subsidized by the General Fund for non-mandated and mandated functions and for required administrative and support services.

Following the FY 2006-07 Adopted Budget by Program/Function table are detailed Descriptions of Programs and Functions that were identified and reported by each department. These descriptions indicate if the function is mandated or non-mandated, and describe the nature of the activities performed pursuant to the function. The legal authority is also cited if the function is mandated, and the estimated cost and staffing of the function is also reported. If the function is non-mandated and not fully offset by revenues, this text is underlined to denote a function that includes a budgeted General Fund subsidy. The narrative description of each function is numbered to correspond to the list of narrative functions included in the FY 2006-07 Adopted Budget by Program/Function table on this second page of each budget unit report.

Acknowledgments

To accomplish this assignment for the third consecutive year required a great deal of cooperation and extra effort by all departments, by the Office of Budget and Analysis and by the Office of the County Counsel. The fact that this massive undertaking was accomplished in a period of approximately five weeks is testimony to both the dedication and competence of County staff.

Schedule 1: Summary of General Fund Subsidies by Department and Budget Unit

Budget Unit	Department	FY 2006-07 Budget	Authorized Positions	Departmental Revenue	General Fund Subsidy	Percent General Fund
921	Valley Medical Center	793,783,529	4797.8	575,888,782	217,894,747	27%
119	Special Programs	179,815,780	0.0	3,000	179,812,780	100%
235-240	Department of Correction	161,613,861	1019.5	75,015,540	86,598,321	54%
412	Mental Health	208,113,367	337.1	139,405,676	68,707,691	33%
263	Facilities	108,164,887	270.0	44,318,331	63,846,556	59%
132	Risk Management	66,389,694	59.0	11,124,092	55,265,602	83%
410	Public Health	100,498,386	564.5	51,748,770	48,749,616	49%
116	In Home Supportive Services	49,156,215	0.0	6,126,468	43,029,747	88%
504	Social Services-Empl & Benefit	353,741,916	1396.0	312,206,021	41,535,895	12%
246	Probation	109,504,278	847.0	70,690,997	38,813,281	35%
202	District Attorney	82,036,106	449.0	45,313,262	36,722,844	45%
414	Children's Shelter & Custody Health	37,222,252	243.2	729,215	36,493,037	98%
145	Information Services Department	41,560,056	203.5	5,284,885	36,275,171	87%
217	Criminal Justice Systemwide Costs	52,818,172	0.0	19,936,036	32,882,136	62%
503	Social Services-Family & Children	209,866,974	817.0	184,840,019	25,026,955	12%
204	Public Defender	38,084,037	206.5	13,727,830	24,356,207	64%
230	Sheriff	113,326,163	739.0	90,421,994	22,904,169	20%
130	Employee Services Agency	36,300,938	105.6	13,839,651	22,461,287	62%
417	Alcohol and Drug Services	46,794,552	164.5	24,574,815	22,219,737	47%
505	Social Services-Aging & Adult	34,008,911	240.2	20,303,709	13,705,202	40%
810	Debt Service	40,150,401	1.2	26,587,842	13,562,559	34%
115	Assessor	34,555,427	292.0	21,851,820	12,703,607	37%
120	County Counsel	20,596,306	118.5	8,551,248	12,045,058	58%
107	County Executive	12,663,471	74.8	700,201	11,963,270	94%
190	Communications	15,689,514	108.0	4,458,490	11,231,024	72%
135	Fleet Management	20,038,494	48.0	9,747,591	10,290,903	51%
110	Controller-Treasurer	15,220,638	89.8	5,923,000	9,297,638	61%
140	Registrar of Voters	13,837,544	52.0	6,138,393	7,699,151	56%
418	Community Outreach Services	8,756,664	84.0	2,051,640	6,705,024	77%
106	Clerk of The Board	6,309,686	30.5	342,258	5,967,427	95%
210	Pretrial Services	5,758,797	44.5	674,843	5,083,954	88%
260	Planning and Development	13,079,238	88.3	8,515,668	4,563,570	35%
502	Social Services-Admin & Support	3,935,462	0.0	-	3,935,462	100%
118	Procurement	3,982,920	32.0	68,117	3,914,803	98%
262	Agriculture and Environmental Mgn	6,503,153	54.0	3,271,874	3,231,279	50%
293	Medical Examiner-Coroner	2,982,647	19.0	175,937	2,806,710	94%
112	Tax Collector	8,243,984	70.0	6,411,031	1,832,953	22%
203	Crime Laboratory	7,129,519	55.0	6,324,342	805,177	11%
168	Affordable Housing*	9,568,954	12.0	8,248,320	781,540	8%
148	Department of Revenue	7,411,755	77.1	7,570,797	(159,042)	-2%
114	Clerk-Recorder	7,622,906	84.0	9,200,600	(1,577,694)	-21%
Grand Total		3,086,837,557	13,894.1	1,842,313,105	1,243,985,357	40%

* The calculation of the General Fund Subsidy for BU 168 excludes functions funded from non-General Fund sources.

Schedule 2: Detail of General Fund Subsidies by Department and Budget Unit

Budget Unit	Mandate Status	Function/Program	FY 2006-07 Budget	Authorized Positions	Departmental Revenue	General Fund Subsidy	Percent General Fund
119	Mandated	VMC Subsidy	89,874,217	-	-	89,874,217	100%
119	Non-Mandated	VMC Subsidy	79,699,778	-	-	79,699,778	100%
921	Required	Admin/Support	146,017,828	873.4	107,796,259	38,221,569	26%
240	Mandated	Elmwood Complex	60,927,722	367.0	26,743,085	34,184,637	56%
503	Mandated	Child Welfare Services	87,859,533	668.0	55,776,302	32,083,231	37%
921	Mandated	Inpatient Acute Nurse	118,697,502	808.8	87,627,291	31,070,211	26%
921	Mandated	Physician Services	115,994,858	508.9	85,552,090	30,442,768	26%
240	Mandated	Main Jail Complex	64,936,927	378.0	37,359,099	27,577,828	42%
116	Mandated	IHSS Indep Provid Svcs	26,745,128	-	-	26,745,128	100%
921	Mandated	Critical Care Nursing	98,505,780	626.1	72,720,946	25,784,834	26%
132	Mandated	Admin. Workers' Comp.	31,811,564	26.7	6,506,448	25,305,116	80%
503	Mandated	AFDC Foster Care-Benefits	55,714,728	-	30,564,234	25,150,494	45%
414	Mandated	CUST Nsg/Clinical	23,821,155	166.6	-	23,821,155	100%
217	Mandated	Trial Court Operations	40,458,195	-	19,936,036	20,522,159	0%
921	Mandated	Pharmacy Services	73,942,642	189.5	54,587,445	19,355,197	26%
145	Mandated	Data Processing & Voice Communications	19,743,036	110.9	1,401,380	18,341,656	93%
921	Mandated	Psychiatric Services	27,346,637	224.4	10,154,106	17,192,531	63%
263	Mandated	Property Lease Payments	45,179,563	-	29,015,540	16,164,023	36%
116	Non-Mandated	IHSS Benefits Program	21,188,675	-	5,117,978	16,070,697	76%
263	Mandated	Utilities	14,824,697	1.0	176,004	14,648,693	99%
504	Mandated	CalWORKS Eligibility	27,617,635	284.0	13,600,209	14,017,426	51%
412	Mandated	Outpatient Teams	31,773,992	120.5	19,101,088	12,672,904	40%
132	Mandated	Prop. & Liability Claims	14,493,855	6.0	1,842,630	12,651,225	87%
246	Mandated	Juvenile Hall Ops./Living	23,170,064	223.5	10,786,432	12,383,632	53%
810	Mandated	Debt Service Payments	38,839,971	-	26,584,842	12,255,129	32%
410	Required	Admin/Support	15,166,065	29.5	3,669,277	11,496,788	76%
412	Mandated	APS/EPS	32,650,946	-	21,203,623	11,447,323	35%
130	Non-Mandated	Employee Benefits	22,348,499	9.5	11,154,171	11,194,328	50%
132	Mandated	Self Insur./ Commer. Ins.	12,181,327	0.8	1,548,635	10,632,692	87%
410	Mandated	Regional Svcs	15,168,525	124.0	4,718,973	10,449,552	69%
240	Required	Admin/Support	10,463,785	52.0	888,000	9,575,785	92%
921	Mandated	Laboratory Services	32,563,371	194.2	24,039,596	8,523,775	26%
412	Required	Admin/Support	19,310,574	29.8	10,967,118	8,343,456	43%
263	Mandated	Preventive Maintenance	8,331,873	57.5	30,537	8,301,336	99%
504	Mandated	Non-Asst Fd Stmp Eligib	33,294,939	158.0	25,280,485	8,014,454	24%
504	Mandated	63 General Assistance-Benefits	7,969,183	-	-	7,969,183	100%
263	Mandated	Corrective Maintenance	8,606,650	61.5	721,558	7,885,092	92%
246	Required	Admin/Support	20,172,824	69.0	12,507,933	7,664,891	38%

Schedule 2: Detail of General Fund Subsidies by Department and Budget Unit

Budget Unit	Mandate Status	Function/Program	FY 2006-07 Budget	Authorized Positions	Departmental Revenue	General Fund Subsidy	Percent General Fund
230	Mandated	Headquarters Patrol	17,145,962	112.0	10,470,397	6,675,565	39%
217	Mandated	Legal Aid Society	6,216,570	-	-	6,216,570	0%
412	Mandated	IMD/SNF/OBS	10,796,883	-	4,968,706	5,828,177	54%
217	Mandated	Court Facilities/Rule 810	5,773,327	-	-	5,773,327	0%
260	Required	Admin/Support	5,670,512	7.0	60,000	5,610,512	99%
414	Required	Admin/Support	5,578,275	42.1	75,385	5,502,890	99%
202	Required	Admin/Support	5,476,428	27.0	-	5,476,428	100%
921	Mandated	Diagnostic Imaging	20,751,712	134.9	15,319,752	5,431,960	26%
135	Non-Mandated	Fleet Maint & Repair	10,288,815	40.0	5,004,925	5,283,890	51%
230	Required	Admin/Support	14,971,114	68.0	9,687,405	5,283,709	35%
145	Required	Admin/Support	5,288,075	20.0	58,769	5,229,306	99%
119	Mandated	CJIC System	5,148,212	-	3,000	5,145,212	100%
412	Mandated	Jail MH	8,576,916	-	3,450,535	5,126,381	60%
417	Mandated	Adult Outpatient	6,423,366	17.5	1,449,778	4,973,588	77%
410	Mandated	CA Children's Svs	12,782,416	102.0	7,826,859	4,955,557	39%
145	Non-Mandated	Data Processing & Voice Communications Facilities	5,531,196	31.1	665,446	4,865,750	88%
921	Mandated	Therapy Services	18,503,689	79.0	13,660,171	4,843,518	26%
921	Mandated	Children's Shelter Program	18,412,791	157.9	13,593,066	4,819,725	26%
503	Non-Mandated	Tully Clinic	11,875,071	92.0	7,065,770	4,809,301	40%
921	Mandated	School-Linked Services	4,734,908	45.4	84,787	4,650,121	98%
418	Non-Mandated	Admin/Support	4,757,145	42.0	120,900	4,636,245	97%
417	Required	Business Division	5,930,677	24.5	1,306,655	4,624,022	78%
115	Mandated	Admin/Support	7,015,478	66.0	2,454,556	4,560,922	65%
263	Required	General Assistance Eligib	5,135,421	32.1	736,000	4,399,421	86%
504	Mandated	Sheriff's Jail Operations	4,388,259	36.0	-	4,388,259	100%
230	Mandated	Bldg. Clean/ Pest Control	10,931,464	64.0	6,636,432	4,295,032	39%
263	Mandated	Admin/Support	4,547,976	58.5	308,703	4,239,273	93%
107	Required	PDO Felony Trials	4,058,685	18.8	-	4,058,685	100%
204	Mandated	Food Service	5,720,566	23.0	1,759,348	3,961,218	69%
240	Mandated	General Fund Contracts	6,794,473	80.0	2,858,991	3,935,482	58%
502	Non-Mandated	Real Property Division	3,935,462	-	-	3,935,462	100%
115	Mandated	Fiscal Services	9,077,394	92.0	5,227,804	3,849,590	42%
110	Mandated	Adult Protective Services	5,613,254	21.0	1,796,000	3,817,254	68%
505	Mandated	Residential Services	7,248,630	60.9	3,452,477	3,796,153	52%
417	Mandated	Admin/Support	6,546,249	-	2,775,798	3,770,451	58%
204	Required	Work Furlough, Resi. Ctr.	7,525,508	65.0	3,856,448	3,669,060	49%
246	Non-Mandated	Community Clinics	4,731,633	36.0	1,085,000	3,646,633	77%
410	Mandated		3,478,724	1.0	-	3,478,724	100%

Schedule 2: Detail of General Fund Subsidies by Department and Budget Unit

Budget Unit	Mandate Status	Function/Program	FY 2006-07 Budget	Authorized Positions	Departmental Revenue	General Fund Subsidy	Percent General Fund
505	Mandated	LPS Conservatorship	6,682,806	57.1	3,294,927	3,387,878	51%
412	Mandated	Specialized Outpatient	22,284,764	52.0	18,941,977	3,342,788	15%
414	Mandated	CUST Pharmacy	3,255,985	12.6	-	3,255,985	100%
145	Mandated	08 Network Infrastructure	3,277,199	9.0	45,000	3,232,199	99%
921	Mandated	Ambulatory Care	12,147,777	117.9	8,967,980	3,179,797	26%
503	Mandated	Adoptions Asst Prog-Benefits	21,351,422	-	18,211,055	3,140,367	15%
412	Mandated	Pharmacy	18,314,554	21.0	15,193,458	3,121,096	17%
240	Non-Mandated	Program Unit	4,391,022	33.5	1,352,755	3,038,267	69%
505	Non-Mandated	Senior Nutrition Program	6,180,552	7.0	3,142,701	3,037,851	49%
119	Non-Mandated	Children's Health Initiative	3,000,000	-	-	3,000,000	100%
240	Mandated	Classification	4,897,966	38.0	1,939,186	2,958,780	60%
190	Mandated	Law Dispatching	3,836,440	26.0	878,220	2,958,220	77%
921	Mandated	Medical Records	11,074,299	126.3	8,175,495	2,898,804	26%
921	Mandated	OPD Specialty Services	11,062,188	92.0	8,166,554	2,895,634	26%
412	Mandated	Residential Treatment	7,144,825	-	4,256,556	2,888,269	40%
246	Mandated	Adult Investigation Unit	5,254,151	44.0	2,386,995	2,867,156	55%
414	Mandated	CUST Physicians	2,784,895	10.3	-	2,784,895	100%
503	Non-Mandated	Reserve-Out-of-Home Plac	2,740,247	-	-	2,740,247	100%
263	Mandated	Lifecycle/Backlog—LIIP	5,000,000	12.0	2,259,844	2,740,156	55%
120	Required	Admin/Support	2,643,379	15.0	-	2,643,379	100%
412	Mandated	State Hospital	4,349,651	-	1,749,886	2,599,765	60%
140	Mandated	Ballot Layout	3,437,296	5.0	937,501	2,499,795	73%
504	Mandated	64 CalWORKs-Benefits	111,844,805	-	109,392,718	2,452,087	2%
263	Mandated	Capital Prog. Renovation	4,463,771	10.9	2,058,181	2,405,590	60%
921	Mandated	Perioperative Services	9,142,863	10.5	6,749,631	2,393,232	26%
190	Mandated	9-1-1 & Non-Emerg. Calls	2,743,863	18.5	352,405	2,391,458	87%
120	Mandated	Litigation	2,840,238	15.5	501,580	2,338,658	82%
204	Mandated	PDO SJPX/ERC/859	3,041,328	12.0	705,548	2,335,780	77%
240	Non-Mandated	Operations/Industries	2,445,601	23.0	155,000	2,290,601	94%
202	Mandated	Misdemeanor Pros	4,200,413	24.0	1,918,224	2,282,189	54%
410	Non-Mandated	Pandemic Flu (One-Time)	2,268,475	-	-	2,268,475	100%
114	Required	Admin/Support	2,256,963	20.0	-	2,256,963	100%
263	Non-Mandated	Capital Prog.-New Constr.	5,138,715	11.0	2,933,181	2,205,534	60%
135	Non-Mandated	Fueling Services	4,251,795	2.0	2,068,257	2,183,538	51%
921	Mandated	14 Respiratory Care	8,267,335	62.1	6,103,281	2,164,054	26%
110	Mandated	Disburse/Cost Mgmt	3,349,792	27.0	1,198,000	2,151,792	64%
202	Mandated	Sexual Assault Team	3,968,122	21.5	1,841,375	2,126,747	54%
504	Mandated	Medi-Cal Eligibility	71,719,127	558.0	69,607,143	2,111,984	3%

Schedule 2: Detail of General Fund Subsidies by Department and Budget Unit

Budget Unit	Mandate Status	Function/Program	FY 2006-07 Budget	Authorized Positions	Departmental Revenue	General Fund Subsidy	Percent General Fund
230	Mandated	Records	6,047,082	62.0	4,001,120	2,045,962	34%
240	Mandated	Administrative Booking	3,368,361	38.0	1,333,590	2,034,771	60%
202	Mandated	North County Pros	3,536,789	19.0	1,607,864	1,928,925	55%
921	Mandated	East Valley Clinic	7,313,756	69.9	5,399,310	1,914,446	26%
107	Mandated	Budget and Analysis	1,913,707	12.0	-	1,913,707	100%
130	Mandated	HR Ops.-Recruitment	1,871,270	15.7	-	1,871,270	100%
190	Mandated	Medical Dispatching	2,674,498	18.0	822,684	1,851,814	69%
417	Mandated	Medical Services	2,575,913	21.0	747,121	1,828,792	71%
120	Mandated	Transactional & Gen Govt	2,590,506	13.0	770,045	1,820,461	70%
204	Mandated	PDO Investigation	3,286,920	25.5	1,467,590	1,819,330	55%
132	Mandated	Unemployment Insurance	1,909,143	0.5	118,619	1,790,524	100%
921	Mandated	Food Services	6,726,853	59.1	4,966,035	1,760,818	26%
115	Required	Admin/Support	3,562,894	23.0	1,809,870	1,753,024	49%
262	Required	Admin/Support	1,745,802	14.5	-	1,745,802	100%
503	Non-Mandated	Status Offen Sys Contracts	1,733,020	-	-	1,733,020	100%
115	Mandated	Assessment Services	3,404,121	44.0	1,712,918	1,691,203	50%
202	Mandated	Narcotics	3,967,214	25.0	2,276,527	1,690,687	43%
106	Required	Admin/Support	1,677,553	6.0	-	1,677,553	100%
204	Mandated	PDO Juvenile Cases	2,287,729	9.0	619,161	1,668,568	73%
145	Non-Mandated	MailRetention/Pony	1,889,901	5.0	227,685	1,662,216	88%
210	Mandated	Jail Unit	1,661,661	11.0	-	1,661,661	100%
202	Mandated	Burglary, Assault, Theft	3,572,734	21.0	1,940,946	1,631,788	46%
202	Mandated	Motions, Writs, & Appeals	2,136,202	11.0	516,686	1,619,516	76%
145	Non-Mandated	Printing Services	1,957,948	11.5	348,445	1,609,503	82%
246	Non-Mandated	Adult Court Unit	1,606,523	15.0	-	1,606,523	100%
107	Non-Mandated	Human Relations	1,947,771	16.0	342,000	1,605,771	84%
505	Mandated	In-Home Supportive Svcs	9,385,717	79.9	7,801,429	1,584,288	17%
410	Mandated	Disease Control/Surv.	1,979,527	15.0	402,507	1,577,020	80%
412	Mandated	Adult/Older Inpatient	2,716,160	-	1,140,281	1,575,879	58%
132	Mandated	Medical & Disab. Program	1,974,272	3.9	403,800	1,570,472	80%
120	Mandated	Workers Compensation	2,055,897	12.0	500,664	1,555,233	76%
130	Mandated	HR Ops.-Records	1,969,065	5.1	419,233	1,549,832	83%
410	Mandated	TB Clinic	2,591,585	24.0	1,049,285	1,542,300	60%
412	Mandated	Day Rehabilitation	4,479,222	-	2,951,673	1,527,549	34%
202	Mandated	Juvenile Wards	3,089,820	17.0	1,571,242	1,518,578	49%
204	Mandated	ADO SJ Terraine/	1,917,556	7.0	402,868	1,514,688	79%
921	Mandated	Cardiovascular Services	5,722,675	18.1	4,224,710	1,497,965	26%
202	Mandated	Family Violence	3,435,347	21.0	1,940,946	1,494,401	44%

Schedule 2: Detail of General Fund Subsidies by Department and Budget Unit

Budget Unit	Mandate Status	Function/Program	FY 2006-07 Budget	Authorized Positions	Departmental Revenue	General Fund Subsidy	Percent General Fund
921	Mandated	Moorpark Primary Care	7,645,542	65.3	6,164,211	1,481,331	19%
412	Mandated	JPD Hall/Ranches	3,389,855	30.0	1,914,172	1,475,683	44%
202	Mandated	Major Cases	3,452,535	21.5	1,987,159	1,465,376	42%
210	Mandated	Supervision Unit	1,552,703	12.5	94,000	1,458,703	94%
246	Mandated	Juvenile Ranches	12,434,011	97.0	11,020,302	1,413,709	11%
210	Mandated	Court Unit	1,398,392	10.5	-	1,398,392	100%
202	Mandated	Career Criminal	2,922,304	16.5	1,525,029	1,397,275	48%
293	Mandated	Investigation	1,521,150	9.7	151,500	1,369,650	90%
412	Mandated	Residential CTF	9,954,506	-	8,585,257	1,369,249	14%
119	Non-Mandated	State Budget Impacts	1,367,095	-	-	1,367,095	100%
204	Mandated	PDO Special Trials	1,861,743	7.0	515,273	1,346,471	72%
503	Non-Mandated	Group Hom Supl-\$1,000	1,338,000	-	-	1,338,000	100%
110	Mandated	General Accounting	2,066,028	15.4	739,000	1,327,028	64%
246	Mandated	Adult Supervision Unit	9,244,091	84.0	7,926,288	1,317,803	14%
204	Mandated	PDO Drug Court Cases	1,829,245	7.0	515,273	1,313,972	72%
130	Non-Mandated	Employee Dev.-Educ. Asst.	1,313,652	2.0	-	1,313,652	100%
135	Non-Mandated	Depreciation	2,500,000	-	1,216,108	1,283,892	51%
410	Mandated	Nutrition /Wellness/WIC	5,051,999	44.0	3,769,458	1,282,541	25%
140	Mandated	Precinct Ops./ Outreach	2,586,728	9.0	1,309,514	1,277,214	49%
246	Non-Mandated	Adult Assessment Unit	1,273,296	12.0	-	1,273,296	100%
246	Non-Mandated	Adult Screening Unit	1,264,752	11.0	-	1,264,752	100%
140	Required	Admin/Support	1,914,693	14.0	663,882	1,250,811	65%
410	Mandated	PH Laboratory	1,490,882	10.0	241,000	1,249,882	84%
202	Non-Mandated	Juvenile Dependency Rep	4,010,987	24.0	2,770,694	1,240,293	31%
921	Mandated	Protective Services	4,731,568	56.6	3,493,035	1,238,533	26%
140	Mandated	Warehouse Operations	1,923,885	6.0	692,728	1,231,157	64%
410	Mandated	HIV/ AIDS Program	5,543,389	21.0	4,314,286	1,229,103	22%
417	Mandated	Perinatal Services	2,546,911	9.5	1,336,660	1,210,251	48%
412	Mandated	Call Center	1,754,854	13.5	552,013	1,202,841	69%
418	Non-Mandated	Children's Health Initiative	2,877,688	30.0	1,675,740	1,201,948	42%
504	Mandated	AFDC Foster Care Eligibility	4,907,971	41.0	3,707,012	1,200,959	24%
190	Required	Admin/ Support	1,195,600	10.0	-	1,195,600	100%
202	Mandated	Gangs	2,486,737	14.0	1,293,964	1,192,773	48%
503	Non-Mandated	Child Placement Services	1,190,194	-	-	1,190,194	100%
130	Mandated	HR Ops.-Classification	1,184,464	12.4	-	1,184,464	100%
417	Mandated	Adolescent Services	3,686,900	17.5	2,517,904	1,168,996	32%
202	Mandated	Preliminary Hearings	2,277,590	12.0	1,109,112	1,168,478	51%
230	Mandated	Westside Patrol-Unincorp	2,936,714	10.0	1,782,335	1,154,379	39%

Schedule 2: Detail of General Fund Subsidies by Department and Budget Unit

Budget Unit	Mandate Status	Function/Program	FY 2006-07 Budget	Authorized Positions	Departmental Revenue	General Fund Subsidy	Percent General Fund
505	Non-Mandated	Probate Conservatorship	2,431,335	21.3	1,277,073	1,154,262	47%
246	Mandated	Drug Treatment Court	1,319,992	12.0	175,690	1,144,302	87%
204	Mandated	PDO Outlying Courts	1,575,050	6.0	441,663	1,133,388	72%
810	Mandated	Mgmt/ Consult Fees	1,133,875	-	3,000	1,130,875	100%
114	Mandated	Indexing	1,100,136	14.0	-	1,100,136	100%
230	Mandated	Investigative Services	6,624,494	41.0	5,529,606	1,094,888	17%
417	Mandated	SACPA Services	4,900,634	13.5	3,817,078	1,083,558	22%
118	Mandated	Office and Technology	1,103,153	9.0	21,000	1,082,153	98%
921	Mandated	Valley Health Center	15,135,884	132.8	14,064,671	1,071,213	7%
107	Non-Mandated	Special Projects	1,046,270	2.0	-	1,046,270	100%
202	Mandated	Public Assistance Fraud	4,553,825	28.0	3,507,715	1,046,110	23%
204	Mandated	ADO SJ Felonies	1,332,957	5.0	287,763	1,045,194	78%
417	Non-Mandated	Dependency Drug Trt Crt	1,236,093	5.0	192,845	1,043,248	84%
503	Mandated	Ser Emot Distur Chldrn-Ben	1,711,872	-	684,749	1,027,123	60%
410	Mandated	Epidemiology & Data Mgt	1,126,933	8.0	101,125	1,025,808	91%
921	Mandated	Dental Services	3,886,579	24.9	2,869,230	1,017,349	26%
132	Mandated	Occup. Safety Env. Compl.	1,258,873	7.0	259,328	999,545	79%
246	Mandated	Substance Abuse Unit	1,600,103	16.5	611,115	988,988	62%
106	Non-Mandated	COB Special Appropriations	986,129	-	-	986,129	100%
130	Non-Mandated	Employee Dev.-Training	1,175,574	7.0	205,000	970,574	83%
202	Mandated	South County Prosecutn	1,980,477	11.0	1,016,686	963,791	49%
260	Mandated	Fire Marshal	1,279,346	1.0	320,000	959,346	75%
130	Mandated	EO-Non-Discrim. Program	992,824	15.7	57,456	935,368	94%
202	Mandated	Major Fraud	2,044,002	12.0	1,109,112	934,890	46%
107	Non-Mandated	Legislative Programs	931,725	4.0	-	931,725	100%
503	Non-Mandated	Dom Viol Advoc/ Food Bank	989,481	-	66,758	922,723	90%
412	Non-Mandated	Supplemental RCF Beds	910,634	-	-	910,634	100%
120	Mandated	Juvenile Dependency	5,452,128	32.5	4,545,060	907,068	17%
204	Mandated	PDO SJ Misdemeanors	1,488,279	8.0	588,884	899,395	60%
412	Mandated	24-hour Care	1,456,799	13.0	557,567	899,232	62%
118	Mandated	Medical	898,848	7.0	-	898,848	100%
263	Mandated	Prop. Acquis. & Disposit.	887,794	4.7	-	887,794	100%
410	Mandated	PH Pharmacy	4,067,324	9.5	3,189,664	877,660	22%
190	Mandated	Comm. Infrast. Inst. & Maint.	935,128	6.0	94,186	840,942	90%
410	Mandated	Immunization Prog	2,912,542	19.5	2,077,161	835,381	29%
202	Mandated	Complaints	1,845,735	11.0	1,016,686	829,048	45%
135	Non-Mandated	County-wide Overhead	1,585,319	-	771,168	814,151	51%
410	Non-Mandated	Emergency Medical Svs	2,392,683	13.0	1,583,179	809,504	34%

Schedule 2: Detail of General Fund Subsidies by Department and Budget Unit

Budget Unit	Mandate Status	Function/Program	FY 2006-07 Budget	Authorized Positions	Departmental Revenue	General Fund Subsidy	Percent General Fund
410	Mandated	PACE Clinic	3,022,902	17.5	2,218,213	804,689	27%
110	Required	Admin/Support	1,225,332	7.0	424,000	801,332	65%
107	Mandated	Emergency Services	969,692	7.0	184,414	785,278	81%
120	Mandated	Personnel and Labor	826,938	4.0	57,645	769,293	93%
130	Required	Admin/Support	2,167,028	16.0	1,410,462	756,566	35%
106	Mandated	Mtg Mgt-BOS & Cmtees	736,204	6.5	-	736,204	100%
921	Mandated	Urgent Care	2,781,647	15.5	2,053,524	728,123	26%
118	Mandated	Institutional	744,309	6.0	16,742	727,567	98%
504	Mandated	Food Stamp Employ & Trn	1,705,506	14.0	987,628	717,878	42%
204	Mandated	ADO SJ Homicide	878,346	3.0	172,658	705,688	80%
503	Non-Mandated	Adoptions Services	4,499,053	37.0	3,799,193	699,860	16%
410	Mandated	Diabetes Center	799,174	5.0	100,000	699,174	87%
410	Mandated	Tuberculosis	1,735,365	12.0	1,037,435	697,930	40%
921	Mandated	Hospital Social Services	2,664,606	23.7	1,967,120	697,486	26%
418	Required	Admin/Support	844,026	9.0	150,000	694,026	82%
106	Non-Mandated	Management Audit	871,082	-	187,213	683,869	79%
202	Mandated	Real Estate Fraud	1,467,047	8.5	785,621	681,426	46%
106	Mandated	Records Management	679,573	6.0	-	679,573	100%
132	Mandated	Loss Prevention	776,917	1.0	98,771	678,146	87%
107	Non-Mandated	Public Affairs	669,337	6.0	-	669,337	100%
412	Non-Mandated	Gateway	922,781	9.0	267,252	655,529	71%
190	Mandated	Local Govt. Dispatching	747,343	5.0	94,164	653,179	87%
503	Non-Mandated	Family Strength Based Svcs	650,000	-	-	650,000	100%
417	Non-Mandated	Gateway	647,929	-	-	647,929	100%
120	Mandated	Hospital Services	646,785	3.5	-	646,785	100%
202	Mandated	High Tech Crimes	3,203,889	6.5	2,563,111	640,778	20%
135	Required	Admin/Support	1,220,375	4.0	593,643	626,732	51%
114	Mandated	Archiving	620,221	8.0	-	620,221	100%
204	Mandated	ADO Palo Alto Le	792,291	3.0	172,658	619,633	78%
417	Non-Mandated	Employee Assistance	617,372	5.0	-	617,372	100%
106	Mandated	Mtg Mgt-Board Ops	679,573	6.0	66,682	612,891	90%
263	Mandated	Landscp. Maint./ Fire Prot.	608,667	7.0	-	608,667	100%
410	Mandated	MCAH	1,376,298	10.0	769,135	607,163	44%
921	Mandated	South Valley Clinic	2,312,032	23.0	1,706,835	605,197	26%
107	Non-Mandated	Veterans Services	725,068	6.0	120,000	605,068	83%
145	Non-Mandated	Enterprise IT Planning	602,430	4.0	-	602,430	100%
112	Mandated	Unsecured Collections	1,327,912	10.0	728,904	599,008	45%
293	Mandated	Autopsy-Related	596,529	3.8	-	596,529	100%

Schedule 2: Detail of General Fund Subsidies by Department and Budget Unit

Budget Unit	Mandate Status	Function/Program	FY 2006-07 Budget	Authorized Positions	Departmental Revenue	General Fund Subsidy	Percent General Fund
412	Mandated	QI/Research	1,320,215	11.5	725,527	594,688	45%
106	Mandated	Mtg Mgt-Adv Brd & Cmtes	679,573	6.0	88,363	591,210	87%
202	Mandated	Consumer Protection	1,236,006	7.0	646,982	589,024	48%
503	Mandated	Emerg Asst Foster Care-Ben	1,951,803	-	1,366,262	585,541	30%
118	Non-Mandated	eProcurement	585,321	4.0	-	585,321	100%
246	Mandated	Juvenile Delinquency Serv.	9,569,846	76.0	8,989,075	580,771	6%
132	Required	Admin/Support	730,412	5.0	150,465	579,947	79%
202	Mandated	Community Prosecution	1,180,037	6.5	600,769	579,268	49%
202	Mandated	Forensic Mental Issues	1,180,037	6.5	600,769	579,268	49%
412	Mandated	Vocational Services	573,711	-	-	573,711	100%
210	Required	Admin/Support	565,198	4.0	-	565,198	100%
505	Non-Mandated	Public Administration	1,841,849	14.0	1,277,571	564,278	31%
118	Required	Admin/Support	560,039	5.0	-	560,039	100%
230	Mandated	Special Operations	1,462,214	10.0	904,538	557,676	38%
240	Non-Mandated	Inmate Visits	627,060	5.0	72,179	554,881	88%
140	Mandated	Voter Registration	759,426	5.0	207,129	552,297	73%
130	Mandated	Labor Rel.s-Negotiations	544,001	4.3	-	544,001	100%
204	Mandated	PDO Research	719,140	3.0	176,387	542,753	75%
246	Non-Mandated	Restorative Justice/Victims	1,959,421	18.0	1,416,920	542,501	28%
410	Mandated	Tobacco Control	1,410,621	6.5	873,905	536,716	38%
230	Mandated	Civil	1,931,363	18.0	1,402,128	529,235	27%
412	Non-Mandated	Rep Payee	614,863	7.0	90,000	524,863	85%
503	Non-Mandated	Mental Health Patch	519,095	-	-	519,095	100%
112	Required	Admin/Support	1,864,936	11.0	1,348,837	516,099	28%
293	Mandated	Documentation	536,877	3.4	24,437	512,440	96%
115	Mandated	Exemptions	919,434	11.0	411,781	507,653	55%
410	Mandated	Adolescent Family Life	1,874,672	18.0	1,374,051	500,621	27%
110	Mandated	Internal Audit	848,461	7.0	355,000	493,461	58%
145	Non-Mandated	Geographic Info Svcs.	490,103	3.0	-	490,103	100%
110	Mandated	Property Tax Apportion	1,008,585	7.0	522,000	486,585	48%
168	Non-Mandated	Homeless Concerns	935,478	2.0	455,441	480,037	51%
921	Mandated	Silvercreek Clinic	1,785,177	11.9	1,317,890	467,287	26%
202	Mandated	Government Integrity	722,577	4.5	265,917	456,660	63%
503	Mandated	State Fam Preserv-Perm Trf	1,363,000	-	907,039	455,961	33%
132	Non-Mandated	Wellness Program	511,087	1.5	63,886	447,201	87%
240	Mandated	Internal Affairs	732,487	4.0	290,004	442,483	60%
204	Mandated	PDO Domestic Violence	663,145	3.0	220,831	442,314	67%
504	Non-Mandated	Gen Asst Vocational Prog	680,458	5.0	238,586	441,872	65%

Schedule 2: Detail of General Fund Subsidies by Department and Budget Unit

Budget Unit	Mandate Status	Function/Program	FY 2006-07 Budget	Authorized Positions	Departmental Revenue	General Fund Subsidy	Percent General Fund
202	Mandated	Drug Treatment Court Svc	941,827	5.5	508,343	433,484	46%
112	Non-Mandated	Tax Collect and Apportion	430,413	10.0	-	430,413	100%
263	Mandated	Safety	430,000	3.0	-	430,000	100%
246	Mandated	Adult Train./Background	1,038,207	6.0	614,375	423,832	41%
417	Non-Mandated	Justice Services	977,239	6.0	558,115	419,124	43%
414	Non-Mandated	04 MIOCR	413,360	3.0	-	413,360	100%
417	Mandated	Methadone Services	2,801,205	26.0	2,389,057	412,148	15%
410	Mandated	Disaster Med Svs	4,652,728	20.0	4,241,010	411,718	9%
202	Mandated	Elder Fraud	871,133	5.0	462,130	409,003	47%
262	Mandated	Animal Field Services	522,254	5.0	120,000	402,254	77%
246	Non-Mandated	Admin. Monitoring Team	401,024	5.5	-	401,024	100%
503	Non-Mandated	Foster Parent Child Care	400,000	-	-	400,000	100%
262	Mandated	Animal Shelter Services	729,662	5.0	345,064	384,598	53%
202	Mandated	Environment Crimes	800,439	4.5	415,917	384,522	48%
260	Mandated	Clean Water Program	379,779	1.3	-	379,779	100%
140	Mandated	Candidate Services	527,449	4.5	150,858	376,591	71%
412	Non-Mandated	Self-Help	375,430	-	-	375,430	100%
410	Non-Mandated	HIV Testing (One-Time)	375,000	-	-	375,000	100%
130	Mandated	Labor Rel.-Grievance	370,190	2.6	-	370,190	100%
217	Non-Mandated	Unmet Civil Legal Needs	370,080	-	-	370,080	0%
230	Mandated	Warrants & Fugitives	1,550,132	10.0	1,180,580	369,552	24%
130	Mandated	Exec. Mgt.-Exec. Recruiting	367,277	2.8	-	367,277	100%
410	Mandated	CHDP	2,270,919	15.5	1,904,503	366,416	16%
130	Mandated	Labor Rel.-Disciplinary	360,531	2.8	-	360,531	100%
190	Non-Mandated	Emergency Medical Disp.	598,843	4.0	240,791	358,052	60%
120	Mandated	Health Services	344,690	2.0	-	344,690	100%
230	Mandated	Internal Affairs	875,173	5.0	531,155	344,018	39%
115	Mandated	Assessment Standards	644,940	7.0	303,725	341,215	53%
503	Non-Mandated	Inten Up-Front Svcs Contr	338,322	-	-	338,322	100%
190	Mandated	Fire Dispatching	1,730,420	11.5	1,394,589	335,831	19%
204	Mandated	ADO SJ Investigation	507,544	3.0	172,658	334,886	66%
293	Required	Admin/Support	328,091	2.1	-	328,091	100%
414	Non-Mandated	CHSH Nsg/Clinical	792,843	4.8	467,777	325,066	41%
246	Mandated	Internal Affairs Unit	515,535	4.0	196,894	318,641	62%
503	Mandated	Kin Gap Prog-Fed-Benefits	2,443,138	-	2,125,530	317,608	13%
246	Non-Mandated	Informal Juv./Traffic Court	484,877	5.0	169,910	314,967	65%
921	Mandated	Rehap/Neuro Clinic	1,189,496	8.2	878,134	311,362	26%
921	Mandated	Fair Oaks Clinic	1,152,831	10.4	851,066	301,765	26%

Schedule 2: Detail of General Fund Subsidies by Department and Budget Unit

Budget Unit	Mandate Status	Function/Program	FY 2006-07 Budget	Authorized Positions	Departmental Revenue	General Fund Subsidy	Percent General Fund
410	Non-Mandated	Learning/Achievement Ctr	1,433,944	5.5	1,132,234	301,710	21%
168	Required	Admin/Support	1,004,837	3.3	703,334	301,503	30%
130	Non-Mandated	EO Silicon Valley Center	296,165	0.1	-	296,165	100%
202	Mandated	Probation Viol Calendar	662,374	4.0	369,704	292,670	44%
204	Mandated	PDO Mental Health Cases	523,113	2.0	240,818	282,295	54%
503	Non-Mandated	Foster Home Licensing	1,133,455	10.0	853,614	279,841	25%
230	Mandated	Court Security	31,617,208	236.0	31,337,823	279,385	1%
246	Mandated	DNA Fingerprint-Prop. 69	450,120	7.0	171,911	278,209	62%
120	Mandated	Law & Justice	289,845	1.5	15,000	274,845	95%
120	Mandated	Conservatorships	2,062,548	14.5	1,788,180	274,368	13%
921	Mandated	Radiation Therapy	1,035,781	5.5	764,655	271,126	26%
262	Mandated	Pesticide Use Enforce.	1,237,372	8.0	968,167	269,205	22%
412	Mandated	School Day Treatment	3,525,811	-	3,257,309	268,502	8%
202	Mandated	Cold Case Invest & Pros	632,923	4.0	369,704	263,219	42%
921	Mandated	Outpatient Oncology	1,005,320	10.4	742,168	263,152	26%
107	Non-Mandated	Women's Policy/Programs	262,378	2.0	-	262,378	100%
414	Mandated	CUST Dental	260,396	2.8	-	260,396	100%
412	Non-Mandated	Drug Treatment Court	257,825	2.5	-	257,825	100%
202	Mandated	Lifer Hearings	576,955	3.5	323,491	253,464	44%
119	Non-Mandated	ECO Pass for Employees	250,000	-	-	250,000	100%
412	Mandated	Children's Shelter	1,088,563	10.0	838,834	249,729	23%
260	Mandated	Zoning Investigation	249,652	5.5	-	249,652	100%
130	Mandated	Labor Relations-Admin.	252,950	2.1	15,371	237,579	94%
263	Mandated	Emergency Ops. Support	234,670	1.3	-	234,670	100%
412	Mandated	Legal Advocacy	457,380	-	230,116	227,264	50%
190	Mandated	Radio Install & Repair	275,262	2.0	49,289	225,973	82%
202	Mandated	Innocence Project	547,503	3.5	323,491	224,012	41%
412	Mandated	Homeless Shelter	370,533	-	149,067	221,466	60%
921	Mandated	Moorpark Employee Hlth	842,423	6.5	621,911	220,512	26%
110	Mandated	Treasury	1,109,187	5.4	889,000	220,187	20%
504	Mandated	CalWORKS Subst Abuse	2,626,721	-	2,409,522	217,199	8%
202	Mandated	Regional Auto-Theft	491,535	3.0	277,278	214,257	44%
116	Required	Admin/Support	1,222,412	-	1,008,490	213,922	18%
410	Mandated	Black Infant Health	945,148	7.0	736,493	208,655	22%
503	Non-Mandated	Foster Parent \$50 Supl	204,000	-	-	204,000	100%
204	Mandated	PDO Probation Violations	261,432	1.0	58,796	202,636	78%
417	Non-Mandated	Homeless Project	202,120	2.0	-	202,120	100%
260	Mandated	Habitat Conservation Plan	1,049,400	-	849,400	200,000	19%

Schedule 2: Detail of General Fund Subsidies by Department and Budget Unit

Budget Unit	Mandate Status	Function/Program	FY 2006-07 Budget	Authorized Positions	Departmental Revenue	General Fund Subsidy	Percent General Fund
120	Non-Mandated	Health Services	344,692	2.0	144,800	199,892	58%
246	Non-Mandated	Special Programs Unit	1,399,123	13.0	1,201,811	197,312	14%
202	Mandated	Sex Offender Regis	379,598	2.0	184,852	194,746	51%
202	Mandated	Truancy Abatement	379,598	2.0	184,852	194,746	51%
203	Non-Mandated	Toxicology	1,382,110	10.0	1,192,386	189,724	14%
132	Mandated	Job Placement for Inj. Wkrs.	237,755	2.6	48,628	189,127	80%
246	Mandated	Juvenile Gang Unit	1,272,081	11.0	1,090,484	181,597	14%
505	Non-Mandated	Council on Aging	180,493	-	-	180,493	100%
921	Mandated	EEG Services	685,179	4.7	505,827	179,352	26%
140	Mandated	Training/Staff Dev.	557,642	3.0	378,711	178,931	32%
810	Mandated	Debt Service Mgmt	176,555	1.2	-	176,555	100%
112	Mandated	Tax Roll Control	1,191,816	10.0	1,017,148	174,668	15%
114	Mandated	Vital Records	693,800	8.5	520,000	173,800	25%
130	Non-Mandated	Employee Dev. Spec. Prgrm.	173,272	1.0	-	173,272	100%
418	Non-Mandated	Mobile Health Services	277,805	3.0	105,000	172,805	62%
202	Mandated	AIDS Litigation	401,881	2.5	231,065	170,816	43%
140	Mandated	Precinct Mapping	282,932	2.0	112,267	170,665	60%
410	Mandated	Steps	1,711,708	4.0	1,544,198	167,510	10%
119	Non-Mandated	Budget Data Processing	166,613	-	-	166,613	100%
204	Mandated	ADO SJ Paralegal	279,844	2.0	115,105	164,739	59%
204	Mandated	ADO Clerical	335,546	3.0	172,658	162,888	49%
263	Non-Mandated	Parking Patrol	162,042	2.0	-	162,042	100%
140	Mandated	Absentee Processing	1,847,493	3.5	1,685,803	161,690	9%
190	Mandated	Comm. Syst. Engr. & Design	168,122	1.0	9,407	158,715	94%
145	Mandated	Crim Just Info Control	1,459,206	6.0	1,300,837	158,369	11%
120	Non-Mandated	Law and Justice	166,220	1.0	9,150	157,070	95%
503	Mandated	Support & Therap Options	510,870	-	357,609	153,261	30%
230	Mandated	Coroner	375,582	2.0	227,946	147,636	39%
190	Mandated	FCC Licensing	155,279	1.0	8,689	146,590	94%
410	Non-Mandated	Violence Prevention	144,756	1.0	-	144,756	100%
503	Non-Mandated	Fos Home Supl for Sibl Grps	144,000	-	-	144,000	100%
263	Mandated	Environmental Compliance	140,000	1.0	-	140,000	100%
145	Mandated	HIPAA Security Officer	139,042	1.0	-	139,042	100%
412	Mandated	Family/Children Inpt.	224,472	-	90,306	134,166	60%
412	Non-Mandated	Supported Housing	134,007	-	-	134,007	100%
246	Mandated	Placement Unit	1,354,738	12.0	1,221,099	133,639	10%
203	Non-Mandated	Forensic Biology	2,045,016	15.0	1,914,799	130,217	6%
246	Mandated	Juvenile Court Unit	1,127,806	10.0	998,315	129,491	11%

Schedule 2: Detail of General Fund Subsidies by Department and Budget Unit

Budget Unit	Mandate Status	Function/Program	FY 2006-07 Budget	Authorized Positions	Departmental Revenue	General Fund Subsidy	Percent General Fund
262	Non-Mandated	U.C. Cooperative Extension	135,807	1.0	10,000	125,807	93%
414	Non-Mandated	CHSH Physicians	306,543	1.0	180,860	125,683	41%
132	Non-Mandated	Third-Part Subrogation	133,583	1.5	16,983	116,600	87%
260	Mandated	Geographical Info System	109,591	2.0	-	109,591	100%
202	Non-Mandated	Consumer Mediation	474,929	4.0	369,704	105,225	22%
503	Non-Mandated	Foster Parent Capacity Bldg	105,000	-	-	105,000	100%
132	Mandated	Workers Comp. Training	129,776	1.1	26,543	103,233	80%
260	Mandated	Williamson Act	102,023	2.1	-	102,023	100%
260	Mandated	Commission Support	101,714	2.4	-	101,714	100%
119	Non-Mandated	Firefighter Insurance	100,000	-	-	100,000	100%
135	Non-Mandated	Vehicle Procur./Disposal	192,190	2.0	93,490	98,700	51%
130	Non-Mandated	Intergovernmental Rel.	431,564	4.0	335,744	95,820	22%
260	Mandated	Code Enforcement Program	95,536	1.5	-	95,536	100%
246	Non-Mandated	Services to Bilingual Clients	94,838	-	-	94,838	100%
260	Non-Mandated	Viewshed Protection Study	191,376	2.0	96,593	94,783	50%
262	Mandated	Pest Exclusion	515,572	4.7	420,942	94,630	18%
203	Non-Mandated	Computer Forensics Lab	337,979	2.0	245,131	92,848	27%
190	Mandated	Information Systems Mgt.	109,811	1.0	18,434	91,377	83%
417	Non-Mandated	Prevention Services	2,320,566	8.0	2,229,497	91,069	4%
132	Mandated	Contract Insurance	103,144	0.8	13,113	90,031	87%
132	Mandated	Adjusters Training	112,418	0.6	22,993	89,425	80%
260	Mandated	Post Approval Monitoring	88,828	1.0	-	88,828	100%
203	Non-Mandated	Quality Assurance	132,397	1.0	44,495	87,902	66%
503	Non-Mandated	Child Development Prog	2,690,587	7.0	2,603,366	87,221	3%
204	Mandated	ADO Palo Alto CI	259,647	3.0	172,658	86,989	34%
107	Mandated	Integrated Pest Mgmt	138,838	1.0	53,787	85,051	61%
204	Mandated	ADO Palo Alto In	137,660	1.0	57,552	80,107	58%
262	Mandated	Device Inspection	551,863	5.6	472,400	79,463	14%
417	Mandated	Residential Detox	598,497	-	521,141	77,356	13%
412	Non-Mandated	Suicide Hot-Line	76,908	-	-	76,908	100%
503	Mandated	Foster Home Recruitment	200,000	-	124,810	75,190	38%
120	Mandated	Social Services	166,220	1.0	92,062	74,158	45%
260	Mandated	Proj./Prog Implementation	174,750	2.6	102,000	72,750	42%
203	Non-Mandated	Firearms	446,605	3.3	376,656	69,949	16%
263	Mandated	Emergency Biohealth	68,803	0.5	-	68,803	100%
112	Mandated	Secured Collections	1,285,817	11.0	1,218,030	67,786	5%
263	Non-Mandated	Cafeteria Contract Mgt.	67,546	0.3	-	67,546	100%
262	Mandated	Various Agriculture	128,893	0.8	63,141	65,752	51%

Schedule 2: Detail of General Fund Subsidies by Department and Budget Unit

Budget Unit	Mandate Status	Function/Program	FY 2006-07 Budget	Authorized Positions	Departmental Revenue	General Fund Subsidy	Percent General Fund
203	Non-Mandated	Chemistry	765,403	6.0	703,890	61,513	8%
118	Mandated	Property Disposal	91,250	1.0	30,375	60,875	67%
230	Mandated	Parks Patrol	152,259	1.0	92,408	59,851	39%
203	Non-Mandated	Latent Prints & Trace	550,941	4.4	494,792	56,149	10%
203	Non-Mandated	Video & Audio Photo	188,763	2.0	133,689	55,074	29%
119	Non-Mandated	Mother's Milk Bank	53,385	-	-	53,385	100%
204	Mandated	ADO Palo Alto Pa	108,583	1.0	57,552	51,030	47%
119	Non-Mandated	Unincorp Library Service	51,000	-	-	51,000	100%
119	Non-Mandated	Neighborhood Lighting	50,000	-	-	50,000	100%
202	Mandated	DNA Collection Compl	141,388	1.0	92,426	48,962	35%
130	Non-Mandated	EO Hands On/Diversity	48,875	0.1	-	48,875	100%
119	Non-Mandated	Firefighter Training	45,500	-	-	45,500	100%
246	Non-Mandated	Juvenile Diversion Services	251,322	2.0	207,537	43,785	17%
130	Mandated	HR Ops.-Oversight	43,632	0.4	-	43,632	100%
262	Mandated	Pest Mgmt/Control	696,021	7.0	652,460	43,561	6%
417	Non-Mandated	Health Realization	572,893	4.0	531,558	41,335	7%
120	Non-Mandated	Social Services	166,220	1.0	127,062	39,158	24%
130	Mandated	Exec. Mgt.-Appeals	38,426	0.2	-	38,426	100%
412	Non-Mandated	Suicide Prevention	145,686	1.0	108,124	37,562	26%
203	Non-Mandated	Evidence & Property	258,133	3.0	221,371	36,762	14%
412	Mandated	Disaster Response	36,716	0.3	-	36,716	100%
260	Mandated	Surveying of Co Projects	35,456	0.5	-	35,456	100%
263	Non-Mandated	Event Set-Up/Furn. Moves	35,000	0.5	-	35,000	100%
230	Non-Mandated	Canine Unit	81,040	-	46,848	34,192	42%
230	Non-Mandated	Reserves/Community Svcs	164,177	-	131,088	33,089	20%
112	Mandated	Accounting	1,567,396	13.0	1,535,281	32,116	2%
130	Non-Mandated	EO Employment Plan	29,206	0.2	-	29,206	100%
130	Non-Mandated	EO DBE Program	29,206	0.2	-	29,206	100%
246	Non-Mandated	APA/CET/YEA	568,352	5.0	539,805	28,547	5%
260	Mandated	Grading Violation Invest	27,268	0.6	-	27,268	100%
260	Mandated	Subdivision Map	26,395	0.5	-	26,395	100%
130	Mandated	EO-Confidential Records	26,202	0.2	-	26,202	100%
203	Non-Mandated	Question Documents	178,812	1.3	153,773	25,039	14%
190	Non-Mandated	Countywide 9-1-1 Coord.	60,273	0.5	37,000	23,273	39%
132	Non-Mandated	Emergency Response Team	25,568	-	3,250	22,318	87%
260	Mandated	Monument Preservation	19,270	0.3	-	19,270	100%
262	Mandated	Weights & Measures	41,964	0.4	25,100	16,864	40%
130	Mandated	Labor Rel.-Drug and Alcohol	30,149	0.2	13,732	16,417	54%

Schedule 2: Detail of General Fund Subsidies by Department and Budget Unit

Budget Unit	Mandate Status	Function/Program	FY 2006-07 Budget	Authorized Positions	Departmental Revenue	General Fund Subsidy	Percent General Fund
112	Mandated	Payment Processing	575,694	5.0	562,831	12,863	2%
260	Mandated	Record of Survey	12,042	0.2	-	12,042	100%
119	Non-Mandated	St. Francis Animal Shelter	9,980	-	-	9,980	100%
130	Mandated	Benefits Administration	236,916	1.0	228,482	8,434	4%
412	Mandated	CalWORKs Outpatient	621,789	6.0	613,689	8,100	1%
417	Mandated	HIV Services	293,771	2.0	285,967	7,804	3%
240	Non-Mandated	Assignment Officer	125,412	1.0	120,606	4,806	4%
504	Mandated	Kin Gap Prog-Federal	114,985	1.0	110,392	4,593	4%
260	Mandated	Corner Records	4,285	-	-	4,285	100%
260	Mandated	Monument Bond Check	4,000	-	-	4,000	100%
260	Mandated	Engineering Plan Check	323,827	4.5	320,000	3,827	1%
414	Non-Mandated	CHSH Pharmacy	8,800	-	5,192	3,608	41%
262	Mandated	Quantity Control Insp.	197,943	2.0	194,600	3,343	2%
410	Non-Mandated	Lead Poisoning Control	443,764	3.0	440,803	2,961	1%
260	Mandated	City Annexations	21,945	0.5	20,874	1,071	5%
260	Mandated	LAFCO Annexations	20,108	0.3	19,126	982	5%
417	Mandated	CalWORKs	2,639,987	3.0	2,639,413	574	0%
115	Mandated	Prior Yr State-City Loans	9,931,166	49.0	9,931,166	-	0%
119	Mandated	Environ Health Funding	-	-	-	-	100%
168	Non-Mandated	Affordable Housing	796,676	1.0	154,776	-	0%
168	Non-Mandated	HOME Invest Partner	1,654,109	0.5	1,654,109	-	0%
168	Non-Mandated	MCC/Housing Bond	142,230	0.6	142,291	-	0%
168	Non-Mandated	Down Payment Assist	514,092	0.4	514,092	-	0%
168	Non-Mandated	Single-Family Rehab	2,624,776	1.3	2,624,776	-	0%
168	Non-Mandated	Comm Development	1,896,756	2.9	1,999,501	-	0%
190	Mandated	Training & Staff. Dev.	180,819	1.5	180,819	-	0%
190	Mandated	Data Management	277,813	2.0	277,813	-	0%
202	Mandated	Anti-Drug Abuse Enforce	473,104	2.0	473,104	-	0%
202	Mandated	Asset Forfeiture	435,567	2.5	435,567	-	0%
202	Mandated	Child Sexual Assault	180,925	3.0	180,925	-	0%
202	Mandated	Insurance Fraud	3,573,798	18.0	3,573,798	-	0%
202	Mandated	Restitution Services	165,710	2.0	165,710	-	0%
202	Mandated	Safe Neighborhoods Proj	238,210	1.0	238,210	-	0%
202	Mandated	Victim Witness Services	1,719,855	-	1,719,855	-	0%
203	Required	Admin/Support	843,360	7.0	843,360	-	0%
204	Non-Mandated	Record Expungement	243,156	2.0	243,156	-	0%
210	Non-Mandated	Court Contract	424,807	4.5	424,807	-	0%
210	Non-Mandated	SATTA (Prop. 36) Funding	156,036	2.0	156,036	-	0%

Schedule 2: Detail of General Fund Subsidies by Department and Budget Unit

Budget Unit	Mandate Status	Function/Program	FY 2006-07 Budget	Authorized Positions	Departmental Revenue	General Fund Subsidy	Percent General Fund
230	Non-Mandated	Air Support Unit	219,657	-	219,657	-	0%
230	Non-Mandated	Westside Patrol-Cities	11,849,485	75.0	11,849,485	-	0%
230	Non-Mandated	Transit Patrol	3,528,242	19.0	3,528,242	-	0%
230	Non-Mandated	Parks Patrol	862,801	6.0	862,801	-	0%
240	Non-Mandated	Other IWF Positions	1,903,045	-	1,903,045	-	0%
246	Non-Mandated	Comm.-Based Aftercare	1,320,786	4.0	1,320,786	-	0%
246	Non-Mandated	Multi-Agency Assmt. Ctr.	611,571	3.0	611,571	-	0%
246	Mandated	Juvenile Screening Unit	1,107,756	10.0	1,107,756	-	0%
246	Mandated	Recovery Services Unit	1,604,054	15.0	1,604,054	-	0%
263	Non-Mandated	Reimb. Maint.-Client Depts.	706,673	3.0	706,673	-	0%
263	Non-Mandated	Energy Conservation	-	-	-	-	0%
263	Non-Mandated	Fuel Cell Energy Project	2,883,376	-	2,883,376	-	0%
412	Mandated	Wraparound	12,771,954	-	12,771,954	-	0%
412	Mandated	Managed Care	3,637,515	2.0	3,637,515	-	0%
412	Mandated	Mental Hlth Svs Act	1,092,073	8.0	1,092,073	-	0%
417	Non-Mandated	BASN	910,884	-	910,884	-	0%
417	Mandated	Drug Testing (SAITA)	365,346	-	365,346	-	0%
503	Non-Mandated	Chld Trst Fd-Abuse Prev Contr	509,496	-	509,496	-	0%
503	Non-Mandated	Differential Response Path One	485,924	-	485,924	-	0%
503	Non-Mandated	Dom Vio Marriage Lic Fee	200,000	-	200,000	-	0%
503	Non-Mandated	Federal Drug Grant	371,563	-	371,563	-	0%
503	Non-Mandated	Foster Care Youth Initiative	160,000	-	160,000	-	0%
503	Non-Mandated	Dom Viol-Green Book Grant	384,689	-	384,689	-	0%
503	Non-Mandated	Child Abuse Prev/Trtmt	474,458	-	474,458	-	0%
503	Non-Mandated	CWSOIP	971,209	-	971,209	-	0%
503	Non-Mandated	Kinship Foster Care Emer Fd	47,380	-	47,380	-	0%
503	Non-Mandated	Emancipated Youth Stipends	96,674	-	96,674	-	0%
503	Non-Mandated	Kinship Support Svcs	117,000	-	117,000	-	0%
503	Mandated	Promoting Safe Families	1,273,643	-	1,273,643	-	0%
503	Mandated	Independent Living Skills	1,119,046	3.0	1,119,046	-	0%
504	Non-Mandated	CalWorks City of San Jose	100,000	-	100,000	-	0%
504	Non-Mandated	SSI Advocacy Program	1,683,295	14.0	1,683,295	-	0%
504	Non-Mandated	CalWorks Incentives Program	2,432,691	-	2,432,691	-	0%
504	Mandated	Cal-Learn	770,851	3.0	770,851	-	0%
504	Mandated	Cash Asst-Immigrants Eligib	1,236,310	10.0	1,236,310	-	0%
504	Mandated	CalWORKS Employ Svcs	34,188,987	199.0	34,188,987	-	0%
504	Mandated	CalWORKS Child Care	19,628,599	50.0	19,628,599	-	0%
504	Mandated	Refugee Cash Asst-Eligib	125,439	1.0	125,439	-	0%

Schedule 2: Detail of General Fund Subsidies by Department and Budget Unit

Budget Unit	Mandate Status	Function/Program	FY 2006-07 Budget	Authorized Positions	Departmental Revenue	General Fund Subsidy	Percent General Fund
504	Mandated	Refugee Employ Soc Serv	793,711	-	793,711	-	0%
504	Mandated	Refugee Targ Assist Prog	561,692	1.0	561,692	-	0%
504	Mandated	Adoptions Asst Prog Eligib	600,014	5.0	600,014	-	0%
504	Mandated	Automated Welfare Sys	16,001,226	16.0	16,001,226	-	0%
504	Mandated	65 Refugee Cash Assist-Ben	407,357	-	407,357	-	0%
504	Mandated	66 Cash Asst Prog for Imgr-Ben	8,342,156	-	8,342,156	-	0%
505	Non-Mandated	Archstone	57,530	-	57,530	-	0%
148	Non-Mandated	Justice Collections (APD-Muni)	177,024	1.9	180,205	(3,181)	-2%
148	Mandated	Accounting	158,134	1.4	161,315	(3,181)	-2%
148	Non-Mandated	Accounting	199,636	1.8	204,407	(4,771)	-2%
148	Non-Mandated	Information Systems	240,135	1.7	244,906	(4,771)	-2%
148	Mandated	Information Systems	190,214	1.3	194,985	(4,771)	-3%
148	Mandated	Accounting Control	325,784	3.7	332,147	(6,363)	-2%
410	Mandated	Immunization Registry	434,144	3.5	441,066	(6,922)	-2%
148	Mandated	Cashiering	392,899	5.0	400,851	(7,952)	-2%
148	Required	Admin/Support	340,098	3.0	348,050	(7,952)	-2%
148	Non-Mandated	Accounting Control	411,284	4.6	420,826	(9,542)	-2%
148	Mandated	Input/Support	415,479	5.0	425,021	(9,542)	-2%
148	Non-Mandated	Cashiering	496,013	6.3	507,146	(11,133)	-2%
148	Non-Mandated	Input/Support	524,519	6.3	535,652	(11,133)	-2%
410	Mandated	Med Marijuana ID Card	128,116	1.0	145,710	(17,594)	-14%
148	Mandated	Justice Collections (APD-Muni)	905,691	9.6	924,776	(19,085)	-2%
246	Non-Mandated	Electronic Monitoring Prog.	479,574	4.0	500,000	(20,426)	-4%
410	Non-Mandated	Traffic Safety	458,555	3.5	479,548	(20,993)	-5%
148	Mandated	Justice Collections (Traffic)	1,052,143	9.5	1,074,409	(22,266)	-2%
204	Mandated	PDO Sex Violent Predators	507,709	2.0	534,524	(26,815)	-5%
148	Non-Mandated	General Collections	1,582,702	16.0	1,616,101	(33,399)	-2%
260	Mandated	Map Check	41,266	1.0	80,000	(38,734)	-94%
114	Non-Mandated	Passport Administration	173,190	2.1	223,500	(50,310)	-29%
410	Mandated	Vital Registration	1,039,126	9.0	1,092,692	(53,566)	-5%
410	Mandated	Refugee/Child Hlth	220,377	2.0	275,000	(54,623)	-25%
145	Non-Mandated	GIS-Regional Budget Fund	1,181,920	2.0	1,237,323	(55,403)	-5%
114	Mandated	Public Information	433,709	5.5	521,200	(87,491)	-20%
260	Mandated	Private Develop Inspection	159,864	3.2	250,000	(90,136)	-56%
114	Mandated	Marriage Licenses	401,666	4.4	496,500	(94,834)	-24%
246	Non-Mandated	Juvenile Court Work	337,330	3.5	452,590	(115,260)	-31%
114	Non-Mandated	Marriage Ceremonies	81,190	1.0	205,000	(123,810)	-152%
246	Non-Mandated	Juv. Elec. Mon.-Comm. Rel.	1,484,477	13.0	1,776,349	(291,872)	-20%

Schedule 2: Detail of General Fund Subsidies by Department and Budget Unit

Budget Unit	Mandate Status	Function/Program	FY 2006-07 Budget	Authorized Positions	Departmental Revenue	General Fund Subsidy	Percent General Fund
263	Mandated	Civic Center Garage	410,658	0.3	726,516	(315,858)	-87%
114	Mandated	Clerk Business	490,047	5.5	850,100	(360,053)	-73%
260	Mandated	Stanford Plan Check	107,248	1.7	650,000	(542,752)	-506%
260	Mandated	Land Use Permit Review	1,078,109	20.3	1,737,675	(659,566)	-61%
260	Mandated	Stanford Inspection	172,363	2.8	900,000	(727,637)	-422%
260	Mandated	Building Inspection	939,942	14.6	1,700,000	(760,058)	-81%
260	Mandated	Building Plan Check	593,343	8.9	1,410,000	(816,657)	-138%
263	Non-Mandated	Property Mgt.-Lease Mgt.	300,992	1.9	1,762,218	(1,461,226)	-485%
114	Mandated	Recording	1,371,984	15.0	6,384,300	(5,012,316)	-362%
503	Mandated	Realignment (BU 501)	-	-	7,135,697	(7,135,697)	
503	Mandated	Realignment (BU 511)	-	-	46,986,949	(46,986,949)	
Grand Total			3,086,837,557	13,894.1	1,842,313,107	1,243,985,357	40%

Schedule 3: Summary of General Fund Subsidies of Non-Mandated Functions and Programs

Budget Unit	Mandate Status	Function/Program	FY 2006-07 Budget	Authorized Positions	Departmental Revenue	General Fund Subsidy	Percent General Fund
119	Non-Mandated	VMC Subsidy	79,699,778	-	-	79,699,778	100%
116	Non-Mandated	IHSS Benefits Program	21,188,675	-	5,117,978	16,070,697	76%
130	Non-Mandated	Employee Benefits	22,348,499	9.5	11,154,171	11,194,328	50%
135	Non-Mandated	Fleet Maint & Repair	10,288,815	40.0	5,004,925	5,283,890	51%
145	Non-Mandated	Data Processing & Voice Communications	5,531,196	31.1	665,446	4,865,750	88%
503	Non-Mandated	Children's Shelter Program	11,875,071	92.0	7,065,770	4,809,301	40%
418	Non-Mandated	School-Linked Services	4,757,145	42.0	120,900	4,636,245	97%
502	Non-Mandated	General Fund Contracts	3,935,462	-	-	3,935,462	100%
246	Non-Mandated	Work Furlough, Resi. Ctr.	4,731,633	36.0	1,085,000	3,646,633	77%
240	Non-Mandated	Program Unit	4,391,022	33.5	1,352,755	3,038,267	69%
505	Non-Mandated	Senior Nutrition Program	6,180,552	7.0	3,142,701	3,037,851	49%
119	Non-Mandated	Children's Health Initiative	3,000,000	-	-	3,000,000	100%
503	Non-Mandated	Reserve-Out-of-Home Plac	2,740,247	-	-	2,740,247	100%
240	Non-Mandated	Operations / Industries	2,445,601	23.0	155,000	2,290,601	94%
410	Non-Mandated	Pandemic Flu (One-Time)	2,268,475	-	-	2,268,475	100%
263	Non-Mandated	Capital Prog.-New Constr.	5,138,715	11.0	2,933,181	2,205,534	60%
135	Non-Mandated	Fueling Services	4,251,795	2.0	2,068,257	2,183,538	51%
503	Non-Mandated	Status Offen Sys Contracts	1,733,020	-	-	1,733,020	100%
145	Non-Mandated	MailRetention/Pony	1,889,901	5.0	227,685	1,662,216	88%
145	Non-Mandated	Printing Services	1,957,948	11.5	348,445	1,609,503	82%
246	Non-Mandated	Adult Court Unit	1,606,523	15.0	-	1,606,523	100%
107	Non-Mandated	Human Relations	1,947,771	16.0	342,000	1,605,771	84%
119	Non-Mandated	State Budget Impacts	1,367,095	-	-	1,367,095	100%
503	Non-Mandated	Group Hom Supl-\$1,000	1,338,000	-	-	1,338,000	100%
130	Non-Mandated	Employee Dev.-Educ. Asst.	1,313,652	2.0	-	1,313,652	100%
135	Non-Mandated	Depreciation	2,500,000	-	1,216,108	1,283,892	51%
246	Non-Mandated	Adult Assessment Unit	1,273,296	12.0	-	1,273,296	100%
246	Non-Mandated	Adult Screening Unit	1,264,752	11.0	-	1,264,752	100%
202	Non-Mandated	Juvenile Dependency Rep	4,010,987	24.0	2,770,694	1,240,293	31%
418	Non-Mandated	Children's Health Initiative	2,877,688	30.0	1,675,740	1,201,948	42%
503	Non-Mandated	Child Placement Services	1,190,194	-	-	1,190,194	100%
505	Non-Mandated	Probate Conservatorship	2,431,335	21.3	1,277,073	1,154,262	47%
107	Non-Mandated	Special Projects	1,046,270	2.0	-	1,046,270	100%
417	Non-Mandated	Dependency Drug Trt Crt	1,236,093	5.0	192,845	1,043,248	84%
106	Non-Mandated	COB Special Appropriations	986,129	-	-	986,129	100%
130	Non-Mandated	Employee Dev.-Training	1,175,574	7.0	205,000	970,574	83%
107	Non-Mandated	Legislative Programs	931,725	4.0	-	931,725	100%
503	Non-Mandated	Dom Viol Advoc/Food Bank	989,481	-	66,758	922,723	90%

Schedule 3: Summary of General Fund Subsidies of Non-Mandated Functions and Programs

Budget Unit	Mandate Status	Function/Program	FY 2006-07 Budget	Authorized Positions	Departmental Revenue	General Fund Subsidy	Percent General Fund
412	Non-Mandated	Supplemental RCF Beds	910,634	-	-	910,634	100%
135	Non-Mandated	County-wide Overhead	1,585,319	-	771,168	814,151	51%
410	Non-Mandated	Emergency Medical Svcs	2,392,683	13.0	1,583,179	809,504	34%
503	Non-Mandated	Adoptions Services	4,499,053	37.0	3,799,193	699,860	16%
106	Non-Mandated	Management Audit	871,082	-	187,213	683,869	79%
107	Non-Mandated	Public Affairs	669,337	6.0	-	669,337	100%
412	Non-Mandated	Gateway	922,781	9.0	267,252	655,529	71%
503	Non-Mandated	Family Strength Based Svcs	650,000	-	-	650,000	100%
417	Non-Mandated	Gateway	647,929	-	-	647,929	100%
417	Non-Mandated	Employee Assistance	617,372	5.0	-	617,372	100%
107	Non-Mandated	Veterans Services	725,068	6.0	120,000	605,068	83%
145	Non-Mandated	Enterprise IT Planning	602,430	4.0	-	602,430	100%
118	Non-Mandated	eProcurement	585,321	4.0	-	585,321	100%
505	Non-Mandated	Public Administration	1,841,849	14.0	1,277,571	564,278	31%
240	Non-Mandated	Inmate Visits	627,060	5.0	72,179	554,881	88%
246	Non-Mandated	Restorative Justice/Victims	1,959,421	18.0	1,416,920	542,501	28%
412	Non-Mandated	Rep Payee	614,863	7.0	90,000	524,863	85%
503	Non-Mandated	Mental Health Patch	519,095	-	-	519,095	100%
145	Non-Mandated	Geographic Info Svcs.	490,103	3.0	-	490,103	100%
168	Non-Mandated	Homeless Concerns	935,478	2.0	455,441	480,037	51%
132	Non-Mandated	Wellness Program	511,087	1.5	63,886	447,201	87%
504	Non-Mandated	Gen Asst Vocational Prog	680,458	5.0	238,586	441,872	65%
112	Non-Mandated	Tax Collect and Apportion	430,413	10.0	-	430,413	100%
417	Non-Mandated	Justice Services	977,239	6.0	558,115	419,124	43%
414	Non-Mandated	04 MIOCR	413,360	3.0	-	413,360	100%
246	Non-Mandated	Admin. Monitoring Team	401,024	5.5	-	401,024	100%
503	Non-Mandated	Foster Parent Child Care	400,000	-	-	400,000	100%
412	Non-Mandated	Self-Help	375,430	-	-	375,430	100%
410	Non-Mandated	HIV Testing (One-Time)	375,000	-	-	375,000	100%
217	Non-Mandated	Unmet Civil Legal Needs	370,080	-	-	370,080	0%
190	Non-Mandated	Emergency Medical Disp.	598,843	4.0	240,791	358,052	60%
503	Non-Mandated	Inten Up-Front Svcs Contr	338,322	-	-	338,322	100%
414	Non-Mandated	CHSH Nsg./Clinical	792,843	4.8	467,777	325,066	41%
246	Non-Mandated	Informal Juv./Traffic Court	484,877	5.0	169,910	314,967	65%
410	Non-Mandated	Learning/Achievement Ctr	1,433,944	5.5	1,132,234	301,710	21%
130	Non-Mandated	EO Silicon Valley Center	296,165	0.1	-	296,165	100%
503	Non-Mandated	Foster Home Licensing	1,133,455	10.0	853,614	279,841	25%
107	Non-Mandated	Women's Policy/Programs	262,378	2.0	-	262,378	100%

Schedule 3: Summary of General Fund Subsidies of Non-Mandated Functions and Programs

Budget Unit	Mandate Status	Function/Program	FY 2006-07 Budget	Authorized Positions	Departmental Revenue	General Fund Subsidy	Percent General Fund
412	Non-Mandated	Drug Treatment Court	257,825	2.5	-	257,825	100%
119	Non-Mandated	ECO Pass for Employees	250,000	-	-	250,000	100%
503	Non-Mandated	Foster Parent \$50 Supl	204,000	-	-	204,000	100%
417	Non-Mandated	Homeless Project	202,120	2.0	-	202,120	100%
120	Non-Mandated	Health Services	344,692	2.0	144,800	199,892	58%
246	Non-Mandated	Special Programs Unit	1,399,123	13.0	1,201,811	197,312	14%
203	Non-Mandated	Toxicology	1,382,110	10.0	1,192,386	189,724	14%
505	Non-Mandated	Council on Aging	180,493	-	-	180,493	100%
130	Non-Mandated	Employee Dev. Spec. Prgrm.	173,272	1.0	-	173,272	100%
418	Non-Mandated	Mobile Health Services	277,805	3.0	105,000	172,805	62%
119	Non-Mandated	Budget Data Processing	166,613	-	-	166,613	100%
263	Non-Mandated	Parking Patrol	162,042	2.0	-	162,042	100%
120	Non-Mandated	Law and Justice	166,220	1.0	9,150	157,070	95%
410	Non-Mandated	Violence Prevention	144,756	1.0	-	144,756	100%
503	Non-Mandated	Fos Home Supl for Sibl Grps	144,000	-	-	144,000	100%
412	Non-Mandated	Supported Housing	134,007	-	-	134,007	100%
203	Non-Mandated	Forensic Biology	2,045,016	15.0	1,914,799	130,217	6%
262	Non-Mandated	U.C. Cooperative Extension	135,807	1.0	10,000	125,807	93%
414	Non-Mandated	CHSH Physicians	306,543	1.0	180,860	125,683	41%
132	Non-Mandated	Third-Part Subrogation	133,583	1.5	16,983	116,600	87%
202	Non-Mandated	Consumer Mediation	474,929	4.0	369,704	105,225	22%
503	Non-Mandated	Foster Parent Capacity Bldg	105,000	-	-	105,000	100%
119	Non-Mandated	Firefighter Insurance	100,000	-	-	100,000	100%
135	Non-Mandated	Vehicle Procur/Disposal	192,190	2.0	93,490	98,700	51%
130	Non-Mandated	Intergovernmental Rel.	431,564	4.0	335,744	95,820	22%
246	Non-Mandated	Services to Bilingual Clients	94,838	-	-	94,838	100%
260	Non-Mandated	Viewshed Protection Study	191,376	2.0	96,593	94,783	50%
203	Non-Mandated	Computer Forensics Lab	337,979	2.0	245,131	92,848	27%
417	Non-Mandated	Prevention Services	2,320,566	8.0	2,229,497	91,069	4%
203	Non-Mandated	Quality Assurance	132,397	1.0	44,495	87,902	66%
503	Non-Mandated	Child Development Prog	2,690,587	7.0	2,603,366	87,221	3%
412	Non-Mandated	Suicide Hot-Line	76,908	-	-	76,908	100%
203	Non-Mandated	Firearms	446,605	3.3	376,656	69,949	16%
263	Non-Mandated	Cafeteria Contract Mgt.	67,546	0.3	-	67,546	100%
203	Non-Mandated	Chemistry	765,403	6.0	703,890	61,513	8%
203	Non-Mandated	Latent Prints & Trace	550,941	4.4	494,792	56,149	10%
203	Non-Mandated	Video & Audio Photo	188,763	2.0	133,689	55,074	29%
119	Non-Mandated	Mother's Milk Bank	53,385	-	-	53,385	100%

Schedule 3: Summary of General Fund Subsidies of Non-Mandated Functions and Programs

Budget Unit	Mandate Status	Function/Program	FY 2006-07 Budget	Authorized Positions	Departmental Revenue	General Fund Subsidy	Percent General Fund
119	Non-Mandated	Unincorp Library Service	51,000	-	-	51,000	100%
119	Non-Mandated	Neighborhood Lighting	50,000	-	-	50,000	100%
130	Non-Mandated	EO Hands On/Diversity	48,875	0.1	-	48,875	100%
119	Non-Mandated	Firefighter Training	45,500	-	-	45,500	100%
246	Non-Mandated	Juvenile Diversion Services	251,322	2.0	207,537	43,785	17%
417	Non-Mandated	Health Realization	572,893	4.0	531,558	41,335	7%
120	Non-Mandated	Social Services	166,220	1.0	127,062	39,158	24%
412	Non-Mandated	Suicide Prevention	145,686	1.0	108,124	37,562	26%
203	Non-Mandated	Evidence & Property	258,133	3.0	221,371	36,762	14%
263	Non-Mandated	Event Set-Up/Furn. Moves	35,000	0.5	-	35,000	100%
230	Non-Mandated	Canine Unit	81,040	-	46,848	34,192	42%
230	Non-Mandated	Reserves/Community Svcs	164,177	-	131,088	33,089	20%
130	Non-Mandated	EO Employment Plan	29,206	0.2	-	29,206	100%
130	Non-Mandated	EO DBE Program	29,206	0.2	-	29,206	100%
246	Non-Mandated	APA/CET/YEA	568,352	5.0	539,805	28,547	5%
203	Non-Mandated	Question Documents	178,812	1.3	153,773	25,039	14%
190	Non-Mandated	Countywide 9-1-1 Coord.	60,273	0.5	37,000	23,273	39%
132	Non-Mandated	Emergency Response Team	25,568	-	3,250	22,318	87%
119	Non-Mandated	St. Francis Animal Shelter	9,980	-	-	9,980	100%
240	Non-Mandated	Assignment Officer	125,412	1.0	120,606	4,806	4%
414	Non-Mandated	CHSH Pharmacy	8,800	-	5,192	3,608	41%
410	Non-Mandated	Lead Poisoning Control	443,764	3.0	440,803	2,961	1%
417	Non-Mandated	BASN	910,884	-	910,884	-	0%
168	Non-Mandated	Affordable Housing	796,676	1.0	154,776	-	0%
168	Non-Mandated	HOME Invest Partner	1,654,109	0.5	1,654,109	-	0%
168	Non-Mandated	MCC/Housing Bond	142,230	0.6	142,291	-	0%
168	Non-Mandated	Down Payment Assist	514,092	0.4	514,092	-	0%
168	Non-Mandated	Single-Family Rehab	2,624,776	1.3	2,624,776	-	0%
168	Non-Mandated	Comm Development	1,896,756	2.9	1,999,501	-	0%
230	Non-Mandated	Air Support Unit	219,657	-	219,657	-	0%
230	Non-Mandated	Westside Patrol-Cities	11,849,485	75.0	11,849,485	-	0%
230	Non-Mandated	Transit Patrol	3,528,242	19.0	3,528,242	-	0%
230	Non-Mandated	Parks Patrol	862,801	6.0	862,801	-	0%
503	Non-Mandated	Chld Trst Fd-Abuse Prev Contr	509,496	-	509,496	-	0%
503	Non-Mandated	Differential Response Path One	485,924	-	485,924	-	0%
503	Non-Mandated	Dom Vio Marriage Lic Fee	200,000	-	200,000	-	0%
503	Non-Mandated	Federal Drug Grant	371,563	-	371,563	-	0%
503	Non-Mandated	Foster Care Youth Initiative	160,000	-	160,000	-	0%

Schedule 3: Summary of General Fund Subsidies of Non-Mandated Functions and Programs

Budget Unit	Mandate Status	Function/Program	FY 2006-07 Budget	Authorized Positions	Departmental Revenue	General Fund Subsidy	Percent General Fund
503	Non-Mandated	Dom Viol-Green Book Grant	384,689	-	384,689	-	0%
503	Non-Mandated	Child Abuse Prev/ Trmt	474,458	-	474,458	-	0%
503	Non-Mandated	CWSOIP	971,209	-	971,209	-	0%
503	Non-Mandated	Kinship Foster Care Emer Fd	47,380	-	47,380	-	0%
503	Non-Mandated	Emancipated Youth Stipends	96,674	-	96,674	-	0%
503	Non-Mandated	Kinship Support Svcs	117,000	-	117,000	-	0%
504	Non-Mandated	CalWorks City of San Jose	100,000	-	100,000	-	0%
504	Non-Mandated	SSI Advocacy Program	1,683,295	14.0	1,683,295	-	0%
504	Non-Mandated	CalWorks Incentives Program	2,432,691	-	2,432,691	-	0%
505	Non-Mandated	Archstone	57,530	-	57,530	-	0%
210	Non-Mandated	Court Contract	424,807	4.5	424,807	-	0%
210	Non-Mandated	SATTA (Prop. 36) Funding	156,036	2.0	156,036	-	0%
240	Non-Mandated	Other IWF Positions	1,903,045	-	1,903,045	-	0%
246	Non-Mandated	Comm.-Based Aftercare	1,320,786	4.0	1,320,786	-	0%
246	Non-Mandated	Multi-Agency Assmt. Ctr.	611,571	3.0	611,571	-	0%
263	Non-Mandated	Reimb. Maint.-Client Depts.	706,673	3.0	706,673	-	0%
263	Non-Mandated	Energy Conservation	-	-	-	-	0%
263	Non-Mandated	Fuel Cell Energy Project	2,883,376	-	2,883,376	-	0%
204	Non-Mandated	Record Expungement	243,156	2.0	243,156	-	0%
148	Non-Mandated	Justice Collections (APD-Muni)	177,024	1.9	180,205	(3,181)	-2%
148	Non-Mandated	Accounting	199,636	1.8	204,407	(4,771)	-2%
148	Non-Mandated	Information Systems	240,135	1.7	244,906	(4,771)	-2%
148	Non-Mandated	Accounting Control	411,284	4.6	420,826	(9,542)	-2%
148	Non-Mandated	Cashiering	496,013	6.3	507,146	(11,133)	-2%
148	Non-Mandated	Input/Support	524,519	6.3	535,652	(11,133)	-2%
246	Non-Mandated	Electronic Monitoring Prog.	479,574	4.0	500,000	(20,426)	-4%
410	Non-Mandated	Traffic Safety	458,555	3.5	479,548	(20,993)	-5%
148	Non-Mandated	General Collections	1,582,702	16.0	1,616,101	(33,399)	-2%
114	Non-Mandated	Passport Administration	173,190	2.1	223,500	(50,310)	-29%
145	Non-Mandated	GIS-Regional Budget Fund	1,181,920	2.0	1,237,323	(55,403)	-5%
246	Non-Mandated	Juvenile Court Work	337,330	3.5	452,590	(115,260)	-31%
114	Non-Mandated	Marriage Ceremonies	81,190	1.0	205,000	(123,810)	-152%
246	Non-Mandated	Juv. Elec. Mon.-Comm. Rel.	1,484,477	13.0	1,776,349	(291,872)	-20%
263	Non-Mandated	Property Mgt.-Lease Mgt.	300,992	1.9	1,762,218	(1,461,226)	-485%
Grand Total			333,031,742	1,021.9	128,278,058	204,214,590	61%

Schedule 4: Summary of General Fund Subsidies of Mandated Functions and Programs

Budget Unit	Mandate Status	Function/Program	FY 2006-07 Budget	Authorized Positions	Departmental Revenue	General Fund Subsidy	Percent General Fund
119	Mandated	VMC Subsidy	89,874,217	-	-	89,874,217	100%
240	Mandated	Elmwood Complex	60,927,722	367.0	26,743,085	34,184,637	56%
503	Mandated	Child Welfare Services	87,859,533	668.0	55,776,302	32,083,231	37%
921	Mandated	Inpatient Acute Nurse	118,697,502	808.8	87,627,291	31,070,211	26%
921	Mandated	Physician Services	115,994,858	508.9	85,552,090	30,442,768	26%
240	Mandated	Main Jail Complex	64,936,927	378.0	37,359,099	27,577,828	42%
116	Mandated	IHSS Indep Provid Svcs	26,745,128	-	-	26,745,128	100%
921	Mandated	Critical Care Nursing	98,505,780	626.1	72,720,946	25,784,834	26%
132	Mandated	Admin. Workers' Comp.	31,811,564	26.7	6,506,448	25,305,116	80%
503	Mandated	AFDC Foster Care-Benefits	55,714,728	-	30,564,234	25,150,494	45%
414	Mandated	CUST Nsg/Clinical	23,821,155	166.6	-	23,821,155	100%
217	Mandated	Trial Court Operations	40,458,195	-	19,936,036	20,522,159	0%
921	Mandated	Pharmacy Services	73,942,642	189.5	54,587,445	19,355,197	26%
145	Mandated	Data Processing & Voice Communications	19,743,036	110.9	1,401,380	18,341,656	93%
921	Mandated	Psychiatric Services	27,346,637	224.4	10,154,106	17,192,531	63%
263	Mandated	Property Lease Payments	45,179,563	-	29,015,540	16,164,023	36%
263	Mandated	Utilities	14,824,697	1.0	176,004	14,648,693	99%
504	Mandated	CalWORKS Eligibility	27,617,635	284.0	13,600,209	14,017,426	51%
412	Mandated	Outpatient Teams	31,773,992	120.5	19,101,088	12,672,904	40%
132	Mandated	Prop. & Liability Claims	14,493,855	6.0	1,842,630	12,651,225	87%
246	Mandated	Juvenile Hall Ops./ Living	23,170,064	223.5	10,786,432	12,383,632	53%
810	Mandated	Debt Service Payments	38,839,971	-	26,584,842	12,255,129	32%
412	Mandated	APS/EPS	32,650,946	-	21,203,623	11,447,323	35%
132	Mandated	Self Insur. / Commer. Ins.	12,181,327	0.8	1,548,635	10,632,692	87%
410	Mandated	Regional Sys	15,168,525	124.0	4,718,973	10,449,552	69%
921	Mandated	Laboratory Services	32,563,371	194.2	24,039,596	8,523,775	26%
263	Mandated	Preventive Maintenance	8,331,873	57.5	30,537	8,301,336	99%
504	Mandated	Non-Asst Fd Stmp Eligib	33,294,939	158.0	25,280,485	8,014,454	24%
504	Mandated	63 General Assistance-Benefits	7,969,183	-	-	7,969,183	100%
263	Mandated	Corrective Maintenance	8,606,650	61.5	721,558	7,885,092	92%
230	Mandated	Headquarters Patrol	17,145,962	112.0	10,470,397	6,675,565	39%
217	Mandated	Legal Aid Society	6,216,570	-	-	6,216,570	0%
412	Mandated	IMD/SNF/OBS	10,796,883	-	4,968,706	5,828,177	54%
217	Mandated	Court Facilities/Rule 810	5,773,327	-	-	5,773,327	0%
921	Mandated	Diagnostic Imaging	20,751,712	134.9	15,319,752	5,431,960	26%
119	Mandated	CJIC System	5,148,212	-	3,000	5,145,212	100%
412	Mandated	Jail MH	8,576,916	-	3,450,535	5,126,381	60%
417	Mandated	Adult Outpatient	6,423,366	17.5	1,449,778	4,973,588	77%

Schedule 4: Summary of General Fund Subsidies of Mandated Functions and Programs

Budget Unit	Mandate Status	Function/Program	FY 2006-07 Budget	Authorized Positions	Departmental Revenue	General Fund Subsidy	Percent General Fund
410	Mandated	CA Children's Svs	12,782,416	102.0	7,826,859	4,955,557	39%
921	Mandated	Facilities	18,503,689	79.0	13,660,171	4,843,518	26%
921	Mandated	Therapy Services	18,412,791	157.9	13,593,066	4,819,725	26%
921	Mandated	Tully Clinic	4,734,908	45.4	84,787	4,650,121	98%
115	Mandated	Business Division	7,015,478	66.0	2,454,556	4,560,922	65%
504	Mandated	General Assistance Eligib	4,388,259	36.0	-	4,388,259	100%
230	Mandated	Sheriff's Jail Operations	10,931,464	64.0	6,636,432	4,295,032	39%
263	Mandated	Bldg. Clean/Pest Control	4,547,976	58.5	308,703	4,239,273	93%
204	Mandated	PDO Felony Trials	5,720,566	23.0	1,759,348	3,961,218	69%
240	Mandated	Food Service	6,794,473	80.0	2,858,991	3,935,482	58%
115	Mandated	Real Property Division	9,077,394	92.0	5,227,804	3,849,590	42%
110	Mandated	Fiscal Services	5,613,254	21.0	1,796,000	3,817,254	68%
505	Mandated	Adult Protective Services	7,248,630	60.9	3,452,477	3,796,153	52%
417	Mandated	Residential Services	6,546,249	-	2,775,798	3,770,451	58%
410	Mandated	Community Clinics	3,478,724	1.0	-	3,478,724	100%
505	Mandated	LPS Conservatorship	6,682,806	57.1	3,294,927	3,387,878	51%
412	Mandated	Specialized Outpatient	22,284,764	52.0	18,941,977	3,342,788	15%
414	Mandated	CUST Pharmacy	3,255,985	12.6	-	3,255,985	100%
145	Mandated	08 Network Infrastructure	3,277,199	9.0	45,000	3,232,199	99%
921	Mandated	Ambulatory Care	12,147,777	117.9	8,967,980	3,179,797	26%
503	Mandated	Adoptions Asst Prog-Benefits	21,351,422	-	18,211,055	3,140,367	15%
412	Mandated	Pharmacy	18,314,554	21.0	15,193,458	3,121,096	17%
240	Mandated	Classification	4,897,966	38.0	1,939,186	2,958,780	60%
190	Mandated	Law Dispatching	3,836,440	26.0	878,220	2,958,220	77%
921	Mandated	Medical Records	11,074,299	126.3	8,175,495	2,898,804	26%
921	Mandated	OPD Specialty Services	11,062,188	92.0	8,166,554	2,895,634	26%
412	Mandated	Residential Treatment	7,144,825	-	4,256,556	2,888,269	40%
246	Mandated	Adult Investigation Unit	5,254,151	44.0	2,386,995	2,867,156	55%
414	Mandated	CUST Physicians	2,784,895	10.3	-	2,784,895	100%
263	Mandated	Lifecycle/Backlog—LIIIP	5,000,000	12.0	2,259,844	2,740,156	55%
412	Mandated	State Hospital	4,349,651	-	1,749,886	2,599,765	60%
140	Mandated	Ballot Layout	3,437,296	5.0	937,501	2,499,795	73%
504	Mandated	64 CalWORKs-Benefits	111,844,805	-	109,392,718	2,452,087	2%
263	Mandated	Capital Prog. Renovation	4,463,771	10.9	2,058,181	2,405,590	60%
921	Mandated	Perioperative Services	9,142,863	10.5	6,749,631	2,393,232	26%
190	Mandated	9-1-1 & Non-Emerg. Calls	2,743,863	18.5	352,405	2,391,458	87%
120	Mandated	Litigation	2,840,238	15.5	501,580	2,338,658	82%
204	Mandated	PDO SJPX/ERC/859	3,041,328	12.0	705,548	2,335,780	77%

Schedule 4: Summary of General Fund Subsidies of Mandated Functions and Programs

Budget Unit	Mandate Status	Function/Program	FY 2006-07 Budget	Authorized Positions	Departmental Revenue	General Fund Subsidy	Percent General Fund
202	Mandated	Misdemeanor Pros	4,200,413	24.0	1,918,224	2,282,189	54%
921	Mandated	14 Respiratory Care	8,267,335	62.1	6,103,281	2,164,054	26%
110	Mandated	Disburse / Cost Mgmt	3,349,792	27.0	1,198,000	2,151,792	64%
202	Mandated	Sexual Assault Team	3,968,122	21.5	1,841,375	2,126,747	54%
504	Mandated	Medi-Cal Eligibility	71,719,127	558.0	69,607,143	2,111,984	3%
230	Mandated	Records	6,047,082	62.0	4,001,120	2,045,962	34%
240	Mandated	Administrative Booking	3,368,361	38.0	1,333,590	2,034,771	60%
202	Mandated	North County Pros	3,536,789	19.0	1,607,864	1,928,925	55%
921	Mandated	East Valley Clinic	7,313,756	69.9	5,399,310	1,914,446	26%
107	Mandated	Budget and Analysis	1,913,707	12.0	-	1,913,707	100%
130	Mandated	HR Ops.-Recruitment	1,871,270	15.7	-	1,871,270	100%
190	Mandated	Medical Dispatching	2,674,498	18.0	822,684	1,851,814	69%
417	Mandated	Medical Services	2,575,913	21.0	747,121	1,828,792	71%
120	Mandated	Transactional & Gen Govt	2,590,506	13.0	770,045	1,820,461	70%
204	Mandated	PDO Investigation	3,286,920	25.5	1,467,590	1,819,330	55%
132	Mandated	Unemployment Insurance	1,909,143	0.5	118,619	1,790,524	100%
921	Mandated	Food Services	6,726,853	59.1	4,966,035	1,760,818	26%
115	Mandated	Assessment Services	3,404,121	44.0	1,712,918	1,691,203	50%
202	Mandated	Narcotics	3,967,214	25.0	2,276,527	1,690,687	43%
204	Mandated	PDO Juvenile Cases	2,287,729	9.0	619,161	1,668,568	73%
210	Mandated	Jail Unit	1,661,661	11.0	-	1,661,661	100%
202	Mandated	Burglary, Assault, Theft	3,572,734	21.0	1,940,946	1,631,788	46%
202	Mandated	Motions, Writs, & Appeals	2,136,202	11.0	516,686	1,619,516	76%
505	Mandated	In-Home Supportive Svcs	9,385,717	79.9	7,801,429	1,584,288	17%
410	Mandated	Disease Control/Surv.	1,979,527	15.0	402,507	1,577,020	80%
412	Mandated	Adult/Older Inpatient	2,716,160	-	1,140,281	1,575,879	58%
132	Mandated	Medical & Disab. Program	1,974,272	3.9	403,800	1,570,472	80%
120	Mandated	Workers Compensation	2,055,897	12.0	500,664	1,555,233	76%
130	Mandated	HR Ops.-Records	1,969,065	5.1	419,233	1,549,832	83%
410	Mandated	TB Clinic	2,591,585	24.0	1,049,285	1,542,300	60%
412	Mandated	Day Rehabilitation	4,479,222	-	2,951,673	1,527,549	34%
202	Mandated	Juvenile Wards	3,089,820	17.0	1,571,242	1,518,578	49%
204	Mandated	ADO SJ Terraine/	1,917,556	7.0	402,868	1,514,688	79%
921	Mandated	Cardiovascular Services	5,722,675	18.1	4,224,710	1,497,965	26%
202	Mandated	Family Violence	3,435,347	21.0	1,940,946	1,494,401	44%
921	Mandated	Moorpark Primary Care	7,645,542	65.3	6,164,211	1,481,331	19%
412	Mandated	JPD HalfRanches	3,389,855	30.0	1,914,172	1,475,683	44%
202	Mandated	Major Cases	3,452,535	21.5	1,987,159	1,465,376	42%

Schedule 4: Summary of General Fund Subsidies of Mandated Functions and Programs

Budget Unit	Mandate Status	Function/Program	FY 2006-07 Budget	Authorized Positions	Departmental Revenue	General Fund Subsidy	Percent General Fund
210	Mandated	Supervision Unit	1,552,703	12.5	94,000	1,458,703	94%
246	Mandated	Juvenile Ranches	12,434,011	97.0	11,020,302	1,413,709	11%
210	Mandated	Court Unit	1,398,392	10.5	-	1,398,392	100%
202	Mandated	Career Criminal	2,922,304	16.5	1,525,029	1,397,275	48%
293	Mandated	Investigation	1,521,150	9.7	151,500	1,369,650	90%
412	Mandated	Residential CTF	9,954,506	-	8,585,257	1,369,249	14%
204	Mandated	PDO Special Trials	1,861,743	7.0	515,273	1,346,471	72%
110	Mandated	General Accounting	2,066,028	15.4	739,000	1,327,028	64%
246	Mandated	Adult Supervision Unit	9,244,091	84.0	7,926,288	1,317,803	14%
204	Mandated	PDO Drug Court Cases	1,829,245	7.0	515,273	1,313,972	72%
410	Mandated	Nutrition/Wellness/WIC	5,051,999	44.0	3,769,458	1,282,541	25%
140	Mandated	Precinct Ops./Outreach	2,586,728	9.0	1,309,514	1,277,214	49%
410	Mandated	PH Laboratory	1,490,882	10.0	241,000	1,249,882	84%
921	Mandated	Protective Services	4,731,568	56.6	3,493,035	1,238,533	26%
140	Mandated	Warehouse Operations	1,923,885	6.0	692,728	1,231,157	64%
410	Mandated	HIV / AIDS Program	5,543,389	21.0	4,314,286	1,229,103	22%
417	Mandated	Perinatal Services	2,546,911	9.5	1,336,660	1,210,251	48%
412	Mandated	Call Center	1,754,854	13.5	552,013	1,202,841	69%
504	Mandated	AFDC Foster Care Eligibility	4,907,971	41.0	3,707,012	1,200,959	24%
202	Mandated	Gangs	2,486,737	14.0	1,293,964	1,192,773	48%
130	Mandated	HR Ops.-Classification	1,184,464	12.4	-	1,184,464	100%
417	Mandated	Adolescent Services	3,686,900	17.5	2,517,904	1,168,996	32%
202	Mandated	Preliminary Hearings	2,277,590	12.0	1,109,112	1,168,478	51%
230	Mandated	Westside Patrol-Unincorp	2,936,714	10.0	1,782,335	1,154,379	39%
246	Mandated	Drug Treatment Court	1,319,992	12.0	175,690	1,144,302	87%
204	Mandated	PDO Outlying Courts	1,575,050	6.0	441,663	1,133,388	72%
810	Mandated	Mgmt/Consult Fees	1,133,875	-	3,000	1,130,875	100%
114	Mandated	Indexing	1,100,136	14.0	-	1,100,136	100%
230	Mandated	Investigative Services	6,624,494	41.0	5,529,606	1,094,888	17%
417	Mandated	SACPA Services	4,900,634	13.5	3,817,078	1,083,558	22%
118	Mandated	Office and Technology	1,103,153	9.0	21,000	1,082,153	98%
921	Mandated	Valley Health Center	15,135,884	132.8	14,064,671	1,071,213	7%
202	Mandated	Public Assistance Fraud	4,553,825	28.0	3,507,715	1,046,110	23%
204	Mandated	ADO SJ Felonies	1,332,957	5.0	287,763	1,045,194	78%
503	Mandated	Ser Emot Distur Chldrn-Ben	1,711,872	-	684,749	1,027,123	60%
410	Mandated	Epidemiology & Data Mgt	1,126,933	8.0	101,125	1,025,808	91%
921	Mandated	Dental Services	3,886,579	24.9	2,869,230	1,017,349	26%
132	Mandated	Occup. Safety Env. Compl.	1,258,873	7.0	259,328	999,545	79%

Schedule 4: Summary of General Fund Subsidies of Mandated Functions and Programs

Budget Unit	Mandate Status	Function/Program	FY 2006-07 Budget	Authorized Positions	Departmental Revenue	General Fund Subsidy	Percent General Fund
246	Mandated	Substance Abuse Unit	1,600,103	16.5	611,115	988,988	62%
202	Mandated	South County Prosecutn	1,980,477	11.0	1,016,686	963,791	49%
260	Mandated	Fire Marshal	1,279,346	1.0	320,000	959,346	75%
130	Mandated	EO-Non-Discrim. Program	992,824	15.7	57,456	935,368	94%
202	Mandated	Major Fraud	2,044,002	12.0	1,109,112	934,890	46%
120	Mandated	Juvenile Dependency	5,452,128	32.5	4,545,060	907,068	17%
204	Mandated	PDO SJ Misdemeanors	1,488,279	8.0	588,884	899,395	60%
412	Mandated	24-hour Care	1,456,799	13.0	557,567	899,232	62%
118	Mandated	Medical	898,848	7.0	-	898,848	100%
263	Mandated	Prop. Acquis. & Disposit.	887,794	4.7	-	887,794	100%
410	Mandated	PH Pharmacy	4,067,324	9.5	3,189,664	877,660	22%
190	Mandated	Comm. Infrast. Inst. & Maint.	935,128	6.0	94,186	840,942	90%
410	Mandated	Immunization Prog	2,912,542	19.5	2,077,161	835,381	29%
202	Mandated	Complaints	1,845,735	11.0	1,016,686	829,048	45%
410	Mandated	PACE Clinic	3,022,902	17.5	2,218,213	804,689	27%
107	Mandated	Emergency Services	969,692	7.0	184,414	785,278	81%
120	Mandated	Personnel and Labor	826,938	4.0	57,645	769,293	93%
106	Mandated	Mtg Mgt-BOS & Cmtees	736,204	6.5	-	736,204	100%
921	Mandated	Urgent Care	2,781,647	15.5	2,053,524	728,123	26%
118	Mandated	Institutional	744,309	6.0	16,742	727,567	98%
504	Mandated	Food Stamp Employ & Trn	1,705,506	14.0	987,628	717,878	42%
204	Mandated	ADO SJ Homicide	878,346	3.0	172,658	705,688	80%
410	Mandated	Diabetes Center	799,174	5.0	100,000	699,174	87%
410	Mandated	Tuberculosis	1,735,365	12.0	1,037,435	697,930	40%
921	Mandated	Hospital Social Services	2,664,606	23.7	1,967,120	697,486	26%
202	Mandated	Real Estate Fraud	1,467,047	8.5	785,621	681,426	46%
106	Mandated	Records Management	679,573	6.0	-	679,573	100%
132	Mandated	Loss Prevention	776,917	1.0	98,771	678,146	87%
190	Mandated	Local Govt. Dispatching	747,343	5.0	94,164	653,179	87%
120	Mandated	Hospital Services	646,785	3.5	-	646,785	100%
202	Mandated	High Tech Crimes	3,203,889	6.5	2,563,111	640,778	20%
114	Mandated	Archiving	620,221	8.0	-	620,221	100%
204	Mandated	ADO Palo Alto Le	792,291	3.0	172,658	619,633	78%
106	Mandated	Mtg Mgt-Board Ops	679,573	6.0	66,682	612,891	90%
263	Mandated	Landscp. Maint. / Fire Prot.	608,667	7.0	-	608,667	100%
410	Mandated	MCAH	1,376,298	10.0	769,135	607,163	44%
921	Mandated	South Valley Clinic	2,312,032	23.0	1,706,835	605,197	26%
112	Mandated	Unsecured Collections	1,327,912	10.0	728,904	599,008	45%

Schedule 4: Summary of General Fund Subsidies of Mandated Functions and Programs

Budget Unit	Mandate Status	Function/Program	FY 2006-07 Budget	Authorized Positions	Departmental Revenue	General Fund Subsidy	Percent General Fund
293	Mandated	Autopsy-Related	596,529	3.8	-	596,529	100%
412	Mandated	QI/Research	1,320,215	11.5	725,527	594,688	45%
106	Mandated	Mtg Mgt-Adv Brd & Cmtes	679,573	6.0	88,363	591,210	87%
202	Mandated	Consumer Protection	1,236,006	7.0	646,982	589,024	48%
503	Mandated	Emerg Asst Foster Care-Ben	1,951,803	-	1,366,262	585,541	30%
246	Mandated	Juvenile Delinquency Serv.	9,569,846	76.0	8,989,075	580,771	6%
202	Mandated	Community Prosecution	1,180,037	6.5	600,769	579,268	49%
202	Mandated	Forensic Mental Issues	1,180,037	6.5	600,769	579,268	49%
412	Mandated	Vocational Services	573,711	-	-	573,711	100%
230	Mandated	Special Operations	1,462,214	10.0	904,538	557,676	38%
140	Mandated	Voter Registration	759,426	5.0	207,129	552,297	73%
130	Mandated	Labor Rel.s-Negotiations	544,001	4.3	-	544,001	100%
204	Mandated	PDO Research	719,140	3.0	176,387	542,753	75%
410	Mandated	Tobacco Control	1,410,621	6.5	873,905	536,716	38%
230	Mandated	Civil	1,931,363	18.0	1,402,128	529,235	27%
293	Mandated	Documentation	536,877	3.4	24,437	512,440	96%
115	Mandated	Exemptions	919,434	11.0	411,781	507,653	55%
410	Mandated	Adolescent Family Life	1,874,672	18.0	1,374,051	500,621	27%
110	Mandated	Internal Audit	848,461	7.0	355,000	493,461	58%
110	Mandated	Property Tax Apportion	1,008,585	7.0	522,000	486,585	48%
921	Mandated	Silvercreek Clinic	1,785,177	11.9	1,317,890	467,287	26%
202	Mandated	Government Integrity	722,577	4.5	265,917	456,660	63%
503	Mandated	State Farm Preserv-Perm Trf	1,363,000	-	907,039	455,961	33%
240	Mandated	Internal Affairs	732,487	4.0	290,004	442,483	60%
204	Mandated	PDO Domestic Violence	663,145	3.0	220,831	442,314	67%
202	Mandated	Drug Treatment Court Svc	941,827	5.5	508,343	433,484	46%
263	Mandated	Safety	430,000	3.0	-	430,000	100%
246	Mandated	Adult Train./Background	1,038,207	6.0	614,375	423,832	41%
417	Mandated	Methadone Services	2,801,205	26.0	2,389,057	412,148	15%
410	Mandated	Disaster Med Svs	4,652,728	20.0	4,241,010	411,718	9%
202	Mandated	Elder Fraud	871,133	5.0	462,130	409,003	47%
262	Mandated	Animal Field Services	522,254	5.0	120,000	402,254	77%
262	Mandated	Animal Shelter Services	729,662	5.0	345,064	384,598	53%
202	Mandated	Environment Crimes	800,439	4.5	415,917	384,522	48%
260	Mandated	Clean Water Program	379,779	1.3	-	379,779	100%
140	Mandated	Candidate Services	527,449	4.5	150,858	376,591	71%
130	Mandated	Labor Rel.-Grievance	370,190	2.6	-	370,190	100%
230	Mandated	Warrants & Fugitives	1,550,132	10.0	1,180,580	369,552	24%

Schedule 4: Summary of General Fund Subsidies of Mandated Functions and Programs

Budget Unit	Mandate Status	Function/Program	FY 2006-07 Budget	Authorized Positions	Departmental Revenue	General Fund Subsidy	Percent General Fund
130	Mandated	Exec. Mgt.-Exec. Recruiting	367,277	2.8	-	367,277	100%
410	Mandated	CHDP	2,270,919	15.5	1,904,503	366,416	16%
130	Mandated	Labor Rel.-Disciplinary	360,531	2.8	-	360,531	100%
120	Mandated	Health Services	344,690	2.0	-	344,690	100%
230	Mandated	Internal Affairs	875,173	5.0	531,155	344,018	39%
115	Mandated	Assessment Standards	644,940	7.0	303,725	341,215	53%
190	Mandated	Fire Dispatching	1,730,420	11.5	1,394,589	335,831	19%
204	Mandated	ADO SJ Investigation	507,544	3.0	172,658	334,886	66%
246	Mandated	Internal Affairs Unit	515,535	4.0	196,894	318,641	62%
503	Mandated	Kin Gap Prog-Fed-Benefits	2,443,138	-	2,125,530	317,608	13%
921	Mandated	Rehap/Neuro Clinic	1,189,496	8.2	878,134	311,362	26%
921	Mandated	Fair Oaks Clinic	1,152,831	10.4	851,066	301,765	26%
202	Mandated	Probation Viol Calendar	662,374	4.0	369,704	292,670	44%
204	Mandated	PDO Mental Health Cases	523,113	2.0	240,818	282,295	54%
230	Mandated	Court Security	31,617,208	236.0	31,337,823	279,385	1%
246	Mandated	DNA Fingerprint-Prop. 69	450,120	7.0	171,911	278,209	62%
120	Mandated	Law & Justice	289,845	1.5	15,000	274,845	95%
120	Mandated	Conservatorships	2,062,548	14.5	1,788,180	274,368	13%
921	Mandated	Radiation Therapy	1,035,781	5.5	764,655	271,126	26%
262	Mandated	Pesticide Use Enforce.	1,237,372	8.0	968,167	269,205	22%
412	Mandated	School Day Treatment	3,525,811	-	3,257,309	268,502	8%
202	Mandated	Cold Case Invest & Pros	632,923	4.0	369,704	263,219	42%
921	Mandated	Outpatient Oncology	1,005,320	10.4	742,168	263,152	26%
414	Mandated	CUST Dental	260,396	2.8	-	260,396	100%
202	Mandated	Lifer Hearings	576,955	3.5	323,491	253,464	44%
412	Mandated	Children's Shelter	1,088,563	10.0	838,834	249,729	23%
260	Mandated	Zoning Investigation	249,652	5.5	-	249,652	100%
130	Mandated	Labor Relations-Admin.	252,950	2.1	15,371	237,579	94%
263	Mandated	Emergency Ops. Support	234,670	1.3	-	234,670	100%
412	Mandated	Legal Advocacy	457,380	-	230,116	227,264	50%
190	Mandated	Radio Install & Repair	275,262	2.0	49,289	225,973	82%
202	Mandated	Innocence Project	547,503	3.5	323,491	224,012	41%
412	Mandated	Homeless Shelter	370,533	-	149,067	221,466	60%
921	Mandated	Moorpark Employee Hlth	842,423	6.5	621,911	220,512	26%
110	Mandated	Treasury	1,109,187	5.4	889,000	220,187	20%
504	Mandated	CalWORKS Subst Abuse	2,626,721	-	2,409,522	217,199	8%
202	Mandated	Regional Auto-Theft	491,535	3.0	277,278	214,257	44%
410	Mandated	Black Infant Health	945,148	7.0	736,493	208,655	22%

Schedule 4: Summary of General Fund Subsidies of Mandated Functions and Programs

Budget Unit	Mandate Status	Function/Program	FY 2006-07 Budget	Authorized Positions	Departmental Revenue	General Fund Subsidy	Percent General Fund
204	Mandated	PDO Probation Violations	261,432	1.0	58,796	202,636	78%
260	Mandated	Habitat Conservation Plan	1,049,400	-	849,400	200,000	19%
202	Mandated	Sex Offender Regis	379,598	2.0	184,852	194,746	51%
202	Mandated	Truancy Abatement	379,598	2.0	184,852	194,746	51%
132	Mandated	Job Placement for Inj. Wktrs.	237,755	2.6	48,628	189,127	80%
246	Mandated	Juvenile Gang Unit	1,272,081	11.0	1,090,484	181,597	14%
921	Mandated	EEG Services	685,179	4.7	505,827	179,352	26%
140	Mandated	Training/Staff Dev.	557,642	3.0	378,711	178,931	32%
810	Mandated	Debt Service Mgmt	176,555	1.2	-	176,555	100%
112	Mandated	Tax Roll Control	1,191,816	10.0	1,017,148	174,668	15%
114	Mandated	Vital Records	693,800	8.5	520,000	173,800	25%
202	Mandated	AIDS Litigation	401,881	2.5	231,065	170,816	43%
140	Mandated	Precinct Mapping	282,932	2.0	112,267	170,665	60%
410	Mandated	Steps	1,711,708	4.0	1,544,198	167,510	10%
204	Mandated	ADO SJ Paralegal	279,844	2.0	115,105	164,739	59%
204	Mandated	ADO Clerical	335,546	3.0	172,658	162,888	49%
140	Mandated	Absentee Processing	1,847,493	3.5	1,685,803	161,690	9%
190	Mandated	Comm. Syst. Engr. & Design	168,122	1.0	9,407	158,715	94%
145	Mandated	Crim Just Info Control	1,459,206	6.0	1,300,837	158,369	11%
503	Mandated	Support & Therap Options	510,870	-	357,609	153,261	30%
230	Mandated	Coroner	375,582	2.0	227,946	147,636	39%
190	Mandated	FCC Licensing	155,279	1.0	8,689	146,590	94%
263	Mandated	Environmental Compliance	140,000	1.0	-	140,000	100%
145	Mandated	HIPAA Security Officer	139,042	1.0	-	139,042	100%
412	Mandated	Family/Children Inpt.	224,472	-	90,306	134,166	60%
246	Mandated	Placement Unit	1,354,738	12.0	1,221,099	133,639	10%
246	Mandated	Juvenile Court Unit	1,127,806	10.0	998,315	129,491	11%
260	Mandated	Geographical Info System	109,591	2.0	-	109,591	100%
132	Mandated	Workers Comp. Training	129,776	1.1	26,543	103,233	80%
260	Mandated	Williamson Act	102,023	2.1	-	102,023	100%
260	Mandated	Commission Support	101,714	2.4	-	101,714	100%
260	Mandated	Code Enforcement Program	95,536	1.5	-	95,536	100%
262	Mandated	Pest Exclusion	515,572	4.7	420,942	94,630	18%
190	Mandated	Information Systems Mgt.	109,811	1.0	18,434	91,377	83%
132	Mandated	Contract Insurance	103,144	0.8	13,113	90,031	87%
132	Mandated	Adjusters Training	112,418	0.6	22,993	89,425	80%
260	Mandated	Post Approval Monitoring	88,828	1.0	-	88,828	100%
204	Mandated	ADO Palo Alto CI	259,647	3.0	172,658	86,989	34%

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Budget Unit	Mandate Status	Function/Program	FY 2006-07 Budget	Authorized Positions	Departmental Revenue	General Fund Subsidy	Percent General Fund
107	Mandated	Integrated Pest Mgmt	138,838	1.0	53,787	85,051	61%
204	Mandated	ADO Palo Alto In	137,660	1.0	57,552	80,107	58%
262	Mandated	Device Inspection	551,863	5.6	472,400	79,463	14%
417	Mandated	Residential Detox	598,497	-	521,141	77,356	13%
503	Mandated	Foster Home Recruitment	200,000	-	124,810	75,190	38%
120	Mandated	Social Services	166,220	1.0	92,062	74,158	45%
260	Mandated	Proj/Prog Implementation	174,750	2.6	102,000	72,750	42%
263	Mandated	Emergency Biohealth	68,803	0.5	-	68,803	100%
112	Mandated	Secured Collections	1,285,817	11.0	1,218,030	67,786	5%
262	Mandated	Various Agriculture	128,893	0.8	63,141	65,752	51%
118	Mandated	Property Disposal	91,250	1.0	30,375	60,875	67%
230	Mandated	Parks Patrol	152,259	1.0	92,408	59,851	39%
204	Mandated	ADO Palo Alto Pa	108,583	1.0	57,552	51,030	47%
202	Mandated	DNA Collection Compl	141,388	1.0	92,426	48,962	35%
130	Mandated	HR Ops.-Oversight	43,632	0.4	-	43,632	100%
262	Mandated	Pest Mgmt/Control	696,021	7.0	652,460	43,561	6%
130	Mandated	Exec. Mgt.-Appeals	38,426	0.2	-	38,426	100%
412	Mandated	Disaster Response	36,716	0.3	-	36,716	100%
260	Mandated	Surveying of Co Projects	35,456	0.5	-	35,456	100%
112	Mandated	Accounting	1,567,396	13.0	1,535,281	32,116	2%
260	Mandated	Grading Violation Invest	27,268	0.6	-	27,268	100%
260	Mandated	Subdivision Map	26,395	0.5	-	26,395	100%
130	Mandated	EO-Confidential Records	26,202	0.2	-	26,202	100%
260	Mandated	Monument Preservation	19,270	0.3	-	19,270	100%
262	Mandated	Weights & Measures	41,964	0.4	25,100	16,864	40%
130	Mandated	Labor Rel.-Drug and Alcohol	30,149	0.2	13,732	16,417	54%
112	Mandated	Payment Processing	575,694	5.0	562,831	12,863	2%
260	Mandated	Record of Survey	12,042	0.2	-	12,042	100%
130	Mandated	Benefits Administration	236,916	1.0	228,482	8,434	4%
412	Mandated	CalWORKs Outpatient	621,789	6.0	613,689	8,100	1%
417	Mandated	HIV Services	293,771	2.0	285,967	7,804	3%
504	Mandated	Kin Gap Prog-Federal	114,985	1.0	110,392	4,593	4%
260	Mandated	Corner Records	4,285	-	-	4,285	100%
260	Mandated	Monument Bond Check	4,000	-	-	4,000	100%
260	Mandated	Engineering Plan Check	323,827	4.5	320,000	3,827	1%
262	Mandated	Quantity Control Insp.	197,943	2.0	194,600	3,343	2%
260	Mandated	City Annexations	21,945	0.5	20,874	1,071	5%
260	Mandated	LAFCO Annexations	20,108	0.3	19,126	982	5%

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Budget Unit	Mandate Status	Function/Program	FY 2006-07 Budget	Authorized Positions	Departmental Revenue	General Fund Subsidy	Percent General Fund
417	Mandated	CalWORKs	2,639,987	3.0	2,639,413	574	0%
115	Mandated	Prior Yr State-City Loans	9,931,166	49.0	9,931,166	-	0%
412	Mandated	Wraparound	12,771,954	-	12,771,954	-	0%
412	Mandated	Managed Care	3,637,515	2.0	3,637,515	-	0%
412	Mandated	Mental Hlth Svs Act	1,092,073	8.0	1,092,073	-	0%
417	Mandated	Drug Testing (SAITTA)	365,346	-	365,346	-	0%
119	Mandated	Environ Health Funding	-	-	-	-	100%
503	Mandated	Promoting Safe Families	1,273,643	-	1,273,643	-	0%
503	Mandated	Independent Living Skills	1,119,046	3.0	1,119,046	-	0%
504	Mandated	Cal-Learn	770,851	3.0	770,851	-	0%
504	Mandated	Cash Asst-Immigrants Eligib	1,236,310	10.0	1,236,310	-	0%
504	Mandated	CalWORKS Employ Svs	34,188,987	199.0	34,188,987	-	0%
504	Mandated	CalWORKS Child Care	19,628,599	50.0	19,628,599	-	0%
504	Mandated	Refugee Cash Asst-Eligib	125,439	1.0	125,439	-	0%
504	Mandated	Refugee Employ Soc Serv	793,711	-	793,711	-	0%
504	Mandated	Refugee Targ Assist Prog	561,692	1.0	561,692	-	0%
504	Mandated	Adoptions Asst Prog Eligib	600,014	5.0	600,014	-	0%
504	Mandated	Automated Welfare Svs	16,001,226	16.0	16,001,226	-	0%
504	Mandated	65 Refugee Cash Assist-Ben	407,357	-	407,357	-	0%
504	Mandated	66 Cash Asst Prog for Imgr-Ben	8,342,156	-	8,342,156	-	0%
190	Mandated	Training & Staff. Dev.	180,819	1.5	180,819	-	0%
190	Mandated	Data Management	277,813	2.0	277,813	-	0%
246	Mandated	Juvenile Screening Unit	1,107,756	10.0	1,107,756	-	0%
246	Mandated	Recovery Services Unit	1,604,054	15.0	1,604,054	-	0%
202	Mandated	Anti-Drug Abuse Enforce	473,104	2.0	473,104	-	0%
202	Mandated	Asset Forfeiture	435,567	2.5	435,567	-	0%
202	Mandated	Child Sexual Assault	180,925	3.0	180,925	-	0%
202	Mandated	Insurance Fraud	3,573,798	18.0	3,573,798	-	0%
202	Mandated	Restitution Services	165,710	2.0	165,710	-	0%
202	Mandated	Safe Neighborhoods Proj	238,210	1.0	238,210	-	0%
202	Mandated	Victim Witness Services	1,719,855	-	1,719,855	-	0%
148	Mandated	Accounting	158,134	1.4	161,315	(3,181)	-2%
148	Mandated	Information Systems	190,214	1.3	194,985	(4,771)	-3%
148	Mandated	Accounting Control	325,784	3.7	332,147	(6,363)	-2%
410	Mandated	Immunization Registry	434,144	3.5	441,066	(6,922)	-2%
148	Mandated	Cashiering	392,899	5.0	400,851	(7,952)	-2%
148	Mandated	Input/Support	415,479	5.0	425,021	(9,542)	-2%
410	Mandated	Med Marijuana ID Card	128,116	1.0	145,710	(17,594)	-14%

Schedule 4: Summary of General Fund Subsidies of Mandated Functions and Programs

Budget Unit	Mandate Status	Function/Program	FY 2006-07 Budget	Authorized Positions	Departmental Revenue	General Fund Subsidy	Percent General Fund
148	Mandated	Justice Collections (APD-Muni)	905,691	9.6	924,776	(19,085)	-2%
148	Mandated	Justice Collections (Traffic)	1,052,143	9.5	1,074,409	(22,266)	-2%
204	Mandated	PDO Sex Violent Predators	507,709	2.0	534,524	(26,815)	-5%
260	Mandated	Map Check	41,266	1.0	80,000	(38,734)	-94%
410	Mandated	Vital Registration	1,039,126	9.0	1,092,692	(53,566)	-5%
410	Mandated	Refugee/Child Hlth	220,377	2.0	275,000	(54,623)	-25%
114	Mandated	Public Information	433,709	5.5	521,200	(87,491)	-20%
260	Mandated	Private Develop Inspection	159,864	3.2	250,000	(90,136)	-56%
114	Mandated	Marriage Licenses	401,666	4.4	496,500	(94,834)	-24%
263	Mandated	Civic Center Garage	410,658	0.3	726,516	(315,858)	-87%
114	Mandated	Clerk Business	490,047	5.5	850,100	(360,053)	-73%
260	Mandated	Stanford Plan Check	107,248	1.7	650,000	(542,752)	-506%
260	Mandated	Land Use Permit Review	1,078,109	20.3	1,737,675	(659,566)	-61%
260	Mandated	Stanford Inspection	172,363	2.8	900,000	(727,637)	-422%
260	Mandated	Building Inspection	939,942	14.6	1,700,000	(760,058)	-81%
260	Mandated	Building Plan Check	593,343	8.9	1,410,000	(816,657)	-138%
114	Mandated	Recording	1,371,984	15.0	6,384,300	(5,012,316)	-362%
503	Mandated	Realignment (BU 501)	-	-	7,135,697	(7,135,697)	
503	Mandated	Realignment (BU 511)	-	-	46,986,949	(46,986,949)	
Grand Total			2,455,127,016	11,335.1	1,552,971,407	902,155,610	37%

Schedule 5: Summary of General Fund Subsidies of Departmental Administration and Support

Budget Unit	Mandate Status	Function/Program	FY 2006-07 Budget	Admin/Support Positions *	Total Positions	Percent of Admin to Total
204	Required	Admin/Support	7,525,508	65.0	206.5	31%
168	Required	Admin/Support	1,004,837	3.3	12.0	28%
140	Required	Admin/Support	1,914,693	14.0	52.0	27%
262	Required	Admin/Support	1,745,802	14.5	54.0	27%
107	Required	Admin/Support	4,058,685	18.8	74.8	25%
114	Required	Admin/Support	2,256,963	20.0	84.0	24%
505	Required	Admin/Support	5,094,003	52.0	240.2	22%
106	Required	Admin/Support	1,677,553	6.0	30.5	20%
504	Required	Admin/Support	25,911,433	265.0	1,396.0	19%
921	Required	Admin/Support	146,017,828	873.4	4,797.8	18%
503	Required	Admin/Support	14,411,773	148.0	817.0	18%
414	Required	Admin/Support	5,578,275	42.1	243.2	17%
112	Required	Admin/Support	1,864,936	11.0	70.0	16%
118	Required	Admin/Support	560,039	5.0	32.0	16%
130	Required	Admin/Support	2,167,028	16.0	105.6	15%
417	Required	Admin/Support	5,930,677	24.5	164.5	15%
203	Required	Admin/Support	843,360	7.0	55.0	13%
120	Required	Admin/Support	2,643,379	15.0	118.5	13%
263	Required	Admin/Support	5,135,421	32.1	270.0	12%
293	Required	Admin/Support	328,091	2.1	19.0	11%
418	Required	Admin/Support	844,026	9.0	84.0	11%
145	Required	Admin/Support	5,288,075	20.0	203.5	10%
190	Required	Admin/Support	1,195,600	10.0	108.0	9%
230	Required	Admin/Support	14,971,114	68.0	739.0	9%
210	Required	Admin/Support	565,198	4.0	44.5	9%
412	Required	Admin/Support	19,310,574	29.8	337.1	9%
132	Required	Admin/Support	730,412	5.0	59.0	8%
135	Required	Admin/Support	1,220,375	4.0	48.0	8%
246	Required	Admin/Support	20,172,824	69.0	847.0	8%
260	Required	Admin/Support	5,670,512	7.0	88.3	8%
115	Required	Admin/Support	3,562,894	23.0	292.0	8%
110	Required	Admin/Support	1,225,332	7.0	89.8	8%
202	Required	Admin/Support	5,476,428	27.0	449.0	6%
410	Required	Admin/Support	15,166,065	29.5	564.5	5%
240	Required	Admin/Support	10,463,785	52.0	1,019.5	5%
148	Required	Admin/Support	340,098	3.0	77.1	4%
810	Required	Admin/Support		-	1.2	0%
116	Required	Admin/Support	1,222,412	-	-	0%
Grand Total			344,096,008	2,002.1	13,894.1	14%

Note:

* The Public Defender's Office (BU 204) has chosen to separate all of the Admin/Support positions, while other County departments have instead allocated a portion of their Admin/Support positions to each function or program. Therefore, an analysis of administrative staffing would be necessary to determine appropriateness of departments' administrative staffing levels.

Schedule 6: Summary of Non-Mandated, Mandated and Admin/Support Staffing by Department and Budget Unit

Budget Unit	Department	Non-Mandated Positions	Mandated Positions	Admin/Support Positions *	Total Positions
921	Valley Medical Center	-	3,924.4	873.4	4,797.8
504	Social Services-Empl & Benefit	20.0	1,376.0	-	1,396.0
235-240	Department of Correction	62.5	905.0	52.0	1,019.5
246	Probation	150.0	628.0	69.0	847.0
503	Social Services-Family & Children	146.0	671.0	-	817.0
230	Sheriff	100.0	571.0	68.0	739.0
410	Public Health	26.0	509.0	29.5	564.5
202	District Attorney	28.0	394.0	27.0	449.0
412	Mental Health	19.5	287.8	29.8	337.1
115	Assessor	-	269.0	23.0	292.0
263	Facilities	18.7	219.2	32.1	270.0
414	Children's Shelter & Custody Health	8.8	192.3	42.1	243.2
505	Social Services-Aging & Adult	42.3	197.9	-	240.2
204	Public Defender	2.0	139.5	65.0	206.5
145	Information Services Department	56.6	126.9	20.0	203.5
417	Alcohol and Drug Services	30.0	110.0	24.5	164.5
120	County Counsel	4.0	99.5	15.0	118.5
190	Communications	4.5	93.5	10.0	108.0
130	Employee Services Agency	24.1	65.5	16.0	105.6
110	Controller-Treasurer	-	82.8	7.0	89.8
260	Planning and Development	2.0	79.3	7.0	88.3
418	Community Outreach Services	75.0	-	9.0	84.0
114	Clerk-Recorder	3.1	60.9	20.0	84.0
148	Department of Revenue	38.6	35.5	3.0	77.1
107	County Executive	36.0	20.0	18.8	74.8
112	Tax Collector	10.0	49.0	11.0	70.0
132	Risk Management	3.0	51.0	5.0	59.0
203	Crime Laboratory	48.0	-	7.0	55.0
262	Agriculture and Environmental Mgmt	1.0	38.5	14.5	54.0
140	Registrar of Voters	-	38.0	14.0	52.0
135	Fleet Management	44.0	-	4.0	48.0
210	Pretrial Services	6.5	34.0	4.0	44.5
118	Procurement	4.0	23.0	5.0	32.0
106	Clerk of The Board	-	24.5	6.0	30.5
293	Medical Examiner-Coroner	-	16.9	2.1	19.0
168	Affordable Housing	8.7	-	3.3	12.0
810	Debt Service	-	1.2	-	1.2
502	Social Services-Admin & Support	-	-	-	-
217	Criminal Justice Systemwide Costs	-	-	-	-
119	Special Programs	-	-	-	-
116	In Home Supportive Services	-	-	-	-
Grand Total		1,022.9	11,334.1	1,537.1	13,894.1

Note:

* In the Social Services Agency (BU 503, 504 and 505), 465.0 Admin/Support positions have been allocated to the non-mandated and mandated functions, and therefore are excluded from this table in order to avoid double

106 Clerk of the Board

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Non-Mandated	2	1,857,211	29%	1,669,998	90%	-	0%
Mandated	4	2,774,922	44%	2,619,877	94%	24.5	80%
Admin/Support *4	-	1,677,553	27%	1,677,553	100%	6.0	20%
Total	<u>6</u>	<u>6,309,686</u>	<u>100%</u>	<u>5,967,428</u>	<u>95%</u>	<u>30.5</u>	<u>100%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=percent of total staffing; *4=Includes 1.5 FTE for countywide maintenance and support of KeyBoard software.

Departmental Description

The Clerk of the Board of Supervisors is a fast-paced, customer service-oriented department that performs a myriad of functions, working with many federal, state and local mandates to meet pre-established timelines and legal requirements. Meeting these mandates and timelines helps ensure that the government's business is conducted openly and that information is freely available, so that interested members of the public can understand the way in which decisions are made and participate in the process. In this way, government is held accountable to the public it serves.

The major services provided by the Clerk of the Board of Supervisors include meeting management, records management, assessment appeals and other official filings, services to Advisory Boards and Commissions, and operational support.

The County Charter (Section 701) and County Ordinance Section A5-16 mandates the County to have a Clerk of the Board. The "Ralph M. Brown Act" mandates most of the functions performed by the Clerk of the Board. This includes creating and posting agendas for meetings and Board committee meetings.

Many of the department's mandated functions do not mandate a specific level of required activity to perform the mandate. Instead, level of activity is dictated by volume, such as number of meetings and hearings, number and nature of agenda items, number of commissions, frequency of commission vacancies etc. This volume of activity is variable, and impacts the number of department staff assigned to particular functions at any given time. As such, the staffing numbers assigned to each function should be considered estimated full-time equivalents, subject to change to meet peak workload demands.

FY 2006-07 General Fund Budget by Program/Function

<u>Function</u>	<u>FY 2006-07 Adopted Budget</u>		<u>Departmental Revenue</u>	<u>General Fund Subsidy</u>	<u>Percent</u>
	<u>Amount</u>	<u>Staffing</u>			
<i><u>Non-Mandated Activities</u></i>					
01 Management Audit	871,082	0	187,213	683,869	79%
02 COB Special Appropriations	<u>986,129</u>	<u>0</u>	<u>0</u>	<u>986,129</u>	<u>100%</u>
Subtotal	1,857,211	0	187,213	1,669,998	90%
<i><u>Mandated Activities</u></i>					
03 Mtg Mgt-BOS & Cmtees	736,204	6.5	0	736,204	100%
04 Mtg Mgt-Board Ops	679,573	6.0	66,682	612,891	90%
05 Mtg Mgt-Adv Brd & Cmtes	679,573	6.0	88,363	591,210	87%
06 Records Management	<u>679,573</u>	<u>6.0</u>	<u>0</u>	<u>679,573</u>	<u>100%</u>
Subtotal	2,774,922	24.5	155,045	2,619,877	94%
<i><u>Required</u></i>					
Admin/Support*	<u>1,677,553</u>	<u>6.0</u>	<u>0</u>	<u>1,677,553</u>	<u>100%</u>
Total	<u>6,309,686</u>	<u>30.5</u>	<u>342,258</u>	<u>5,967,428</u>	<u>95%</u>
* Includes countywide maintenance and support of the KeyBoard software application.					

Description of Programs and Functions

Administration and Support (REQUIRED):

\$1,677,553

The Clerk of the Board Administration and Support services totals 6.0 FTE and includes one Clerk of the Board, 1 Business Manager, 1 Information Systems Manager, and 3 clerical and administrative staff members. These positions are responsible for oversight and management of the Clerk of the Board Department and provide operational support to the Board members and their staffs, including systems, personnel, central receptionist, and meeting room reservation services in addition to fiscal, accounting, information and clerical support services to the Department. The positions of Clerk of

the Board, one confidential secretary and administrative position for the Clerk are mandated by the County Charter (Section 701). Because most of the direct services that the Clerk of the Board performs are mandated, the County must also provide adequate administrative oversight and support services to fulfill these mandates. The amount of staff and other resources necessary to provide an 'adequate' level of funding is subject to determination by the Board of Supervisors pursuant to Government Code Sections 29063 and 29088. No objective basis was identified to determine if the current budget for administrative and support staffing and related resources exceeds the minimum legal funding level.

Included in the Administration and Support function are 1.5 full-time equivalents responsible for the oversight, management, and technical maintenance of the Countywide KeyBoard on-line agenda preparation system. In addition, the Administration and Support function includes necessary KeyBoard application technical maintenance costs. Since April 2003, the County has fully "cutover" to the electronic KeyBoard process for preparing and processing public meeting agenda material. As a result, the KeyBoard system now has become integral to the way the County operates, and is a critical business tool used by the County to fulfill its mandates.

NON-MANDATED PROGRAMS AND FUNCTIONS

01- Management Audit Services (NON-MANDATED): **\$871,082**

The Management Audit Services function is responsible for providing management auditing and budget analysis services in accordance with a Services Agreement between the County of Santa Clara and the Harvey M. Rose Accountancy Corporation (Management Audit Division). All of the management audit and budget analysis work performed by the Management Audit Division is conducted in accordance with Governmental Auditing Standards issued by the United States General Accounting Office (GAO). The Management Audit Division provides the County of Santa Clara with a variety of financial, budget, and management analyses to assist the County to operate in the most fiscally efficient manner. For example, during the period May 1, 2005 - April 30, 2006, the Management Audit Division completed two management audits pertaining to the Santa Clara County Tax Collector and Central Fire Protection District, and substantially completed an audit pertaining to the Probation Department. In addition to these audits, other reports issued during the past year include: the Review of the FY 2006-07 County Executive's Recommended Budget, the Annual Controller Cost Plan Report, an analysis of the Governor's Proposed FY 2006-07 State budget, an analysis of the FY 2005-06 Santa Clara Valley Water District Recommended Budget, and several special budget analyses pertaining to the County's FY 2005-06 Budget.

Although this function is not mandated, it is the methodology chosen by the Board of Supervisors to implement its' power of inquiry and financial oversight responsibilities pursuant to Charter Section 302(c). However, because the Management Audit Division is not mandated, this function is discretionary.

02 – Clerk Of The Board Special Appropriations (NON-MANDATED): 986,129

The Clerk of the Board department is also responsible for administering various special appropriations that range from memberships and dues in regional and statewide governmental organizations to special projects funded on a one-time basis. During fiscal year 2006-2007, the County has appropriated funds for the Arts Council (\$429,943), Fresh Lifeline for Youth (\$25,000), Veteran’s Parade (\$10,926), Pro Bono Project (\$25,000), Association of Bay Area Governments (\$145,881), Urban Counties (\$25,000), National Association of Counties (\$30,204), and a variety of other special projects. Of the amount allocated to this function in the FY 2006-07 Budget, \$252,560 is appropriated on a one-time basis for special projects.

MANDATED PROGRAMS AND FUNCTIONS

03– Meeting Management Services/Board Of Supervisors and Board Committees (MANDATED): \$736,204

The Clerk of the Board provides meeting management services to the Board of Supervisors and Board Committees. There are 6.5 authorized positions responsible for providing this function which includes creating and posting Agendas for the Board of Supervisors and Board Committees, appropriate noticing and posting of meetings and hearings, preparing meeting agendas, distributing meeting packets, and preparing a summary record of proceedings. In addition, the Clerk of the Board prepares meeting minutes, processes Board of Supervisors meeting referrals and items that require action, and records varied documents within statutory timelines.

Meeting Management Services are mandated by and performed in accordance with the California Ralph M. Brown Act (Government Codes 54950-54962,) and “Maddy” (Government Codes 54970-54975) and Government Code 25101 as well as varied County Ordinance Codes. The Brown Act requires the creation and posting of agendas for Board meetings and Board committee meetings. Government Code 25101 requires that the Clerk of the Board keep a “full and complete record of the proceedings of the board at all regular and special meetings.”

04– Meeting Management Services/Board Operations (MANDATED): \$679,573

The Meeting Management Services/Board Operations function includes 6.0 authorized positions and is responsible for noticing and posting BOS meetings and hearings. They prepare the Board of Supervisors Agendas and distribute meeting packets to the appropriate recipients. The staff members prepare for the meetings by setting up the meeting room. They also process, publish, and record all documents. This function is performed in accordance with the Ralph M. Brown Act, (Government Code Section 54950 et seq.) and the Maddy Act (Government Code Section 54970).

05– Meeting Management Services/Advisory Boards and Commissions (MANDATED): \$679,573

The Meeting Management Services/Advisory Board and Commissions function includes 6.0 authorized positions and is responsible for providing administrative support to more than thirty Advisory Boards and Commissions. This administrative support includes preparing and distributing documents for new appointments,

orienting new board and commission members, administering the resignation and vacancy process, and maintaining current records for all appointments in compliance with the County of Santa Clara Charter and applicable Government Code. This function is performed in accordance with the Ralph M. Brown Act, (Government Code Section 54950 et. Seq.), the Maddy Act (Government Code Section 59470), and various County Ordinance Sections applicable to particular commissions.

06–Records Management Services (MANDATED): **\$679,573**

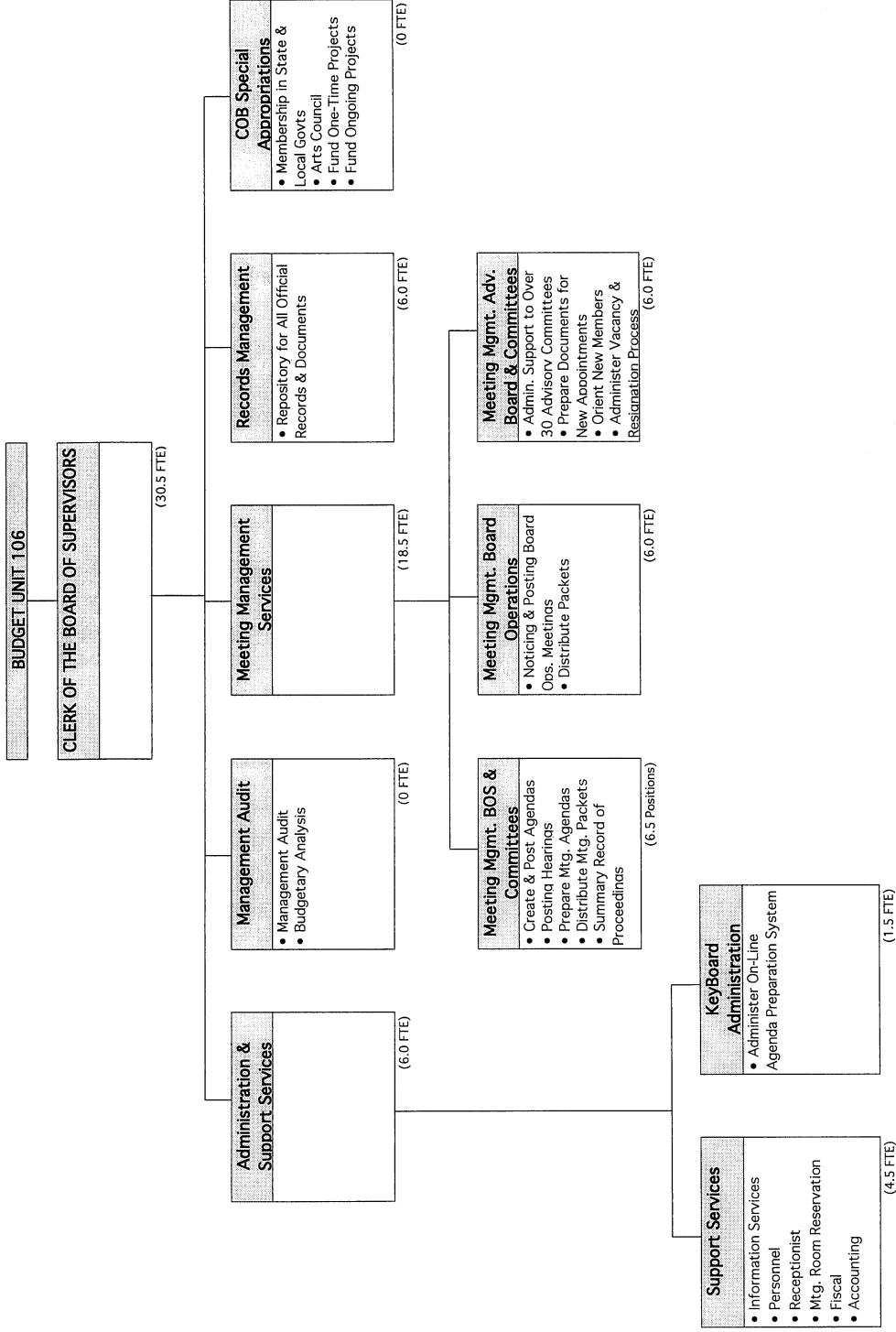
The Records Management Services function includes 6.0 authorized positions and is responsible for acting as the repository for all official records and documents submitted as actions taken by the Board or related to Board activities. Staff members who are assigned to this function are also responsible for providing this information to anyone requesting it. The Clerk of the Board carries out these custodial duties in compliance with the California Public Records Act (Government Code Sections 6250-6270), Government Code Section 87202 and Government Code Section 915.

As part of the Records Management Services, the Clerk of the Board receives and processes Property Assessment Appeals filed by Santa Clara County property owners. These duties are performed in accordance with the State Revenue and Taxation Code, Property Tax Rules, and rules and procedures of the County’s local Assessment Appeals Board.

Staff members assigned to this function also receives and processes other official filings, including Conflict of Interest forms, Claims against the County, Stop Notices, Certificates of Tax Clearance, Oaths of Office, and Municipal Code Ordinance supplements. These filings are received and processed in accordance with varied State and Government and Civil Codes. Of the amount allocated to this function in the FY 2006-07 Budget, \$40,000 is for a one-time appropriation to fund the start-up phase of the restoration of historical audio recordings and minute books.

Total Office of the Clerk of the Board FY 2006-07 Adopted Budget	\$6,309,686
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CLERK OF THE BOARD OF SUPERVISORS



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Laurie F. Faulkner
ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: *for* Leslie Orta, Deputy County Counsel *Bob Campbell*

RE: Clerk of the Board - Document Library Function (Budget Unit #106)
Mandate Analysis Update

DATE: August 2, 2006

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to Budget Unit #106 regarding the Clerk of the Board. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the Clerk of the Board with regard to document library.

I reviewed my Mandate Analysis dated September 12, 2003 and 2004 and there are no changes in the mandated functions of this Department regarding the processing of stop notices on public works projects. The last page of my 2003 memo refers to the departments in county government who administer public works projects. Since that date, the referenced General Services Agency has been dissolved. In its place is the Facilities & Fleet Department which includes Building Operations and Capital Programs. Procurement has moved in the organization chart from GSA to the County Executive's Office.

c: Phyllis Perez, Clerk of the Board
Ann Ravel, County Counsel

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MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: My-Le Jacqueline Duong, Lead Deputy County Counsel 

RE: Clerk of the Board of Supervisors 106 Mandate Analysis Report

DATE: August 4, 2006

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to Budget Unit 106 regarding Clerk of the Board of Supervisors.

Based on our review of the current Mandate Report, there is no new changes to the mandates from the prior mandate analysis of October 26, 2004. We believe the Clerk of the Board updated Mandate Report accurately reflects whether the specified programs and/or functions are mandated or not.

c: Phyllis Perez, Clerk of the Board
Ann Ravel, County Counsel

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**CONFIDENTIAL MEMORANDUM
ATTORNEY-CLIENT PRIVILEGED COMMUNICATION**

TO: Robin Courtney, Management Audit Division

FROM: My-Le Jacqueline Duong, Deputy County Counsel 

RE: Clerk of the Board of Supervisors Updated Mandate Analysis Report

DATE: October 26, 2004

As requested by the County Executive and the Board of Supervisors' Management Audit Division, I have reviewed the attached updated Mandate Analysis Report ("Mandate Report") for the Clerk of the Board of Supervisors ("COB"). We believe that the COB updated Mandate Report accurately reflects whether the specified programs or functions are mandated or not.

The updated Mandate Report for the COB includes the full implementation of the County-wide Keyboard on-line agenda preparation system. With the full implementation in place, the Keyboard system has become an integral to the way the County operates and is a critical business tool used by the County to fulfill its mandates. As a result, the Administration and Support function of the COB includes the oversight, management, and necessary technical application and maintenance costs of the Countywide Keyboard system.

Please call me if you have further questions regarding this matter.

c: Bill Helfman

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Ann Miller Ravel
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Debra L. Cauble
Laurie F. Faulkner
Susan G. Levenberg
ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Leslie Orta, Deputy County Counsel *Leslie Orta*

RE: Mandate Analysis
Clerk of the Board

DATE: September 12, 2003

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of a legal mandate applicable to the Clerk of the Board of Supervisors related to one function they administer.

Document Library

1. Legal Basis for Mandate

California Civil Code section 3186 requires a public entity who receives a stop notice on a public works construction project to take certain specified actions. The entity must withhold a specified sum (the amount of the claim plus an additional amount which this County has set at 25%) from any monies due or that become due and payable to the general contractor. The Document Library receives the notices, forwards them to the Office of the County Counsel for review and approval. The County Counsel forwards the approved notices to the appropriate departments and staff throughout the County for appropriate handling and withholding of the monies.

2. Level or Requirement of Mandate

If the County decides to undertake public works construction projects, it must adhere to the statutory processes dictated by the Civil Codes.

Page Two
Legal Mandates Memo
September 12, 2003

3. Other Comments

Currently there are six County departments handling public works construction projects, in four different agencies: VMC, GSA (Capital Programs, Building Operations, and Procurement), Parks, and the Roads & Airports. The correct processing of the stop notices affects all six departments and the four agencies they fall in. Due to the implementation of the new SAP accounting system, more responsibilities have been delegated to the four agencies' fiscal officers in the handling of these notices.

c: Phyllis Perez, Clerk of the Board of Supervisors
Ann Ravel

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107 County Executive

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Non-Mandated	6	5,582,549	44%	5,120,549	92%	36.0	48%
Mandated	3	3,022,237	24%	2,784,036	92%	20.0	27%
Admin/Support	-	4,058,685	32%	4,058,685	100%	18.8	25%
Total	<u>9</u>	<u>12,663,471</u>	<u>100%</u>	<u>11,963,270</u>	<u>94%</u>	<u>74.80</u>	<u>100%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=percent of total staffing

Departmental Description

The County is required to have a County Executive pursuant to Article IV of the County Charter. The County Executive is appointed by the Board of Supervisors and serves as the chief administrative officer of the County. The County Executive's Office is responsible for the proper administration of all affairs of the County, including preparation and implementation of the annual budget. In addition, the Office directly provides a number of County services through its divisions and programs, including Public Affairs, Intergovernmental and Legislative Relations, Emergency Services Planning and Preparedness, Human Relations, Women's Policy and Programs, Veterans Services, and others. Among the functions currently performed by the County Executive's Office, only three are considered mandated by local or State law. These include the Integrated Pest Management Program, Office of Budget and Analysis, and Office of Emergency Services. In FY 2006-07, the County Executive's Adopted Budget funds 74.8 positions and amounts to approximately \$12.7 million.

FY 2006-07 General Fund Budget by Program/Function

<u>Function</u>	<u>FY 2006-07 Adopted Budget</u>		<u>Departmental</u>	<u>General</u>	<u>Percent</u>
	<u>Amount</u>	<u>Staffing</u>	<u>Revenue</u>	<u>Fund Subsidy</u>	
<i><u>Non-Mandated Activities</u></i>					
01 Human Relations	1,947,771	16.0	342,000	1,605,771	84%
02 Special Projects	1,046,270	2.0	0	1,046,270	100%
03 Legislative Programs	931,725	4.0	0	931,725	100%
04 Public Affairs	669,337	6.0	0	669,337	100%
05 Women's Policy/Programs	262,378	2.0	0	262,378	100%
06 Veterans Services	<u>725,068</u>	<u>6.0</u>	<u>120,000</u>	<u>605,068</u>	<u>83%</u>
Subtotal	5,582,549	36.0	462,000	5,120,549	92%
<i><u>Mandated Activities</u></i>					
07 Integrated Pest Mgmt	138,838	1.0	53,787	85,051	61%
08 Budget and Analysis	1,913,707	12.0	0	1,913,707	100%
09 Emergency Services	<u>969,692</u>	<u>7.0</u>	<u>184,414</u>	<u>785,278</u>	<u>81%</u>
Subtotal	3,022,237	20.0	238,201	2,784,036	92%
<i><u>Required</u></i>					
Admin/Support	<u>4,058,685</u>	<u>18.8</u>	<u>0</u>	<u>4,058,685</u>	<u>100%</u>
Total	<u>12,663,471</u>	<u>74.8</u>	<u>700,201</u>	<u>11,963,270</u>	<u>94%</u>

Description of Programs and Functions

Administration and Support (REQUIRED):

\$4,058,685

The Administration and Support function includes 1.0 County Executive, 1.0 Chief Deputy County Executive, 2.0 Deputy County Executives and 14.8 administrative and support staff for a total of 18.8 authorized positions. These positions are responsible for departmental management, and fiscal, budget and information systems support. Because some of the direct services performed by the County Executive are mandated, the County must also provide adequate administrative oversight and support services to fulfill these mandates. The amount of staff and other resources necessary to provide an "adequate" level of funding is subject to determination by the Board of Supervisors pursuant to Government Code Sections 29063 and 29088.

NON-MANDATED PROGRAMS AND FUNCTIONS

01-Office of Human Relations (NON-MANDATED):

\$1,947,771

The Office of Human Relations (OHR), which includes 16.0 authorized positions, provides an array of services to the residents of Santa Clara County that promote equality, justice and peace in our community. Programs include Dispute Resolution

Program, which provides mediation services and training, and staffs the Social Services Agency Ombuds Program, and the Institute for Non-Violence, which offers training to teach the community to resolve problems in productive ways. OHR also provides research and advocacy relating to citizenship and immigration services, maintains the Network for a Hate-Free Community, and works with the Youth Taskforce.

The Office of Human Relations serves County residents by providing staff support and direction to the Human Relations Commission, an advisory body to the County Board of Supervisors. In addition, OHR seeks to build strong working relationships throughout the County for the purpose of enhancing community access to County government. OHR may be called upon to mediate community disputes and to hold public hearings to secure public testimony on important community matters. Although most of the functions provided by the OHR are non-mandated, the County Ordinance Code requires the County Executive to provide staff support for the Human Relations Commission. This staff support is currently provided by the OHR.

02–Special Projects (NON-MANDATED): **\$1,046,270**

The Special Projects function, which includes 2.0 authorized positions, supports economic development activities, including asset development projects such as the Fairgrounds Revitalization Project, the Elmwood Surplus Land Project, and the Civic Center Master Plan, as well as other surplus land projects. These activities support the development of affordable housing where possible.

03–Legislative Programs (NON-MANDATED): **\$931,725**

The Legislative Programs function, which includes 4.0 authorized positions, is responsible for managing the County’s legislative programs in Sacramento and Washington. It includes developing the Legislative Priorities and Policies Document, initiating legislation, and monitoring State and federal legislation that affects the County. Legislative Programs staff also manage the County’s economic development activities, including welfare to work job creation activities and special projects of an intergovernmental nature.

04–Office of Public Affairs (NON-MANDATED): **\$669,337**

The mission of the Office of Public Affairs is to facilitate the flow of accurate and timely information to the public about policies, practices, programs and services of the County of Santa Clara; provide media relations support and guidance to County agencies and departments; and, assist with activities to engage the public in County sponsored events. These functions are provided by 6.0 authorized positions.

05-Office of Women’s Policy and Programs (NON-MANDATED): **\$262,378**

The Office of Women’s Policy and Programs (OWPP), which includes 2.0 authorized positions, addresses the needs of women, girls, and their families, working to promote their advancement in all aspects of society, and to protect their civil and human rights. The Office manages grant activities including gender specific programming in the Court and in the jail system, and provides support to the Commission on the Status of Women (CSW). Although most of the functions provided by the OWPP are non-mandated, the County Ordinance Code requires the County Executive to provide staff support for the CSW. This staff support is currently provided by the OWPP.

06-Office of Veterans Services (NON-MANDATED): **\$725,068**

The Office of Veterans Services, which includes 6.0 authorized positions, was established by Santa Clara County to assist members of the community who served in the Armed Forces, and their dependents and survivors, in obtaining benefits and services from the U.S. Department of Veterans Affairs, the Department of Defense, and the California Department of Veterans Affairs. Veterans Services representatives assist the veteran and/or family members in completing applications for benefits, claims, filing appeals to the Veterans Administration, and providing follow up services as needed.

MANDATED PROGRAMS AND FUNCTIONS**07-Integrated Pest Management (MANDATED):** **\$138,838**

The Integrated Pest Management and Pesticide Use Ordinance regulates the use of pesticides on County property by County employees and contractors for purposes of protecting the health and safety of employees, the general public and the environment. The ordinance created the position of Integrated Pest Management Coordinator, who is responsible for program implementation, maintaining program records, evaluating program effectiveness, conducting public education on the use of pesticides, and maintaining an approved list of pesticides.

08-Office of Budget and Analysis (MANDATED): **\$1,913,707**

The Office of Budget and Analysis (OBA), which includes 12.0 authorized positions, provides the primary staff support to the County Executive and serves as the principal policy and fiscal analysis resource for the County. Its responsibilities include policy analysis, fiscal analysis, financial forecasting, budget development, contract policy development, and analysis of programs, organization, and management systems. In addition, OBA staff serve as department liaisons for the County Executive, review items transmitted to the Board of Supervisors for fiscal impact, accuracy and adherence to County policy, provide staff support to Board Committees, and provide technical and analytic resources to other County agencies as needed. OBA's programs include:

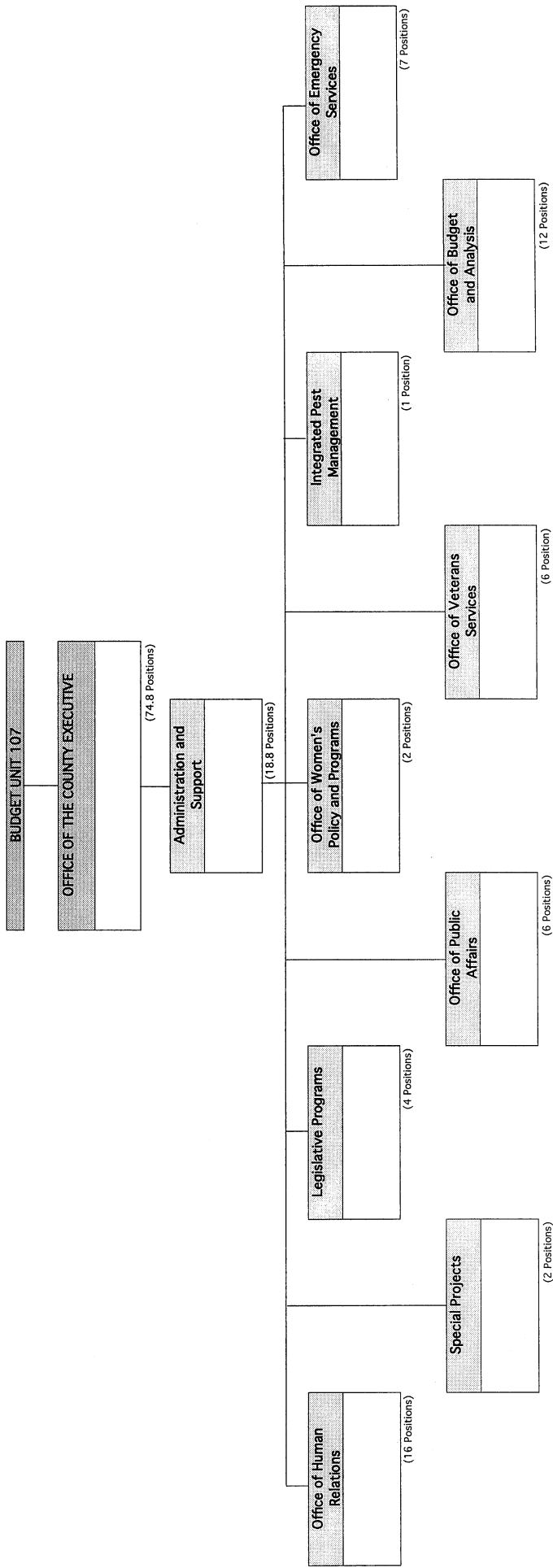
- Development and management of the annual County budget, which now includes a Performance-based component, the Five-year Financial Projection, Countywide contract coordination, and special projects for the County Executive and the Board of Supervisors.
- OBA also oversees three additional budget units:
 - Special Programs and Reserves, which contains budget expenditures which cross departmental lines, or do not neatly fit into existing program budgets;
 - Contingency Appropriations, which includes monies designated for various contingency purposes. Use of funds requires Board approval; and,
 - Criminal Justice System-Wide Costs, which reflects General Fund support for Trial Court operations, indigent defense contract services, and Public Safety Sales Tax revenues.

09–Office of Emergency Services (MANDATED): **\$969,692**

The Office of Emergency Services (OES), which includes 7.0 authorized positions, is responsible for coordinating organized planning efforts with County departments, local cities and special districts to mitigate against, prepare for, respond to, and recover from disasters. These responsibilities are enumerated in Section A8 of the County Ordinance Code and Section 8550 et seq. of the Government Code pertaining to the California Emergencies Services Act. The Office is responsible for maintaining the County/Operational Area Emergency Operations Centers in a continual state of readiness. OES also designs, conducts and evaluates periodic emergency staff training and simulated disaster preparedness and response exercises. Finally, OES administers several emergency services-related grant programs, including the Homeland Security Grant Program.

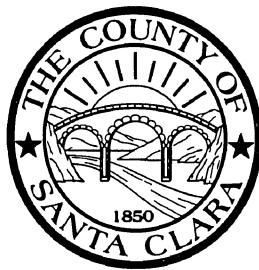
Total County Executive FY 2006-07 Adopted Budget	\$12,663,471
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OFFICE OF THE COUNTY EXECUTIVE



OFFICE OF THE COUNTY COUNSEL
COUNTY OF SANTA CLARA

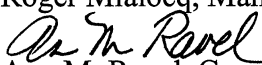
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ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager
FROM: 
Ann M. Ravel, County Counsel
RE: Mandate Analysis for County Executive's Office (Budget Unit 107)
DATE: August 4, 2006

As requested by the County Executive and the Board of Supervisors' Management Audit Division, this is an updated written assessment of the legal mandates applicable to the Office of the County Executive, Budget Unit 107. Below are comments or supplemental analyses, as needed, concerning the mandates in the functional areas identified by the County Executive's Office.

BUDGET UNIT 107

Administration and Support

The County Executive states that the general administrative function is mandated under Article IV of the County Charter. Under the provisions of Article IV, as well as Section 701, the Charter provides a mandate that there be a County Executive, and that the executive be "responsible to the Board of Supervisors for the proper administration of all affairs of the county." Further, the County Executive is required to "supervise and direct the preparation of the annual budget of the county for the Board of Supervisors and be responsible for its administration after adoption." (Charter section 404(d)). The only positions actually mandated by the Charter are the County Executive, and one confidential secretary and administrative position. However, it is clear that in order to perform the functions described, it is necessary that a certain staff be utilized to assist the County Executive to prepare the budget and to administer its provisions.

This office concurs with the other assessments made in the Mandate Study provided by the County Executive's office.

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MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Debra L. Cauble, Assistant County Counsel *dlc*

RE: Mandate Analysis for County Executive's Office (Budget Units 107, 119, 217)

DATE: September 29, 2003

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to the Office of the County Executive, Budget Units 107, 119, and 217. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the County Executive's Office.

BUDGET UNIT 107

Administration

The County Executive describes this function as including general administrative positions, oversight of court/county issues; support to the Local Agency Formation Commission (LAFCo), and cable franchise management.

1. Legal Basis for Mandates. The County executive states that the general administrative function is mandated under Section 4 of the County Charter. We understand this reference to be to Article IV of the Charter, which describes the role of the County Executive. Under the provisions of Article IV, as well as Section 701, the Charter mandates that the County have a County Executive, and an unclassified confidential secretary and administrative position for the Executive. The Charter does not mandate other positions in the County Executive's Office.

County support of LAFCo is no longer statutorily mandated. Government Code Section 56384 authorizes the LAFCo to appoint an executive officer and legal counsel, and other staff as the Commission deems appropriate. In our County the LAFCo has elected to continue the prior use of County Executive staff to fulfill the duties of executive officer and other support positions. This arrangement with the County is formalized under a contract and provides for full cost recovery for the County services provided to LAFCo.

We did not identify any other legal mandates for activities within the Administration function.

2. Level or Requirement of Mandate, If Applicable. As noted, the Charter specifies three positions to be maintained in the Office of the County Executive. LAFCo levels of staffing is established by the agreement between LAFCo and the County.

Habitat Conservation Program

Legal Basis for Mandate. We concur with the County Executive's analysis that there is no legal mandate for this function.

Special Projects

The County Executive identifies the following activities within this functional area: Fairgrounds Revitalization, Elmwood Surplus Land Development, Civic Center Strategic Development.

Legal Basis for Mandate. The activities within this functional area are economic development projects which are not legally mandated but have been initiated by the Board of Supervisors to pursue established policy goals.

The Silicon Valley Theater Financing Corporation is a nonprofit corporation created for the purposes of financing the theater at the Fairgrounds. Creation of the corporation was advantageous to the County but was not legally mandated.

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Office of Public Communication

This functional area includes a variety of public communication activities on behalf of the County. It also includes staff support to three sister-county commissions.

Legal Basis for Mandate. As noted by the County Executive, the public communication functions of this Office are not mandated by law. The three sister county commissions were created by ordinance of the Board of Supervisors (codified in Division A6 of the Ordinance Code). The ordinance code requires certain staffing support by the Clerk's office but does not mandate support by the County Executive's Office. However, Board Policy 3.39 provides that the County Executive's Office will provide programmatic and administrative support to the commissions.

Office of Women's Advocacy

Legal Basis for Mandate. We concur with the County Executive's analysis that there is no legal mandate for this function. As noted below, however, the Ordinance Code does require staff support in the County Executive's Office for the Commission on the Status of Women.

SACPA (Substance Abuse and Crime Reporting Act; Prop. 36)

Legal Basis for Mandate. State regulations implementing SACPA (Title 9, Code of California Regulations) require counties to designate a County Lead Agency to administer the Act locally and to receive funds. As a condition of receiving funds, counties must annually submit a county plan describing the processes and services that they will employ to implement the Act, as well as proposed expenditures. The plans must be developed and implemented in collaboration with all county agencies and any other entities responsible for administering the Act and with input from providers of drug treatment services, impacted community parties and federally recognized American Indian tribes. County Executive's Office resources devoted to fulfilling these requirements are a mandated function.

Level or Requirement of Mandate, if applicable. Proposition 36 and the regulations implementing it do not establish a specific level of support in order to satisfy the legal mandate.

Children's Services

Legal Mandate. We concur with the County Executive's analysis that there is no legal mandate for this function.

Legislative Program

Legal Mandate. We concur with the County Executive's analysis that there is no legal mandate for this function.

Integrated Pest Management Program

1. Legal Mandate. The Board of Supervisors has established a County IPM Program by ordinance (Div. B28 of the County Ordinance Code). The Ordinance requires the appointment of an IPM Coordinator within the Office of the County Executive to oversee and coordinate the Program.

2. Level or Requirement of Mandate, if applicable. The Ordinance describes the scope of the IPM Program that must be overseen by the IPM Coordinator.

Public Safety Program

The County Executive's Office states that this functional area includes oversight of indigent defense, Local Law Enforcement Block Grant (LLEBG) administration, and administration of the Board's program to fund nonprofits who provide legal services to low income persons with unmet needs for such services.

1. Legal Mandate. The County is required under the Penal Code to provide a defense in criminal proceedings for indigent defendants. This obligation is currently met through assignment of attorneys from the Public Defender's Office and through contracts for provision of representation when the Public Defender is unable to represent an indigent defendant due to conflict. To the extent County Executive resources are required to administer the conflict program, those resources should be considered mandated.

In order to obtain funds through the Local Law Enforcement Block Grant program, the County must comply with certain requirements regarding planning and oversight. To the extent such activities are required in order to comply with Grant terms, once the County has elected to apply for and use the grant funding, the activities should be considered mandated.

As noted by the County Executive's Office, there is no legal mandate for the County to provide civil legal services to persons who cannot afford them.

2. Level or Requirement of Mandate, If Applicable. There are no legal requirements mandating a particular level of service in this functional area.

Office of Budget and Analysis

1. Legal Mandate. Section 404(d) of the County Charter provides that the County Executive must "supervise and direct the preparation of the annual budget of the County and be responsible for its administration after adoption."

2. Level or Requirement of Mandate, If Applicable. Activities of the Office of Budget and Analysis in furtherance of the Charter requirements concerning the budget should be considered mandated.

Office of Emergency Services

The County Executive's Office states that this functional area includes planning and coordination of emergency and disaster efforts and training, coordination of the Santa Clara County Operational Area, support to the local Emergency Preparedness Council, and coordination of the Emergency Alert System.

1. Legal Mandate. Under the California Emergency Services Act (Government Code Section 8550 et seq.) counties have a significant role in addressing regional and local emergencies. The Act provides for establishment of Operational Areas at the county level which serve a variety of purposes in coordinating emergency responses (Section 8605). The Act authorizes counties to create local disaster councils by ordinance, in order to develop plans for addressing local emergencies (Section 8610).

In order to implement provisions of the Act, our Ordinance Code (Division A8) requires the County Executive to perform various functions in the role of County Director of Emergency Services. The Code provides that the County Executive serves as the Operational Area coordinator, and directs the appointment of an emergency services manager to carry out various functions related to emergency planning and operations. Our Board has also elected to create a local disaster council by ordinance.

2. Level or Requirement of Mandate, If Applicable. To the extent the functions described above implement the referenced provisions of state law and local ordinance, they should be considered mandated.

Human Relations

1. Legal mandate. We concur with the Office of County Executive that the only mandated activities related to this functional area concern support to the Human Relations Commission and Commission on the Status of Women. County Ordinance Code Section A6-55 provides that the Commission's Executive Secretary shall be appointed by the County Executive, shall attend all meetings and shall provide staff assistance. Section A6-77 sets forth a similar requirement with respect to the Commission on the Status of Women.

2. Level or Requirement of Mandate, If Applicable. The Ordinance Code does not specify the level of support required by the executive secretary to the two Commissions, except to the extent it requires attendance at all Commission meetings.

BUDGET UNIT 119

This Budget Unit contains a varied range of expenditures.

Legal Mandate. We concur with the County Executive's Office that none of the activities are legally mandated, except as follows: (1) This Budget Unit includes an appropriation for certain work performed by the Department of Environmental Health, required by state law to be performed. We are reviewing the assumption that no fees may be charged to recover costs of these services; and (2) the one-time appropriation for implementation of the Health Insurance Portability and Accountability Act (HIPAA) is mandated to the extent the expenditures are being used to make information systems changes mandated by HIPAA.

BUDGET UNIT 217

The County Executive's Office reports that this Budget Unit includes certain court-related expenses (Maintenance of Effort payment to the State, expenses related to court facilities, and grand jury expenses). In addition, we are advised that it includes expenses which appear to overlap those described under the Public Safety Program of BU 107 (see discussion above) for indigent legal services and unmet civil legal needs.

1. Legal Mandate. The California Trial Court Funding Act of 1997 provided for the separation of local trial court functions from that of counties. The legislation required counties to continue "maintenance of effort" (MOE) payments to the state based upon a statutory formula. (Gov. Code Section 77201. 77201.1). State law also requires counties to provide suitable and necessary

Memo to Management Auditors
Mandate Analysis for County Executive's Office
September 29, 2003
Page 7

trial court facilities (Gov. Code Section 70311) until such facilities are later transferred under other provisions of state law. The California Penal Code (Sections 890.1, 914.5 and others) requires counties to provide specified budgetary support for the grand jury.

2. Other comments. The Board of Supervisors may wish to consider pursuing legislation to transfer fiscal responsibilities for the grand jury to the court, in line with the overall statutory scheme of separating court and county functions.

c: Peter Kutras, Jr.
Ann Ravel

110 Controller-Treasurer

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Non-Mandated	0	0	0%	0	0%	0.0	0%
Mandated	6	13,995,306	92%	8,496,306	61%	82.8	92%
Admin/Support	-	<u>1,225,332</u>	<u>8%</u>	<u>801,332</u>	<u>65%</u>	<u>7.0</u>	<u>8%</u>
Total	<u>6</u>	<u>15,220,638</u>	<u>100%</u>	<u>9,297,638</u>	<u>61%</u>	<u>89.8</u>	<u>100%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=percent of total staffing

Departmental Description

The Controller-Treasurer Department is the largest of four departments within the Finance Agency. The Department has Countywide responsibility for accounting, treasury and internal auditing. As the Chief Accounting Officer of the County, the Controller-Treasurer provides all traditional accounting services including payroll, accounts payable, fixed asset control, financial statements preparation, cost plan preparation, SB 90 claim coordination, fees and charges development and monitoring, automated financial systems implementation and management, and other financial functions. The FY 2006-07 Adopted Budget for the functions provided by the Controller-Treasurer Department funds 89.8 authorized positions and amounts to approximately \$15.2 million. Of this amount, 27 percent is reimbursed by non-General Fund departments through the Cost Plan, and 12 percent is received from direct billing revenues for a combined total non-General Fund reimbursement of 39 percent of the budget.

As indicated in the 2002 management audit, the Controller-Treasurer Department plays the most critical role of all County departments in ensuring the County's financial success and on-going viability. Preparing the Cost Plan, coordinating SB 90 claims, and

developing and monitoring fees and charges are among many critical functions that directly impact County General Fund discretionary revenues by millions of dollars annually. The Department has identified six major functions it performs in addition to administration and support services. All of these functions have been determined to be mandated by local, State or federal law.

FY 2006-07 General Fund Budget by Program/Function

<u>Function</u>	<u>FY 2006-07 Adopted Budget</u>		<u>Departmental</u>	<u>General</u>	
	<u>Amount</u>	<u>Staffing</u>	<u>Revenue</u>	<u>Fund</u>	<u>Percent</u>
				<u>Subsidy</u>	
<u>Mandated Activities</u>					
01 Disburse/Cost Mgmt	3,349,792	27.0	1,198,000	2,151,792	64%
02 General Accounting	2,066,028	15.4	739,000	1,327,028	64%
03 Property Tax Apportion	1,008,585	7.0	522,000	486,585	48%
04 Treasury	1,109,187	5.4	889,000	220,187	20%
05 Internal Audit	848,461	7.0	355,000	493,461	58%
06 Fiscal Services	<u>5,613,254</u>	<u>21.0</u>	<u>1,796,000</u>	<u>3,817,254</u>	<u>68%</u>
Subtotal	13,995,306	82.8	5,499,000	8,496,306	61%
<u>Required</u>					
Admin/Support	<u>1,225,332</u>	<u>7.0</u>	<u>424,000</u>	<u>801,332</u>	<u>65%</u>
Total	<u>15,220,638</u>	<u>89.8</u>	<u>5,923,000</u>	<u>9,297,638</u>	<u>61%</u>

Description of Programs and Functions

Administration and Support (REQUIRED): **\$1,225,332**
 The Administration and Support function includes 1.0 Director of Finance, 1.0 Controller and 5.0 administrative and support staff for a total of 7.0 authorized positions. These positions are responsible for departmental management, and fiscal, budget and information systems support. Because the direct services performed by the Controller-Treasurer Department are mandated, the County must also provide adequate administrative oversight and support services to fulfill these mandates. The amount of staff and other resources necessary to provide an "adequate" level of funding is subject to determination by the Board of Supervisors pursuant to Government Code Sections 29063 and 29088.

MANDATED PROGRAMS AND FUNCTIONS

01-Disbursements and Cost Management (MANDATED): **\$3,349,792**
 The Disbursements function generates and distributes paychecks and vendors' payment, audits and processes travel reimbursements, controls and reviews payments

by performing Audit-After-the-Fact, controls and monitors employee payroll records, and generates W-2 and 1099 income tax statements. The Cost Management function includes cost plan preparation and analysis, SB 90 claims coordination and monitoring, and rates, fees and charges development and management. Together, these functions include 27.0 authorized positions.

Of the \$3,349,792 budgeted for Disbursements and Cost Management in FY 2006-07, \$15,000 is a one-time cost for the initial training and equipment associated with assigning staff to develop Countywide guidelines, policies and procedures to correctly calculate fees and charges, and comply with State and federal directives.

02-General Accounting (MANDATED): **\$2,066,028**

The General Accounting function, which includes 15.4 authorized positions, prepares the County's financial statements, maintains its accounting books, establishes the controls for the County's financial transactions, oversees accounting and distribution of various revenues, provides support to department in complex accounting issues and provides ongoing financial and cost analyses to enhance County's revenues and fixed assets.

03-Property Tax Apportionment (MANDATED): **\$1,008,585**

The Property Tax Apportionment function, which includes 7.0 authorized positions, is responsible for the apportionment of property taxes for the County, cities, school districts, and special districts according to laws and regulations; providing public services to individual taxpayers and government agencies.

04-Treasury (MANDATED): **\$1,109,187**

The Treasury function, which includes 5.4 authorized positions, accounts for the receipt of all funds received for the School Districts, Santa Clara County and special districts that place their funds in the County Treasury. It has responsibility to monitor the debt issued by the County and acts as the County's representative on school debt issuance. It is responsible for cash flow analysis and all programs that participate in the Treasury Pool. It also maintains account balances for Bank of the West and investment activities.

05-Internal Audit (MANDATED): **\$848,461**

The Internal Audit function, which includes 7.0 authorized positions, maintains internal control systems that ensure safeguard of assets, reliability of financial records, compliance with laws and regulations, efficiency of operations, and achievement of objectives. This is accomplished through the performance of compliance audits of State and federally funded programs and custody audits upon the vacancy of County offices.

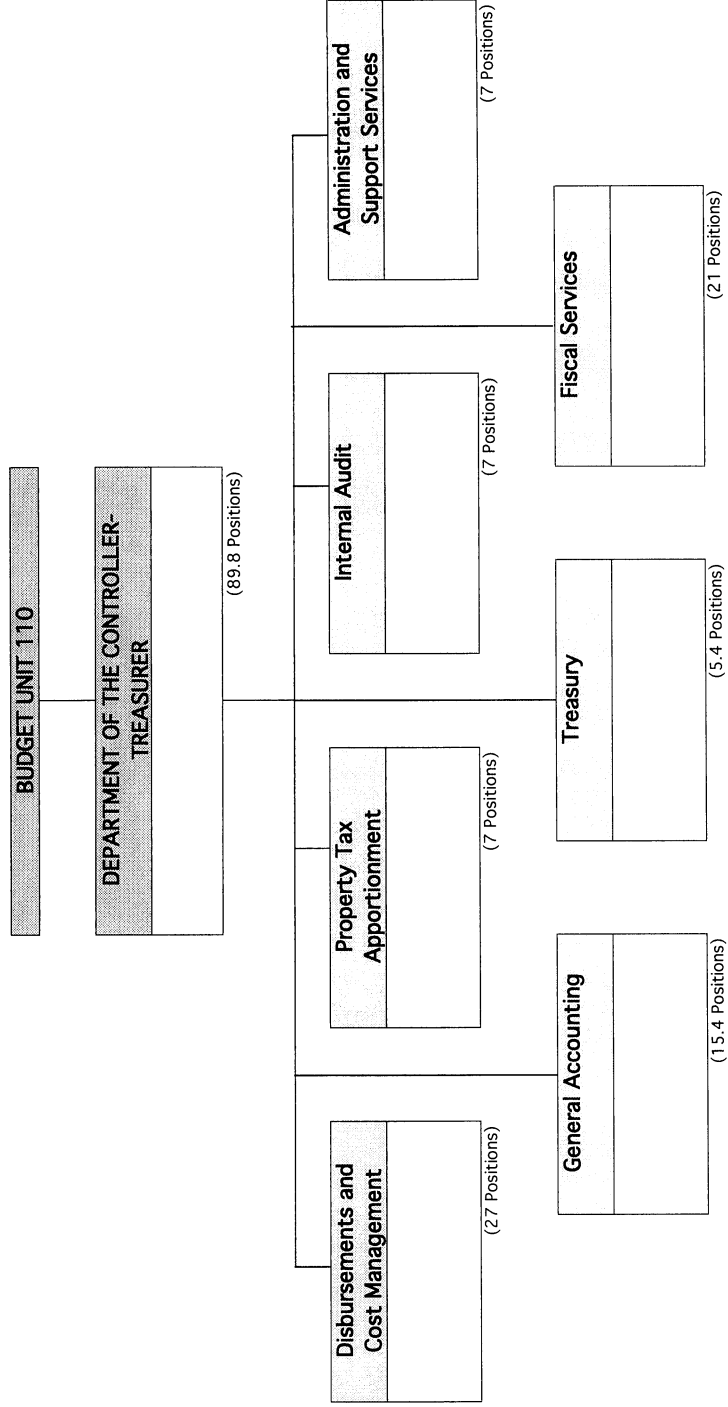
06-Fiscal Services (MANDATED): **\$5,613,254**

The Fiscal Services function, which includes 21.0 authorized positions, provides systems development, required ongoing application maintenance and user support for the Countywide accounting, payroll and timekeeping systems. The Enterprise Resource Planning (ERP) systems used by all County departments include the Accounting System and Procurement (ASAP), the human resource-payroll system (HARP) as well as two time and attendance systems (TCS and Kronos) in addition to the electronic report distribution system (ERD). The Fiscal Services function also provides consulting

services to all County departments such as business process improvement analysis, training, user documentation, etc.

Total Controller-Treasurer FY 2006-07 Adopted Budget	\$15,220,638
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DEPARTMENT OF THE CONTROLLER-TREASURER



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Laurie F. Faulkner
ASSISTANT COUNTY COUNSEL

TO: Roger Mialocq, Management Audit Manager
FROM: Lizanne Reynolds, Deputy County Counsel *Z-R*
RE: Controller-Treasurer [Budget Unit 110] Mandate Analysis Update
DATE: August 4, 2006

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to Budget Unit 110 regarding the Controller-Treasurer. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the Controller-Treasurer. This memorandum only discusses those changes from the 2003 County Counsel memorandum.

General Accounting

1. Legal Basis for Mandate

The 2003 memorandum stated that the County is mandated to provide accounting services for the trial courts. While this is technically correct, we provide the following additional information about this issue. Effective July 1, 1997, the State is solely responsible for the funding and cost of court operations. (Gov. Code § 77200.) If, however, the Judicial Council fails to establish bank accounts for the courts' fiscal services, the County must provide these services. (Gov. Code § 77009(g).)

3. Other Comments

Although the County is mandated to provide accounting services for the trial courts under the circumstances describes above, the law also provides that the County shall charge the courts a reasonable administrative fee for these services. (Gov. Code § 77009(g)(6).)

Property Taxes

1. Legal Basis for Mandate

The statutory basis for the legal mandate for allocating property taxes to public agencies

Memorandum to Roger Mialocq, Management Audit Manager
Re: Controller-Treasurer Mandate Analysis Update
August 4, 2006
Page 2

and funds is found in Revenue and Taxation Code sections 4653.4 (secured roll taxes) and 4655.2 (unsecured roll taxes).

Treasury

1. Legal Basis for Mandate

The duties of the County Treasurer are generally set forth in Government Code 27000 *et seq.*

3. Other Comments

Pursuant to Government Code section 27013, the County Treasurer may deduct the reasonable administrative cost of investing, depositing or handling funds for public agencies from the interest or income generated prior to distributing such interest or income to those other public agencies. This cost reimbursement must be placed in the County general fund.

c: Dave Elledge, Controller-Treasurer
Ann Ravel

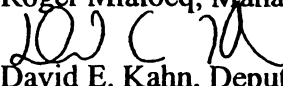
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Ann Miller Ravel
COUNTY COUNSEL

Debra L. Cauble
Laurie F. Faulkner
Susan G. Levenberg
ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager
FROM: 
David E. Kahn, Deputy County Counsel
RE: Controller-Treasurer Mandate Analysis
DATE: September 29, 2003

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to the Controller-Treasurer. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the Controller-Treasurer.

Disbursements

1. **Legal Basis for Mandate** – This unit generates and distributes paychecks and W-2 forms, warrants and payments to vendors. There are multiple federal, state and local statutes that provide the mandates for these actions. The County is required to pay its employees under various collective bargaining agreements and employment contracts. The Internal Revenue Code requires that federal taxes be withheld and accounted for. Title 22 of the California Code of Regulations and state income tax statutes mandate the withholding and accounting for state income and unemployment taxes. Government Code section 29803 requires the treasurer to issue warrants to pay the County's legal obligations as authorized by the Board.
2. **Level or Requirement of Mandate** – While the functions of issuing checks and warrants, and withholding and accounting for payroll and other taxes is mandated, there is no set level of staffing required by these statutes other than an implied mandate of adequate staffing to insure timely and complete completion of mandated tasks.

Memorandum to Roger Mialocq, Management Audit Manager

Re: Controller-Treasurer Mandate Analysis

September 29, 2003

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General Accounting

Legal Basis for Mandate – This unit does the preparation of financial statements, accounting for all expenditures and revenues, reports to the state treasurer, prepares interest allocation, accounting for the trial courts, distributions of bails and fines, filing of sales and use tax returns, and auditing the County’s financial statement. Multiple state and local laws require these functions. Government Code section 25253 requires an annual accounting of revenues and expenditures by the County for the fiscal year, and Government Code section 52891 requires an annual report to be filed with the state. Government Code section 30200 requires the state controller to specify uniform accounting procedures for the County, and by implication requires the County to conform to the accounting procedures. Thus, while functions such as journal vouchers, equipment records, revenue accounting and other accounting functions are not individually mandated, they are required to fulfill the mandated compliance with standard accounting procedures.

- 2. Level or Requirement of Mandate – While the functions of accounting for revenues and expenditures and related tasks are mandated as part of the County’s required financial accountability set by statute, there is no set level of staffing required other than an implied mandate of adequate staffing to insure timely completion of the required accounting tasks.**

Property Taxes

- 1. Legal Basis for Mandate – This division is responsible for the correct allocation of property taxes to the County, cities, school districts and special purpose districts. Additionally, they monitor and administer the distribution of tax increment pass-through under California redevelopment law. Revenue and Taxation Code section 4653.3 mandates the allocation of property taxes received on a proportional basis to the various funds and agencies entitled to a property tax distribution. Additional Revenue and Taxation Code provisions require the controller to allocate the various penalty, supplemental and unsecured property taxes received. Similarly, Health and Safety Code section 33607.7 requires the controller to administer redevelopment tax increment and to distribute it according to AB 1290 and pass-through agreements.**
- 2. Level or Requirement of Mandate – While the functions of tax allocation are mandated to be done by the controller, there is no minimum staffing level set by statute other than the implied requirement of enough staff to timely and accurately track and allocate all property taxes.**

Treasury

Memorandum to Roger Mialocq, Management Audit Manager

Re: Controller-Treasurer Mandate Analysis

September 29, 2003

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1. **Legal Basis for Mandate** – This group receives and invests funds on behalf of the County, school districts and special districts that place their funds with Santa Clara County. It monitors the County's debt and analyzes cash flow to make sure that debt service requirements are met. Government Code section 53601 mandates the type of investments a County can make although it does not mandate any particular type of investment. Government Code section 53646 requires the controller-treasurer to develop and submit an investment plan to the Board on a yearly basis, and Government Code section 29043 provides the mandate for monitoring debt service requirements.
2. **Level or Requirement of Mandate** – While the treasury functions are mandated, there is no set level of staffing required other than an implied requirement of adequate staffing to insure timely completion of mandated tasks.

Internal Audit

1. **Legal Basis for Mandate** – This division provides internal control and auditing of department financial records, compliance with laws and regulations, and achievement of County objectives. County Charter section 602 requires that the county administrative code provide procedures for an audit of departments when requested by the Board of Supervisors, and County Charter section 603 mandates the Board to require an annual audit of financial transactions by a certified public accountant. Miscellaneous Government and Revenue and Tax Code provisions require specific financial audits of specific funds and accounts.
2. **Level or Requirement of Mandate** – While the audit functions are mandated, there is no set level of staffing required other than an implied requirement of adequate staffing to insure timely completion of mandated tasks.

Fiscal Services

1. **Legal Basis for Mandate** – This group provides systems support for countywide accounting, payroll and timekeeping systems, and development and implementation of new accounting technology. Government Code sections 26881 and 26882 require general supervision by the controller-treasurer over accounting for all County departments. Additionally, County Ordinance Code section 601 mandates the controller with exercising general supervision over accounting systems which are installed and maintained by the County.

2.

Memorandum to Roger Mialocq, Management Audit Manager

Re: Controller-Treasurer Mandate Analysis

September 29, 2003

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3. Level or Requirement of Mandate – While the fiscal services functions are mandated, there is no set level of staffing required other than an implied requirement of adequate staffing to insure timely completion of mandated tasks.

DEK/cmf

c: John Guthrie, Finance Director
Dave Elledge, Controller-Treasurer
Ann Miller Ravel, County Counsel

112 Tax Collector

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Non-Mandated	1	430,413	5%	430,413	100%	10.0	14%
Mandated	5	5,948,635	72%	886,441	15%	49.0	70%
Admin/Support	-	1,864,936	23%	516,099	28%	11.0	16%
Total	<u>6</u>	<u>8,243,984</u>	<u>100%</u>	<u>1,832,953</u>	<u>22%</u>	<u>118.5</u>	<u>100%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=percent of total staffing

Departmental Description

The Tax Collector's Office is responsible for collecting secured property taxes, supplemental property taxes, prior year secured property taxes, and current and prior year unsecured property taxes. The Tax Collector gathers special assessment taxes from service recipients on behalf of taxing jurisdictions. These jurisdictions include the County, special districts, schools and cities of Santa Clara County. The Tax Collector's Office performs billing, receipt and deposit of funds, record management, and receipt reconciliation. Tax collection clientele receive the benefit of tax bill dissemination, remittance and cashiering processing, past due collection efforts and taxpayer telephone assistance services and Internet on-line viewing and on-line paying of taxes. Real property owners account for the largest percentage of service recipients, representing over \$3 billion in tax bills. In addition, the largest corporations and companies pay hundreds of millions due on the real property tax roll. Service recipients remit property taxes in person, by mail, through mortgage impound accounts, utilizing telephone payment alternatives, electronic fund transfers, and over the Internet. During FY 2006-07, the Tax Collector is projected to collect \$434,705,700 in tax revenues for the County of Santa Clara.

FY 2006-07 General Fund Budget by Program/Function

<u>Function</u>	<u>FY 2006-07 Adopted Budget</u>		<u>Departmental</u>	<u>General</u>	<u>Percent</u>
	<u>Amount</u>	<u>Staffing</u>	<u>Revenue</u>	<u>Fund Subsidy</u>	
<u>Non-Mandated Activities</u>					
01 Tax Collect and Apportion *	430,413	10.0	0	430,413	100%
Subtotal	430,413	10.0	0	430,413	100%
<u>Mandated Activities</u>					
02 Secured Collections	1,285,817	11.0	1,218,030	67,786	5%
03 Unsecured Collections	1,327,912	10.0	728,904	599,008	45%
04 Tax Roll Control	1,191,816	10.0	1,017,148	174,668	15%
05 Accounting	1,567,396	13.0	1,535,281	32,116	2%
06 Payment Processing	575,694	5.0	562,831	12,863	2%
Subtotal	5,948,635	49.0	5,062,194	886,441	15%
<u>Required</u>					
Admin/Support	1,864,936	11.0	1,348,837	516,099	28%
Total	8,243,984	70.0	6,411,031	1,832,953	22%

* According to the Tax Collector, funding for the Non-Mandated Tax Collection and Apportionment System includes \$1,376,000 from the Delinquent Property Tax Improvement Fund (Fund 1474) and \$1,360,893 from rollover funds from FY 2005-06 in addition to the General Fund Subsidy of \$430,413.

Description of Programs and Functions

Administration and Support (REQUIRED):

\$1,864,936

The Tax Collector's Office includes a Tax Collector, 3.0 administrative and support staff, and 7.0 systems support staff for a total of 11.0 authorized positions. These positions are responsible for department management, and fiscal, budgeting, purchasing, personnel, and Information Systems support. Specifically, these administrative personnel prepare the departmental payroll, process paperwork for new hires; conduct purchasing and procurement activities as necessary and process accounts payable. They also process penalty appeals, coordinate office safety, perform facility management, arrange for services calls to equipment such as copiers and telephone, coordinate staff training, and arrange travel for management.

The 7.0 authorized positions assigned to systems support are responsible for supporting the technology used by the Tax Collector to perform mandated duties. This includes support of the BancTec Remittance Processing System, the Vignette Document Management and Imaging System, the Tax Information System and the Tax Collector's Office Internet Payment System. Additionally, they manage the tax applications at the Information Systems Department (ISD) and support the hardware and software used by Tax Collector employees.

Because most of the direct services performed by the Tax Collector are mandated, the County must also provide adequate administrative oversight and support services to fulfill these mandates. The amount of staff and other resources necessary to provide an "adequate" level of funding is subject to determination by the Board of Supervisors pursuant to Government Code Sections 29063 and 29088.

NON-MANDATED PROGRAMS AND FUNCTIONS

01-Tax Collection and Apportionment System (NON-MANDATED): \$430,413

The Tax Collection and Apportionment System function includes 10.0 authorized positions. These staff members work as a project team dedicated to replacing the old legacy tax collection and apportionment systems with a modern, fully integrated system that will meet all of the tax collection functions of the Tax Collector's Office and all of the apportionment functions of the Controller's Office. The total project cost is estimated to be in excess of \$13.0 million. The project strategy is to phase in major subsystems completing all of them in three to four years. The project will include joint effort of a professional development vendor. The project will be funded in FY 2006-07 with \$1,376,000 from the Delinquent Property Tax Improvement Fund (Fund 1474) and \$1,360,893 from rollover funds from FY 2005-06 in addition to \$430,413 from the General Fund.

This project is considered to be discretionary because it is not mandated by local, State or federal law. However, according to the Tax Collector's Office, the importance of this project to the future collectivity of taxes is critical. Without this new system, the County risks the possibility of losing millions of dollars of uncollected tax revenue.

MANDATED PROGRAMS AND FUNCTIONS

02-Tax Collection – Secured Collections (MANDATED): \$1,285,817

The Secured Collections function includes 11.0 authorized positions and is responsible for collecting secured and supplemental taxes that are assessed against real property, (e.g., land or structures) in accordance with Revenue and Taxation Code Section 2602, which mandates the Tax Collector's Office to collect and account for all property tax. The tax is a lien that is "secured" by the land/structure by a statutory lien. For taxes that remain unpaid after a period of five years, the property must be sold to cover the taxes owed. Staff members performing this function do not go in the field and do not make phone calls until the taxes have been unpaid for five years since there is no provision in the law that mandates them to do anything until that time. Additionally, staff members are responsible for processing delinquent secured collections according to Revenue and Taxation Code Section 4101. In accordance with Revenue and Taxation Code Section 2610.5, the Tax Collector staff must mail or electronically transmit County tax bills to property owners on or before November 1, of each year.

Additionally, staff members provide the public with all Tax Collector information. During FY 2005-06, the Unit received over 39,000 phone calls, and 41,600 inquiries at the public counter. Staff members who perform this function provide tax information to taxpayers on current annual and supplemental secured taxes including delinquent tax

information. They process all prior year, delinquent secured and supplemental tax payments and prepare pay-off data in the form of tax lien releases and payment verifications. Additional duties include establishing and maintaining delinquent secured and supplemental payment plans when applicable, researching and solving tax billing inquiries, and explaining tax bills and the related statutory requirements.

03–Tax Collection – Unsecured Collections (MANDATED): **\$1,327,912**

The Unsecured Collections function includes 10.0 authorized positions and is responsible for collecting taxes on property that can be relocated and is not real estate in accordance with Revenue and Taxation Code Section 2901 et. seq. and Section 2602. The tax is assessed against such things as business equipment, fixtures, boats and airplanes. Additionally, Revenue and Taxation Code Section 2189.1 mandates that State-assessed personal property unpaid after June 30 shall also be transferred to the unsecured roll. If the unsecured tax is not paid, a personal lien is filed against the owner of the personal property. To effect these collections the collectors perform site visits, review taxpayer's financial records, establish and monitor payment plans, record Certificate of Tax Liens and Summary Judgments and initiate seizure and sale of unpaid properties. Staff provide a tax bill for assessments on unsecured roll via mail or electronically no later than 30 days prior to August 31, in accordance with Revenue and Taxation Code Section 2910.1.

Additionally, one staff member is responsible for the secured and supplemental tax bills that are five years delinquent. Delinquent properties are sold to ensure the County receives revenue. The County is mandated to sell the property when a taxpayer is defaulted for more than five years in accordance with California Revenue and Taxation Code Section 3691 to 3776. Properties are either offered at public auction to the general public or sold by agreement to a public agency or non-profit organization.

Collections are obtained on all current year and prior year delinquent unsecured taxes including taxes on businesses, leased equipment, boats, possessor interest, aircraft, and some type of real property assessments. Two collector positions are funded by the Assessor's Property Tax Administration Program (PTAP) funds for tracking bankruptcy and intensified collections of unsecured delinquent taxes in the first three years of delinquency. Staff also prepare processing packages.

04–Tax Roll Control (MANDATED): **\$1,191,816**

The Tax Roll Control function includes 10.0 authorized positions and is responsible for maintaining and ensuring the integrity and accuracy of the secured annual roll, supplemental roll, unsecured roll, and the State-assessed roll, as mandated by Revenue and Taxation Code Sections 4801 and 530. Staff members accomplish this through increasing property taxes, creating additional escape tax bills or generating supplemental tax bills. This is the only division that can make the changes to the roll.

A change to the tax roll occurs when the Assessor, Tax Collector, County Appeals Board or State Board of Equalization (SBE) requests to make a change. Changes in the tax roll result in an increase or decrease in the amount of taxes owed and may result in a refund to the taxpayer. The supplemental roll contains a listing of all property that has undergone a change in ownership or experienced new construction. The amount of each supplemental assessment is the difference between the property's new base year

value (generally the purchase price), and the existing assessed tax value. The employees in this functional area also perform roll collections, roll maintenance, and tax clearance letters. Additionally, they are responsible for the enrollment of bonded and special assessments for which the Tax Collector charges a fee.

The Tax Roll Control function is mandated and performed in accordance with Revenue and Taxation Code Sections 4801 and 530. In addition, some of the special and bonded assessments are mandated through the Educational Code and/or Government Code.

05–Accounting (MANDATED): **\$1,567,396**

The Accounting function includes 13.0 authorized positions and is responsible for accounting to the County auditor all tax money collected, filing a statement of all transactions and receipts, and preparing and filing with Auditor collection reports. This function is mandated and performed in accordance with Revenue and Taxation Code Sections 2616, 2628, 2856, and 2602. Auditor Collection Reports must be filed on or before August 10. Staff members reconcile all property tax collections (secured, unsecured, State-assessed, supplemental, redemption, and credit card payments), manage the Tax Collector's trust fund including reconciling and transferring unclaimed funds to the General Fund, process and mail refunds, process CORTAC (impound) payments from mortgage companies, and provide refunds to CORTAC companies.

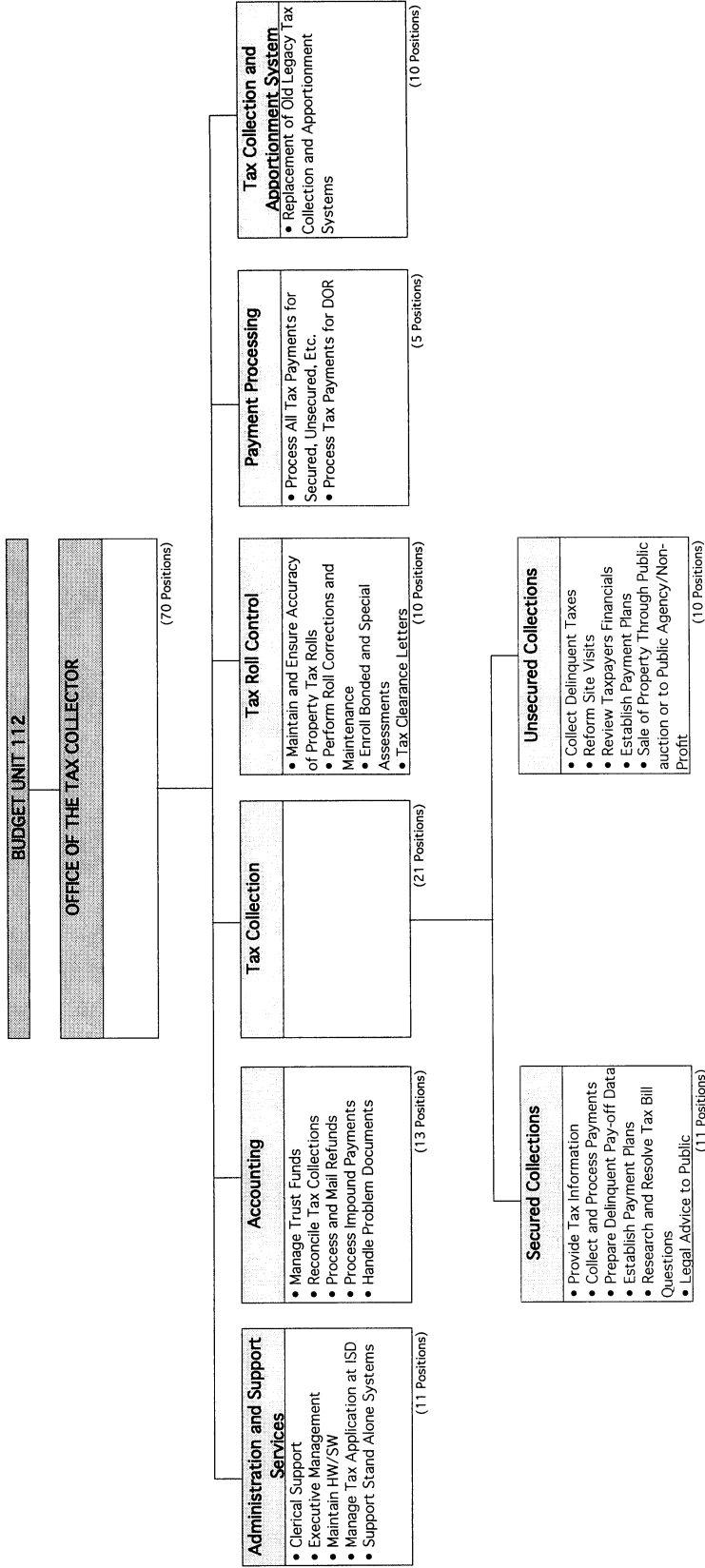
Additionally, the Accounting function is responsible for the records retention of assessment and payment records for a minimum of 12 years in accordance with Revenue and Taxation Code. Currently, this data is stored in hard copy, microfiche, and digital image. The Unit is in the process of implementing a Document Management System that will decrease the need to store hard copies and reduce the physical space requirements.

06–Payment Processing (MANDATED): **\$575,694**

The Payment Processing function includes 5.0 authorized positions (plus up to 8.0 peak season authorized help) and is responsible for processing all the tax payments for the Tax Collector's Office in accordance with Revenue and Taxation Code Section 2614. This includes payment stubs, checks, and pieces of mail processed. During FY 2005-06, the Office processed \$3,139,707,241 in payments comprised of 960,759 payment stubs and 789,744 checks. One position is funded by the Assessor's PTAP funds to re-mail tax bills returned by the United States Postal Service to new addresses believed to be more current.

Total Tax Collector FY 2006-07 Adopted Budget	\$8,243,984
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OFFICE OF THE TAX COLLECTOR



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ASSISTANT COUNTY COUNSEL

TO: Roger Mialocq, Management Audit Manager
FROM: Lizanne Reynolds, Deputy County Counsel *ZR*
RE: Tax Collector [Budget Unit 112] Mandate Analysis
DATE: August 4, 2006

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to Budget Unit 112 regarding the Tax Collector. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the Tax Collector. This memorandum only discusses those changes from the 2003 County Counsel memorandum.

Unsecured Collections Unit

1. Legal Basis of Mandate

The legal basis for the mandate that the Tax Collector sell tax delinquent property is in Revenue & Taxation Code sections 3691 and 3692.

c: Martha Williams, Tax Collector
Ann Ravel


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Susan G. Levenberg
ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager
FROM:  David E. Kahn, Deputy County Counsel
RE: Tax Collector Mandate Analysis
DATE: September 29, 2003

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to the Tax Collector. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the Tax Collector.

Secured Collections and Tax Information Unit

1. **Legal Basis for Mandate** – This division provides secured property tax information to the public, collects and processes all regular, delinquent and supplemental secured property tax payments, and researches tax billing inquiries. In short, Revenue and Taxation Code section 2602 mandates that the tax collector collect and account for all property taxes. There are several hundred additional state statutes from Revenue and Taxation Code section 2603 through section 5900 that set forth mandated guidelines for the procedures for the collection, refund, and adjustment of property taxes.
2. **Level or Requirement of Mandate** – While the functions of collecting property taxes are mandated, there is no set level of staffing required by the statutes other than an implied mandate of adequate staffing to insure timely and complete completion of mandated tasks.

Memorandum to Roger Mialocq, Management Audit Manager

Re: Tax Collector Mandate Analysis

September 29, 2003

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Unsecured Collections Unit

1. **Legal Basis of Mandate** – This group is responsible for collecting taxes on business equipment and leased equipment, boats, airplanes and possessory interests, and for seizing and selling tax delinquent property. The legal mandate for this function is the same as for collection of real property taxes, Revenue and Taxation Code section 2602. Again, there are multiple Revenue and Taxation Code provisions that set forth the mandated requirements for collecting taxes on and seizing unsecured property.
2. **Level or Requirement of Mandate** – While the functions of collecting unsecured property taxes are mandated, there is no set level of staffing required by the statutes other than an implied mandate of adequate staffing to insure timely and complete completion of mandated tasks.

Tax Roll Control Division

1. **Legal Basis for Mandate** – This division maintains the accuracy of the tax rolls, including the secured annual roll, supplemental roll, unsecured roll and SBE roll. It also performs roll corrections and roll maintenance. Revenue and Taxation Code sections 4801 et. seq. mandates the maintenance, correction and cancellation of the tax rolls.
2. **Level or Requirement of Mandate** – While the functions of maintaining and correcting the tax rolls are mandated, there is no set level of staffing required by the statutes other than an implied mandate of adequate staffing to insure timely and complete completion of mandated tasks.

Information Systems Division

1. **Legal Basis for Mandate** – This division provides and supports the technology used by all mandated divisions to collect and account for property taxes. While information services are not specifically mandated, they allow for the timely collection and processing of both secured and unsecured taxes and increased interest earnings and cash flow to the County.
2. **Level or Requirement of Mandate** – Not applicable - not a mandated function.

Accounting Division

1. **Legal Basis for Mandate** – This division provides accounting services to reconcile the payment of secured, unsecured, supplemental, delinquent and credit card tax payments. Consequently, its functions are mandated by the statutes which require the collection of secured and unsecured

Memorandum to Roger Mialocq, Management Audit Manager

Re: Tax Collector Mandate Analysis

September 29, 2003

Page 3

property taxes and accurate accounting of these taxes. In short, Revenue and Taxation Code section 2602 mandates that the tax collector collect and account for all property taxes.

2. Level or Requirement of Mandate – While the functions of tax accounting are mandated, there is no minimum staffing level set by statute other than the implied requirement of enough staff to timely and accurately account for and reconcile all property tax collection.

DEK/cmf

c: Cheryl Johnson, Tax Collector

Martha Williams, Tax Collection Manager

Dave Elledge, Controller-Treasurer

Ann Miller Ravel, County Counsel

114 County Clerk-Recorder

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Non-Mandated	2	254,380	3%	(174,120)	-68%	3.1	4%
Mandated	7	5,111,563	67%	(3,660,537)	-72%	60.9	73%
Admin/Support	-	<u>2,256,963</u>	<u>30%</u>	<u>2,256,963</u>	<u>100%</u>	<u>20.0</u>	<u>24%</u>
Total	<u>9</u>	<u>7,622,906</u>	<u>100%</u>	<u>(1,577,694)</u>	<u>-21%</u>	<u>84.0</u>	<u>100%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=percent of total staffing

Departmental Description

The Finance Agency's Office of the County Clerk-Recorder performs both County Clerk and County Recorder functions. As County Recorder, staff preserve and provide for the public a reliable, readily accessible, permanent account of real property and other official records and vital human events, both historic and current. They record or file authorized documents and maps, cross-reference indexes to these documents, collect transfer tax and other fees, and register all births, deaths, and public marriages occurring within Santa Clara County. Staff also provide for the subsequent retrieval of records for public viewing and produces copies and certifications of the records. Lastly, staff process passport applications and offer passport photo services. Excluding passport administration, the entire operations of the County Recorder is specified and mandated by State law.

As County Clerk, staff process and maintain public records on business names and processes and issues licenses and certificates for marriage in compliance with statute. They perform marriage ceremonies, register confidential marriages, and witness onsite marriage ceremonies. They also file Fictitious Business Names, Notary bonds, and Environmental Impact reports and register Legal Document Assistants, Process Servers

and Professional Photocopiers. State law specifies and mandates all of these functions, except for the performance of marriage ceremonies.

FY 2006-07 General Fund Budget by Program/Function

<u>Function</u>	<u>FY 2006-07 Adopted Budget</u>		<u>Departmental</u>	<u>General</u>	
	<u>Amount</u>	<u>Staffing</u>	<u>Revenue *</u>	<u>Fund</u>	<u>Percent</u>
				<u>Subsidy</u>	
<u>Non-Mandated Activities</u>					
01 Passport Administration	173,190	2.1	223,500	(50,310)	-29%
02 Marriage Ceremonies	<u>81,190</u>	<u>1.0</u>	<u>205,000</u>	<u>(123,810)</u>	<u>-152%</u>
Subtotal	254,380	3.1	428,500	(174,120)	-68%
<u>Mandated Activities</u>					
03 Clerk Business	490,047	5.5	850,100	(360,053)	-73%
04 Marriage Licenses	401,666	4.4	496,500	(94,834)	-24%
05 Recording	1,371,984	15.0	6,384,300	(5,012,316)	-365%
06 Indexing	1,100,136	14.0	0	1,100,136	100%
07 Archiving	620,221	8.0	0	620,221	100%
08 Public Information	433,709	5.5	521,200	(87,491)	-20%
09 Vital Records	<u>693,800</u>	<u>8.5</u>	<u>520,000</u>	<u>173,800</u>	<u>25%</u>
Subtotal	5,111,563	60.9	8,772,100	(3,660,537)	-72%
<u>Required</u>					
Admin/Support	<u>2,256,963</u>	<u>20.0</u>	<u>0</u>	<u>2,256,963</u>	<u>100%</u>
Total	<u>7,622,906</u>	<u>84.0</u>	<u>9,200,600</u>	<u>(1,577,694)</u>	<u>-21%</u>

Description of Programs and Functions

Administration and Support (REQUIRED):

\$2,256,963

The Administration and Support function includes a County Clerk-Recorder, an Assistant Clerk-Recorder and 18.0 administrative and support staff for a total of 20.0 authorized positions. These positions are responsible for department management, and fiscal, budget and information systems support. Because the direct services performed by the Clerk-Recorder are mandated, the County must also provide adequate administrative oversight and support services to fulfill these mandates. The amount of staff and other resources necessary to provide an "adequate" level of funding is subject to determination by the Board of Supervisors pursuant to Government Code Sections 29063 and 29088.

NON-MANDATED PROGRAMS AND FUNCTIONS**01–County Recorder – Passport Administration (NON-MANDATED):** **\$173,190**

The Passport Administration function includes 2.1 authorized positions and is responsible for examining and verifying completed Passport applications and sending completed applications to the U.S. Passport Agency for processing and providing passport photo services. Revenue generated from passport services in FY 2005-06 totaled nearly \$267,250, exceeding the discretionary costs to provide them. Similarly, in FY 2006-07, passport services are expected to generate \$223,500 in revenue. Consequently, there is no General Fund cost to provide this function.

02–County Clerk – Marriage Ceremonies (NON-MANDATED): **\$81,190**

The Marriage Ceremonies function includes 1.0 authorized position and is responsible for conducting civil marriage ceremonies on site for the public and sanctioning one-day commissioners. Marriage ceremonies generated \$205,125 in revenue in FY 2005-06 and are expected to generate \$205,000 in FY 2006-07. Consequently, there is no General Fund cost to provide this function.

MANDATED PROGRAMS AND FUNCTIONS**03–County Clerk – Clerk Business (MANDATED):** **\$490,047**

The Clerk Business function includes 5.5 authorized positions and is primarily responsible for processing fictitious business statements as mandated by Business and Professions Code Section 17900 to 17930 as well as more than 18 other types of filings. During FY 2002-03 and FY 2003-04, 16,982 and 17,553 fictitious business statements were processed, respectively. Of the \$492,597 budgeted for Clerk Business in FY 2006-07, \$2,550 is a one-time cost that funds a workstation and receipt printer. In FY 2006-07, the function is expected to generate \$850,100 in revenue from licenses and permits, and document filing fees. Consequently, there is no General Fund cost to provide this function.

04–County Clerk – Marriage Licenses (MANDATED): **\$401,666**

The Marriage Licenses function includes 4.4 authorized positions and is responsible for processing standard and confidential marriage licenses as mandated by Government Code Section 26840 et seq. and authorizing one-day marriage commissioners. During FY 2005-06, a total of 9,694 marriage licenses were issued. Of the \$382,902 budgeted for Marriage Licenses in FY 2006-07, \$2,550 is a one-time cost that funds a workstation and laser printer. In addition, \$496,500 has been budgeted in FY 2006-07 for revenue generated from marriage license fees. Consequently, there is no General Fund cost to provide this function.

05–County Recorder – Recording (MANDATED): **\$1,371,984**

The Recording function includes 15.0 authorized positions responsible for recording documents and maps and surveys as mandated by Government Code Sections 27201, 27203, 27320 and 27322.4 and Health and Safety Code Section 3112. During FY 2005-06, the function recorded a total of 680,778 documents, maps and surveys. The function generates revenue from recording fees, and \$6,384,300 has been budgeted in FY 2006-07. Consequently, there is no General Fund cost to provide this function.

The Recording function is also responsible for the collection of the real property transfer tax, which is a General Fund unallocated revenue and has been budgeted at \$28.0 million in FY 2006-07. If the Office of the Clerk-Recorder could quantify the cost to collect this revenue, then an equal amount of the revenue could be used to offset the cost.

06–County Recorder – Indexing (MANDATED): **\$1,100,136**

The Indexing function includes a total of 14.0 authorized positions. The function is responsible for input and maintenance of cross-referenced indexes on computers, microfiche, and on-line for public research as mandated by Government Code Section 27230 to 27380 and Health and Safety Code Section 8556.

07–County Recorder – Archiving (MANDATED): **\$620,221**

The Archiving function includes 8.0 authorized positions. The function is responsible for maintaining an archive of all public records as mandated by Government Code Sections 27322.4, 27322.2, and 27231.

08–County Recorder – Public Information (MANDATED): **\$433,709**

The Public Information function includes 5.5 authorized positions and is responsible for assisting the public in researching and locating official records and certain vital records. Staff members sell certified and uncertified copies of documents to the public at a cost of \$9.00 and \$2.00, respectively. The function also collects fees for the sale of recorded document data on CDs. In FY 2006-07, public information activities are expected to generate \$521,200 in revenue. Consequently, there is no General Fund cost to provide this function.

09–County Recorder – Vital Records (MANDATED): **\$693,800**

The Vital Records function includes 8.5 authorized positions and is responsible for maintaining records of the County's vital statistics, including birth, death and marriage certificates, and reporting these statistics to the State, as required by Health and Safety Code Section 103625 to 103660. The function generates revenue from vital records fees, and \$520,000 has been budgeted in FY 2006-07.

Recorder Special Funds

While County Clerk operations are funded entirely from fees and charges, approximately 57 percent of County Recorder operations, including administration, are funded from three Special Funds. In the 1980s, legislation was passed that established the Document Storage Fund No. 27, the Recorder's Modernization Fund No. 26, and Vital Records Fund No. 24. Surcharges on recording services are earmarked with \$1.00 per document going to Fund No. 27 and \$1.00 per page to Fund No. 26.

These Special Funds were established to ensure that Recorders' Offices throughout California had funds to meet their legal mandates, to satisfy the increased demands for information, and to update their technology and replace aging equipment. However, Santa Clara County has been using some of these funds to finance staffing and supplies. In 1991, based on a review of the legislation by OBA and County Counsel, Santa Clara

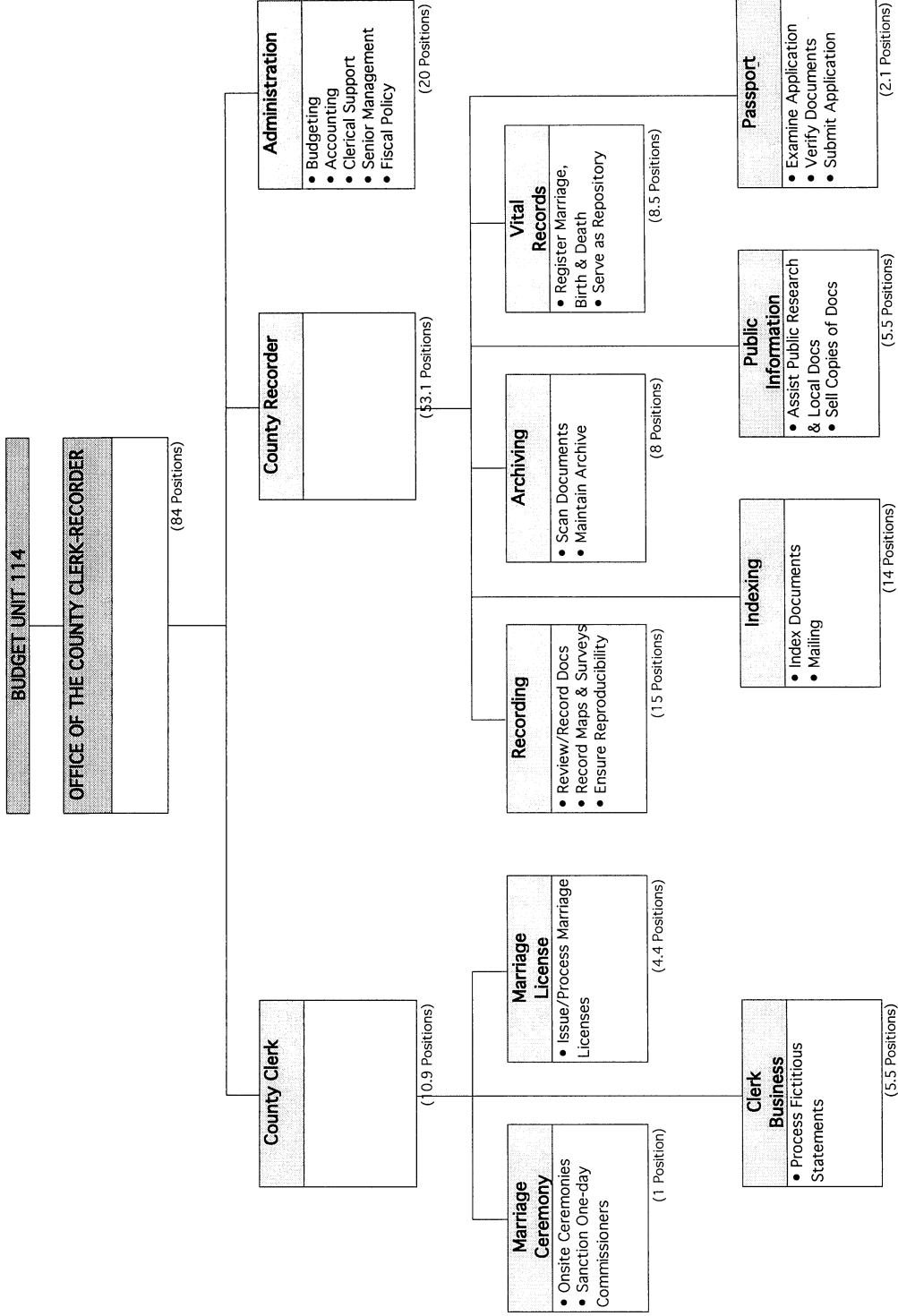
County adopted a policy of using a portion of the monies in Trust Funds No. 26 and 27 to support staffing and operations. (Fund No. 24 restricts this use of its funds.) The methodology is such that staffing and operational expenditures that are above the base level of 1985 expenditures (adjusted for inflation) are funded out of these Trust Funds.

As a result, any reduction of staffing that is above and beyond the inflation-adjusted 1985 base level will result in a concurrent decrease in the amount of the Operating Transfer from the Trust Funds to the General Fund. Thus, no savings would inure to the General Fund, while less reliance would be placed on the Trust Funds. To illustrate, the County Recorder estimates the 1985 base level to be \$3.5 million after adjusting for inflation, while \$6.7 million has been budgeted for County Recorder expenses in FY 2006-07. Therefore, before staff reductions could have any impact on the General Fund, an estimated 35 positions (at an estimated average cost of \$90,811), or 47 percent of County Recorder staff, would first need to be eliminated from the budget. In addition, reductions in staffing that reduce the Departments' ability to generate revenue would likely have a negative impact on the General Fund.

Using the Trust Funds to finance operations was intended to be short-term, yet the County has financed some of the County Recorder's operations with Trust Fund dollars for 15 years now. The result has been less money available for investment in technology. Without the productivity gains resulting from investments in technology, staff remain less efficient and additional staff must be hired or current staff must put in excessive overtime to keep pace with the workload. In the long-term, the Department has been forced to divide major projects and/or system upgrades into phases. In comparison to other counties, Santa Clara County is falling behind in technological enhancements each year.

Total County Clerk-Recorder FY 2006-07 Adopted Budget	\$7,622,906
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OFFICE OF THE COUNTY CLERK-RECORDER



**OFFICE OF THE COUNTY COUNSEL
COUNTY OF SANTA CLARA**

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**Ann Miller Ravel
COUNTY COUNSEL**

Winifred Botha
Robert C. Campbell
Nancy J. Clark
Laurie F. Faulkner
ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Susan Swain, Lead Deputy County Counsel *Susan Swain*

RE: Clerk-Recorder Mandate Analysis (BU 114)

DATE: July 27, 2006

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to Budget Unit 114 regarding the Clerk-Recorder. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the Clerk-Recorder.

This office has been informed by the Clerk-Recorder that it does not have any new mandates to report beyond the mandates last reported to you and discussed in your FY 2005-2006 report. Based on a review of your report, as well as a review of our prior September 23, 2003 mandates analysis of the Clerk-Recorder's mandates, it does not appear any change to our prior analysis is warranted. A copy of our September 23, 2003 memorandum is attached for your reference.

c: Gina Alcomendras, Interim Clerk-Recorder
Ann Ravel, County Counsel

County of Santa Clara
FINANCE AGENCY
Office of the County Clerk-Recorder

County Government Center
70 West Hedding Street, E. Wing, 1st Floor
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MEMORANDUM

DATE: October 25, 2004

TO: Robin Courtney, Management Auditor

cc: David Kahn, Deputy County Counsel
John Guthrie, Director, Finance Agency

FROM: Brenda Davis 

SUBJECT: **Response to Draft Report – Analysis of Minimum Legal Funding Level—County Clerk Recorder**

Robin:

Below are my comments to your 10/22/04 draft report, addressing specifically item #6.

Item #6 – County Recorder – Recording (mandated)

The methodology used to arrive at your conclusion that 2.78 positions in the Recording Division can be eliminated is flawed. There are only 14 positions in the Recording Division examining and recording documents. The other two positions you included in your count are OSI (Office Specialist) positions performing clerical support responsibilities. It is my understanding from conversations with other Recorders, that their numbers include examiners only. If, as you indicated in your note, you are unclear what the data from other counties includes, it seems imprudent to base your conclusion on that data.

Another factor not considered: In Contra Costa, the Franchise Tax Board liens are electronically recorded by their Systems Division employees, not Recording Division employees.

There is always room for improvement in any department. As a general practice, this office periodically visits other county recorders to observe their

processes with the intent of improving our own. Based on your findings, I plan to visit Contra Costa County to observe their recording operation.

When analyzing recording practices, it is difficult to make a simple numerical comparison because of the many factors involved, such as:

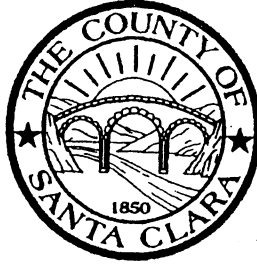
- The thoroughness of the document examination process;
- The thoroughness of the transfer tax review, i.e., some Recorders take the amount shown on the document without question whereas review of supporting materials and further questioning can result in considerable revenue to the county.

In reviewing any process, one must identify and evaluate the tradeoffs of expediency versus quality and legal compliance.

I agree wholeheartedly that the ability to electronically record private as well as government documents presents an opportunity to increase productivity. The County Recorders Association has worked diligently to expand electronic recording to all counties over the past four years. With the passage of AB578 this year, within 18 months all Recorders in the state will be allowed to record certain documents electronically. Currently this office records San Jose City garbage liens and Tax Collector liens electronically and will add the Franchise Tax Board liens by the end of November.

I will continue to review the processes of other recorders in the State and make responsible changes, focusing particularly in areas of automation, to include electronic recording.

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Ann Miller Ravel
COUNTY COUNSEL

Debra L. Cauble
Laurie F. Faulkner
Susan G. Levenberg
ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Jeff Bryson, Deputy County Counsel *JB*

RE: Clerk/Recorder Mandates Analysis

DATE: September 12, 2003

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to the Clerk/Recorder. Below are comments or supplemental analysis, as needed, about the mandates in the functional areas identified by the Clerk/Recorder.

The list of mandates and their descriptions, as contained in your draft report, is comprehensive and accurate. We have 2 observations:

1. County Ordinance Code Division A16 (the "Information Practices and Individual Privacy Ordinance") imposes various requirements on the Clerk/Recorder. Therefore this ordinance is a mandate that should be mentioned in your report.
2. With respect to County Clerk functions, there are many statutory mandates for filing various documents that are not specified in your report. However, these transactions appear to be sufficiently infrequent and low in volume that they have relatively little impact on the Clerk. Therefore it is unnecessary to detail them in your report.

Memo to Mr. Mialocq
Re: Clerk/Recorder Mandates Report
September 12, 2003
Page 2

Within our limited qualifications to evaluate whether stated costs are necessary to accomplish mandates, it appears that your financial analysis is comprehensive and accurate. We strongly agree with your conclusion that reducing the Recorder's budget by the amount of discretionary expenditures identified in the report would NOT benefit the County General Fund because of legal conditions placed on trust fund revenue by state law.

c: Brenda Davis, County Clerk/Recorder
Ann Ravel

115 Assessor

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Non-Mandated	-	-	-	-	-	-	-
Mandated	6	30,992,553	90%	10,950,583	35%	269.0	92%
Admin/Support	-	<u>3,562,894</u>	<u>10%</u>	<u>1,753,024</u>	<u>49%</u>	<u>23.0</u>	<u>8%</u>
Total	<u>6</u>	<u>34,555,427</u>	<u>100%</u>	<u>12,703,607</u>	<u>37%</u>	<u>292.0</u>	<u>100%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=percent of total staffing

Departmental Description

The Office of the Assessor performs six functions that are mandated by State law and regulation and County ordinance. The Department's mission is to prepare an annual roll of assessed values of real and personal property within Santa Clara County, for property tax purposes, following legal mandates in a timely, accurate and efficient manner, and to provide timely and responsive information on tax assessment issues to the public and governmental agencies.

According to the Department, its functions are primarily mandated under the California Constitution and key sections of the California Revenue and Taxation Code. Article 13, Section 1 of the Constitution states that, "All property is taxable and shall be assessed at the same percentage of fair market value," while Section 2 establishes the legal right of taxation specifically for personal property, which is property other than land. Meanwhile, Article 13A establishes a maximum property tax rate of 1 percent of full cash value on real property. Full cash value is further defined as the value of the property when purchased, newly constructed or changes in ownership, usually as defined by the purchase price unless it is established by a preponderance of evidence

Management Audit Division

the property would not have transferred at that price if offered for sale in an open market transaction. The assessed value is generally the full cash value as defined above, plus a maximum increase of 2 percent a year since any change of ownership and/or completion of new construction. These are the restrictions established by Proposition 13.

Sections of the Revenue and Taxation Code further define how the taxable value of real and personal property is established. As Revenue and Taxation Code Section 75.10 states, in part: "(W)henever a change in ownership occurs or new construction resulting from actual new construction on the site is completed, the assessor shall appraise the property changing ownership or the new construction at its full cash value on the day the change in ownership occurs or the new construction is completed." Other sections of the Code describe how the value of personal property is determined and how selected legal exemptions of some property value from taxation are to be applied.

The various functions the Assessor's Office carries out to fulfill its mission include:

- Reviewing various documents on real property transactions to determine whether there has been a change in assessee responsible for payment of taxes and whether the transaction triggers a change in ownership requiring reassessment;
- Reviewing information from businesses and individuals regarding personal property values;
- Auditing the information where necessary;
- Appraising properties using site visits and other methods to determine property values;
- Creating a record and a value for new properties created through subdivision of new lots and other land use actions; and
- Annually valuing certain property, such as property subject to a Williamson Act Contract, Possessory Interests, Historical Property, etc.

To carry out its various functions, the Assessor's Office is organized into six main areas, with a total staffing of 292 FTE positions.

FY 2006-07 General Fund Budget by Program/Function

<u>Function</u>	<u>FY 2006-07 Adopted Budget</u>		<u>Departmental</u>	<u>General</u>	
	<u>Amount</u>	<u>Staffing</u>	<u>Revenue*</u>	<u>Fund</u>	<u>Percent</u>
				<u>Subsidy</u>	
<u>Mandated Activities</u>					
01 Real Property Division	9,077,394	92.0	5,227,804	3,849,590	42%
02 Business Division	7,015,478	66.0	2,454,556	4,560,922	65%
03 Assessment Services	3,404,121	44.0	1,712,918	1,691,203	50%
04 Assessment Standards	644,940	7.0	303,725	341,215	53%
05 Exemptions	919,434	11.0	411,781	507,653	55%
06 Prior Yr State-Cty Loans	<u>9,931,166</u>	<u>49.0</u>	<u>9,931,166</u>	-	<u>0%</u>
Subtotal	30,992,533	269.0	20,041,950	10,950,583	35%
<u>Required</u>					
Admin/Support	<u>3,562,894</u>	<u>23.0</u>	<u>1,809,870</u>	<u>1,753,024</u>	<u>49%</u>
Total	<u>34,555,427</u>	<u>292.0</u>	<u>21,851,820</u>	<u>12,703,607</u>	<u>37%</u>
* Assessor revenue includes \$5,300,654 in Supplemental Assessment Administration revenue currently budgeted in the Tax Collector's (Budget Unit 112) and \$6,257,000 in Property Tax Administration revenue budgeted in the Controller's Office (Budget Unit 110).					

Description of Programs and Functions

Administration and Support (REQUIRED): **\$3,562,894**

The Administration and Support function in the Office of the Assessor includes the Assessor, the Assistant Assessor and their immediate support staff, as well as staff members who provide support services, such as contract monitoring, payroll and personnel/benefits services, to the Office as a whole. This function consists of two divisions: Administration and Information Services. There are 10 FTEs in the Administration Division and 13 FTEs in the Information Services Division.

This function consists of several staff positions carrying out activities pursuant to the State Constitution and Revenue and Taxation (R&T) Code. Also, the position of Assessor is a County Officer as described in Government Code section 24009, and Article 11, Section 1 (b) of the State Constitution. County Ordinance Section A4-2 further establishes the position of Assessor and his or her administrative authority to appoint assistants, deputies, clerks, and other deputies as is necessary to conduct the work of that office. According to County Counsel, both the Assessor and an adequate level of staff to enable the officer to perform those prescribed functions are mandatory.

Although not mandated by law or regulation, County Counsel's analysis indicates that a computerized information system is necessary to enable the Assessor to perform his or her constitutional duties and comply with State requirements for assessment information in an electronic format. For instance, the State Board of Equalization

requires that the Assessor submit various data reports in an electronic format, including data concerning property receiving the Homeowner Exemption and Parent-Child exclusion, Grandparent-Grandchild exclusion, and the transfer of the base year value of a property pursuant to Proposition 60. The State requests this data in an electronic format so that it can quickly identify individuals making multiple claims in multiple counties.

Support staff in the Administration Division assist the Department in completing numerous mandated and/or essential operational activities related to time keeping, payroll, Family and Medical Leave Act, Workers Compensation, Fair Labor Practices, administration of the provisions of Union contracts, and various policies of the Board of Supervisors and County Executive's Office.

While the Assessor is a constitutional officer with numerous mandated duties, the level of "mandated" support staff or type of information system is still a matter for the Board of Supervisors to determine. In light of the uncertainty surrounding the appropriate level of staffing required to fulfill the duties in the administrative area, this function is designated as "required" for the purposes of this study.

MANDATED PROGRAMS AND FUNCTIONS

01- Real Property Division (MANDATED):

\$9,077,394

The Real Property Division is responsible for valuing real property for property taxation purposes, and enrolling the values of all taxable real property, including land and physical improvements, on the assessment rolls. In association with this function, the Division also provides property-assessment-related information to the public, and also cooperates with other governmental agencies on assessment and property tax-related matters.

The Division's valuation function includes assessing the taxable value of real property under various conditions including: when an ownership change occurs or there is new construction on new or existing properties. In addition, the Division is responsible for making downward adjustments to property values, as required by State law, when market values fall below the taxable value of a property, as defined by its value at the last ownership change, plus an increase of up to 2 percent a year since that change. This function is mandated under Section 13A of the California Constitution and Sections 50, 51 and 75.10 of the Revenue and Taxation Code.

The Division is also responsible for administering various exclusions such as an exclusion from reassessment for replacement property replacing a principal place of residence when certain conditions are met. These conditions include when the person acquiring the property has been displaced by eminent domain (Revenue & Taxation Code Section 68), a natural disaster (Section 69 & 69.3), or environmental contamination (Section 69.4), or the person is over the age of 55 or permanently disabled,

Because of its role in property valuation, the Division also participates in property tax assessment appeals, which are authorized by the Constitution and Section 80 and Section 1600 et. seq. of the Revenue and Taxation Code.

02– Business Division—Business Personal Property (MANDATED): \$7,015,478

The Business Division is responsible for locating, valuing and enrolling all taxable business personal property, including owned and leased business property such as computers, supplies, machinery and equipment. It also locates and values mobile homes, airplanes and boats. Other than mobile homes, all persons owning taxable personal property with an aggregate cost of \$100,000 or more, must file a signed property statement (R&T section 441). The assessor is required to not only assess all property reported but also discover qualifying businesses who did not file property statements. The Division also administers assessment appeals from taxpayers disputing the valuation of their personal property. The Assessor is also required to audit the books and records of all assessee's with a full value of \$400,000 or more no less than once every four years (R&T section 469). These businesses account for more than 83 percent of all personal property in the County.

These functions are mandated by Article 13, Section 1 of the California Constitution, which states that all property is taxable unless otherwise provided by the Constitution or Federal law. The functions are also mandated by portions of the California Revenue and Taxation Code, such as Section 469, which requires the Assessor to conduct business property audits, and Sections 1603 and 1610.2, which authorize taxpayers to file assessment appeals and require the assessor to attend and provide evidence at appeals hearings. The Business Division carries out these functions with staffing of 66.0 FTE positions.

03– Assessment Services (MANDATED): \$3,404,121

The Assessment Services unit, part of the Assessment Standards, Services, and Exemptions Division, is responsible for locating and identifying ownership and reappraisability on all taxable real property, based on analysis of documents received in relation to real property transactions of various types. This unit also is responsible for maintaining and updating assessment maps and manages the public service center in the Assessor's Office. It consists of 44 FTEs.

The unit's functions are mandated under Article 13A, Section 2, of the State Constitution, which defines "full cash value" for purposes of applying the statewide 1 percent property tax rate as "the appraised value of real property when purchased, newly constructed or a change of ownership has occurred. . . ." That section also defines several situations where a change of ownership would not trigger a change in full cash value, such as the ability of persons aged 55 or older to transfer the base year value of a property they sell to a property they buy, of equal or lesser value, within the same County. Assessment Services reviews documents related to real estate transactions to determine whether a purchase or change of ownership triggering reappraisal has occurred, and whether any of the exceptions to that requirement apply.

04– Assessment Standards (MANDATED): **\$644,940**

The Assessment Standards Unit, part of the Assessment Standards, Services, and Exemptions Division, provides quality control on various portions of the property value assessment process in the Assessor's Office. The unit audits the assessment roll for errors by comparing input and output data on data processing systems used to generate the roll, and comparing that output to original sources for the data. This internal process helps the Assessor successfully complete audits of its work conducted by the State Board of Equalization, which the Revenue and Taxation Code requires it to pass.

The Division also reviews the processing of deeds and other land transaction documents by the Assessment Services unit to confirm that Assessment Services is accurately identifying transactions that required changes in assessed value. The unit also investigates and resolves conflicts in recorded ownership and property descriptions for real property between recorded documents and records in the Assessor's Office systems. These functions are required under Article 13A of the California Constitution, which requires property taxes to be levied based on a property's appraised value when purchased, newly constructed or a change in ownership has occurred. Assessment Standards ensures this information is evaluated accurately.

The unit also coordinates and processes all assessment appeals regarding legal issues of reappraisal and monetary value to insure the appeal is not the result of a technical or procedural error by the Assessor's office. The County is required to receive assessment appeals under Revenue and Taxation Code Section 80 and Section 1601 et. seq. This unit also administers the assessment appeal workflow, ensuring that appeals are assigned to the appropriate Division for review, resolution or presentation to the Assessment Appeals Board.

The unit also is responsible for making sure appraisers are certificated as required by Revenue and Taxation Code Section 670 and 673, and that they meet annual training requirements of Section 671. The unit also coordinates the Department's training programs to meet these requirements.

This function is carried out with a staff of 7.0 FTE positions.

05–Exemptions Divisions (MANDATED): **\$919,434**

The Exemption Division, part of the Assessment Standards, Services, and Exemptions Division, is responsible for discovering, approving and enrolling all legal property tax exemptions. These exemptions are compiled and applied to the supplemental and the secured and unsecured assessment rolls, where they serve to reduce the assessed value on property to which property tax rates are applied. This function is mandated by Article 13, Sections 3 and 4 of the California Constitution, which exempt properties of various types, including churches, cemeteries, colleges and libraries, from property taxation. These sections also exempt \$7,000 of the value of a home being used as the owner's principal residence from taxation, as well as the full value of the home of a disabled veteran or property being used for religious, hospital or charitable purposes. Further definitions of the exemptions provided by the Constitution and how they are to

be determined are provided in the Revenue and Taxation Code sections 201 through 286.

06– Prior Year State-County Property Tax Admin. Program (MANDATED): \$9,931,166

Over the past ten years, the Assessor’s participation in the State-County Property Tax Administration Program has allowed the County to implement improvements in the property tax administration process without utilizing County General Funds. Pursuant to negotiated agreements between the State and the County, funding awarded under this program may be used to:

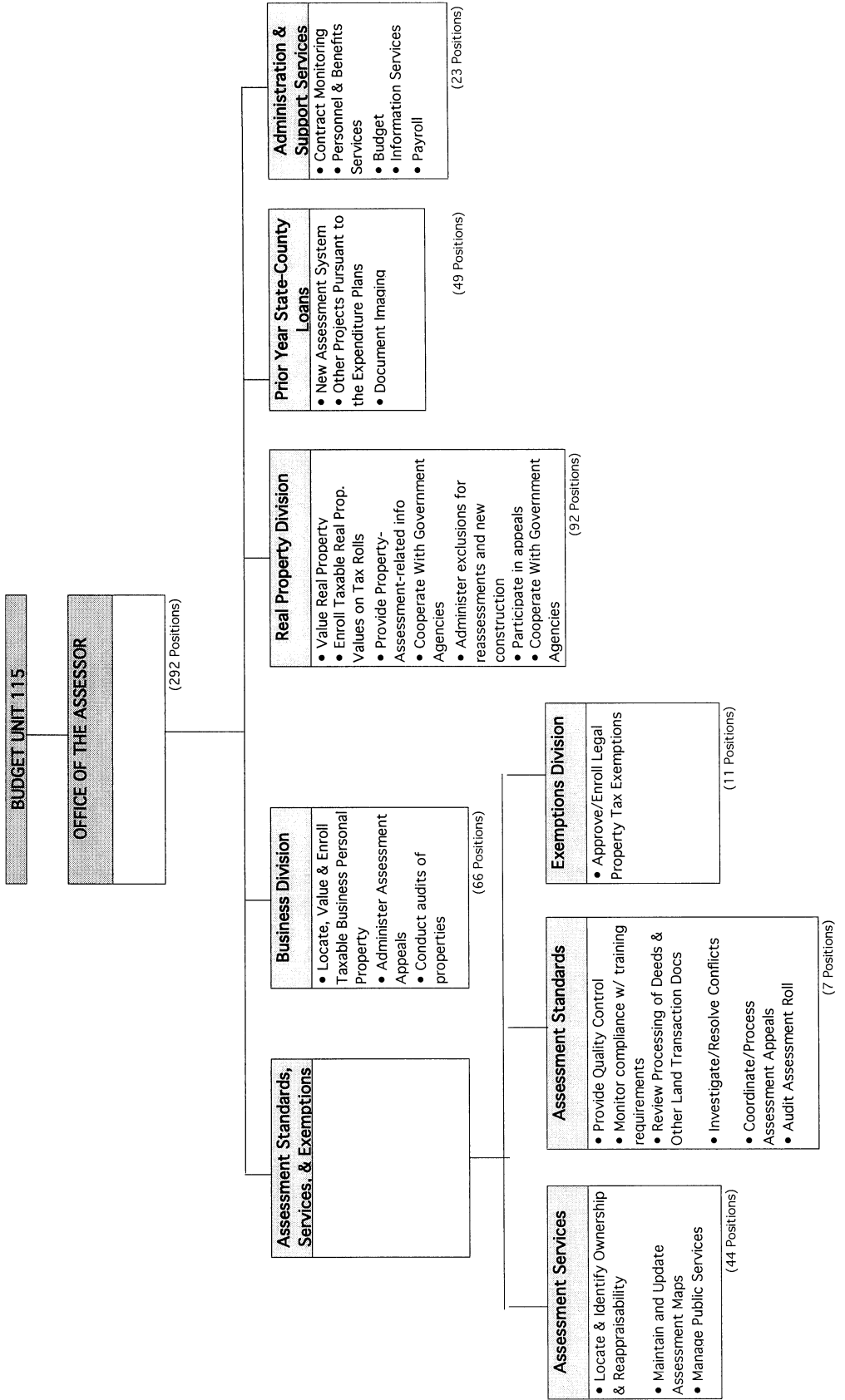
- Enhance property tax administration systems,
- Reduce any backlog of real property reappraisals resulting from new construction and ownership changes,
- Reduce any backlog of business assessment appeals,
- Produce non-mandatory audits of business property, and
- Otherwise maximize value/enrollment capabilities.

The State did not approve funding to continue the grant program in FY 2006-07; however, legislation is being considered to continue the funding in future years. In the meantime, the Board approved in the FY 2006-07 Budget, the use of rollover funds from the Property Tax Administration Program on a one-time basis to support 49 FTEs dedicated to project and backlog assistance in the Assessors Office and 3 positions in the Tax Collectors Office. According to the Department, the positions under this function perform a variety of the activities as more completely described in Functions 1, 2, 3 and 5.

This category does not describe a unique function in the Assessor’s Office, per se, but rather a fund source used to support various mandated functions in the Department. As such, in subsequent mandate studies, this category will be removed and the associated expenditures will be incorporated into the other primary functions of the Department.

Total Office of the Assessor FY 2006-07 Adopted Budget	\$34,555,427
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OFFICE OF THE ASSESSOR



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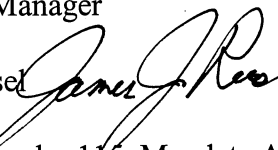


Ann Miller Ravel
COUNTY COUNSEL

Winifred Botha
Robert C. Campbell
Nancy J. Clark
Laurie F. Faulkner
ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: James J. Rees, Deputy County Counsel 

RE: Office of the Assessor, budget unit number 115, Mandate Analysis

DATE: July 28, 2006

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to Budget Unit 115 regarding the Office of the Assessor. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the Assessor.

Mandated Functions

1. Legal Basis for Mandate

The Assessor's general mandate, pursuant to Articles XIII and XIII A of the California Constitution, Division 1 of the Revenue and Taxation Code, and Title 18 of the California Code of Regulations (Property Tax Rules), is to establish a base year value assessment for all real property at its then current fair market value at the time of its change in ownership or new construction and to annually assess all personal property at its fair market value. This general mandate includes the duty to identify and properly address a variety of statutory and constitutional exceptions to the usual assessment procedure. The Assessor must then defend those assessments against taxpayer challenges to their accuracy and validity. Virtually all of the more specific mandated functions, as identified by the Assessor's office, are defined in these provisions of the Constitution, the Revenue and Taxation Code, and the Property Tax Rules.

As part of this general mandate the Assessor must identify all changes in the ownership of real property by analyzing all recorded documents relating to ownership, conduct periodic audits of business personal property, identify property exempt from taxation, maintain records necessary to the accurate assessment of both real and personal property, and meet statutorily

Roger Mialocq
Re: Assessor Mandate Analysis
August 1, 2006
Page 2

imposed requirements regarding notice to taxpayers.

2. Level or Requirement of Mandate

The Assessor's mandate extends to all locally assessed property within the County of Santa Clara, and the Assessor's compliance with the specific statutory and constitutional requirements are periodically audited by the State Board of Equalization. Failure to maintain compliance can result in the loss of the state reimbursement of certain costs associated with the maintenance of the supplemental roll. Article 6.5 of Chapter 3.5 of Division 1 of the Revenue and Taxation Code authorizes the Board of Supervisors of an eligible county to direct the county auditor to allocate to the county an amount equal to the costs of administering the supplemental roll, up to a maximum of 5 percent of the supplemental assessment revenue. In order to be an "eligible county" the State Board of Equalization must certify, based upon its most recent assessment practices survey, that the county has achieved an average assessment level of at least 95% of that required by statute. Consequently, there is a legal mandate to maintain a 95% level of assessment accuracy, with the penalty being the loss of state reimbursements in amounts ranging from \$5 million to over \$7.5 million, based on the County's experience during the past several years. The 2006-07 assessment roll is currently scheduled for SBE survey.

3. Other Comments

While the Property Tax Grant Program has been discontinued, AB 1717 is currently pending in the Legislature which would establish the Property Assessment and Revenue for Education Funding Program (PARE). PARE would provide additional funding for county property tax administration in a manner similar to that of the Grant Program, beginning with the 2007-08 fiscal year. Like the grant program before it, PARE would require that the participating counties maintain staffing and funding levels in the assessor's office at the 2005-2006 levels.

One of the Assessor's notification requirements is the notification to real property owners of their annual assessment. It is the current practice of the Assessor to send "Notification of Assessment Cards" to all real property assessees advising them of the assessed value as it will be stated on the upcoming tax roll. While the law only requires notification in those instances where the assessed value will rise above the annual inflation factor prescribed by Prop 13, the law was amended in 2001 to provide a negative consequence to counties that do not provide annual notice to all real property assessees. If the taxpayer does not receive timely written notification of the real property value to be enrolled, the deadline for filing assessment appeals is extended from September 15 to November 30. Such an extended filing period invites more tax appeals, further burdens the County offices involved in the property tax appeal process, increases

Roger Mialocq
Re: Assessor Mandate Analysis
August 1, 2006
Page 3

administrative costs, and exposes the County to additional tax refunds.

c: Lawrence E. Stone, Assessor
Ann Ravel, County Counsel

From: James.Rees@cco.sccgov.org
To: "Celia Pedroza" <cpedroza@harveyrose.com>
CC: Mary.solseng@asr.sccgov.org, Rhonda.armstrong@asr.co.santa-clara.ca.us,,
Ann.Ravel@cco.sccgov.org, Laurie.Faulkner@cco.sccgov.org
Date: Mon, August 14, 2006 1:38 pm
Subject: Re: Mandate Study **BU 115 - Assessor**

Celia -

I apologize for the informality of this memo, but this is the most efficient form of communication in light of the rapidly approaching deadline. This memo constitutes my formal opinion to be read in conjunction with the Mandate Study Analysis submitted to your office before I left on vacation on July 28, 2006.

An issue that was not addressed in my previously submitted Analysis involved whether the positions of Assessor, Assistant Assessor and their support staff should be categorized as "mandated" rather than "required". A related issue was whether the Assessor's computerized information system was required or mandated.

As to the first issue, the Assessor is a constitutional officer and has constitutionally and statutorily mandated duties as discussed in my earlier memo. Consequently, both the Assessor and an adequate staff to enable him to perform those prescribed functions are mandatory in my opinion. An analysis as to the mandatory or non-mandatory nature of each individual support position is beyond the scope of this memo, but a staff sufficient to allow the Assessor to perform those constitutional and statutory duties is mandatory. Furthermore, the County Ordinance Code, section A4-2, authorizes the Assessor to appoint assistants, deputies, clerks, and other deputies as is necessary to conduct the work of that office.

Similarly, a computerized information system is absolutely necessary to enable the Assessor to perform his constitutional duties, but also to enable the Assessor to comply with the requirements of the State of California for assessment information in electronic format. The State maintains an electronic data base of assessment records for a variety of reasons. For example, home owner exemptions are tracked by the state to prevent taxpayers from being granted the exemption in more than one county. The same state-wide tracking is done with respect to a variety of assessment issues. The state requires that the Assessor provide that information in an electronic format pursuant to Revenue and Taxation Code section 218.5. Therefore, it is mandatory that the Assessor have the computerized information system capability to comply with the requirements of the state.

I hope this memo has adequately addressed these issues. I still have to discuss with Linda Deacon the other issue that you raised in our telephone conversation. As soon as we are able to analyze that issue either Linda or I will provide a response. In the meantime, please

contact me at any time if you have questions or would like clarification on any point.

James Rees
Deputy County Counsel
County of Santa Clara

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Ann Miller Ravel
COUNTY COUNSEL

Debra L. Cauble
Laurie F. Faulkner
Susan G. Levenberg
ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: James J. Rees, Deputy County Counsel

RE: Office of the Assessor Mandate Analysis

DATE: September 26, 2003

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of the analysis of the legal mandates applicable to the Office of the Assessor. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the Assessor's office.

Mandated Functions

In its analysis of mandated and discretionary functions, the Assessor's office has identified 19 functions or programs that are mandatory, 9 that are discretionary, and 4 that are partially mandatory and partially discretionary. As to those 32 items, I agree both with their classification as assigned by the Assessor and with the authority cited as establishing the legal duty to perform those functions. There is, however, an additional point to be considered with regard to one of the items identified as both mandatory and discretionary.

It is the current practice of the Assessor to send "Notification of Assessment Cards" to all real property assessesees advising them of the assessed value as it will be stated on the upcoming tax roll. While the law only requires notification in those instances where the assessed value will rise above the annual inflation factor prescribed by Prop 13, the law was recently amended to provide a negative consequence to counties that do not provide annual notice to all real property assessesees. If the taxpayer does not receive timely written notification of the real property value to be enrolled, the deadline for filing assessment appeals is extended from September 15 to November 30. Such an extended filing period invites additional tax appeals and further burdens the County offices involved in the property tax appeal process.

1. Legal Basis for Mandate

Almost all of the mandates applicable to the Assessor are derived from Articles XIII and XIII A of the California Constitution and are further specified by both Division 1 of the Revenue & Taxation Code and Title 18 of the California Code of Regulations (Property Tax Rules). Most, if not all, of the functions identified by the Assessor as being mandatory are defined by each of those legal authorities.

2. Level or Requirement of Mandate, If Applicable

The mandates applicable to the Assessor are generally described in qualitative rather than quantitative terms, with the one main exception being the contractual “maintenance of effort” obligation attendant to this County’s agreement with the State of California for a \$4.2 million grant for property tax administration purposes.

The level of the mandate is that necessary to generate accurate assessments in conformance with the dictates of the Constitution and Revenue and Taxation Code. The legal consequences of inadequate compliance is either an unnecessary reduction in property tax revenue, resulting from low assessments, or property tax appeals, accompanied by refunds of property tax and interest if the assessments are too high. In addition, failure to keep assessments within the permitted range, as determined by the State Board of Equalization survey, can jeopardize administrative funding provided by the state.

3. Other Comments

The County of Santa Clara has a large population of major corporations in the electronics industry that aggressively pursue reductions in their property tax assessments as well as refunds of property taxes already paid. The assessment of the real and personal property of these companies presents complexities and challenges to an extent not found in any other California county. The workload statistics compiled by the State Board of Equalization do not adequately measure the complexity of assessments or appeals, and, therefore, comparisons using those statistics can be very misleading with respect to the workload in the County of Santa Clara. The present economic downturn amplifies the efforts of these corporations to achieve reductions and refunds. Irrespective of the maintenance of effort requirement contained in the contract with the state, any reduction in the ability of the Assessor to make and defend assessments would have a negative legal consequence in the form of a substantial reduction in the property tax revenues to the County and to the other taxing districts within the County.

c: Lawrence E. Stone, Assessor
Mary Solseng, Assistant Assessor
Ann Ravel, County Counsel

116 In-Home Supportive Services

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Non-Mandated	1	21,188,675	43%	16,070,097	76%	0.0	0%
Mandated	1	26,745,128	54%	26,745,128	100%	0.0	0%
Admin/Support	-	<u>1,222,412</u>	<u>2%</u>	<u>213,922</u>	<u>18%</u>	<u>0.0</u>	<u>0%</u>
Total	<u>2</u>	<u>49,156,215</u>	<u>100%</u>	<u>43,029,747</u>	<u>88%</u>	<u>0.0</u>	<u>0%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=percent of total staffing

Note:

The FY 2006-07 budget presentation of the IHSS programs treats the Benefits Program and the Independent Provider Program differently. The \$21.2 million Benefits Program reports the County's portion of the expense, including \$5.1 million of State and federal reimbursements. The Independent Provider Program is reported on a net County cost basis, only showing the County's \$26.7 million cost and excluding the State and federal portion of the expenditures and revenues, which total \$115.1 million. This is due to the State's practice of paying the Independent Providers' wages directly, rather than passing to the County the State and Federal share of revenues, which would then be used to pay the independent providers.

Departmental Description

The IHSS program provides domestic and personal care services designed to enable elderly and disabled persons to remain in their residences rather than be cared for in an institutional setting. SSA performs client assessments, determines eligibility and calculates the number of authorized monthly service hours for approximately 11,900 clients who are served by individual service providers.

The In-Home Supportive Services (IHSS) Program is a mandated function pursuant to Welfare and Institutions Code Sections 12300-12314. This program has three components, one of which is performed by the Social Services Agency (SSA), a second that is performed by the IHSS Public Authority, and the third is performed by the State.

Management Audit Division

SSA performs the eligibility determination, assessment, and payroll functions. The Santa Clara County Public Authority Governing Board is responsible for setting salary, benefits and related issues as defined by law. To assist the Santa Clara County Public Authority Board, the Board has contracted with the Council on Aging (COA) Silicon Valley. The preparation and issuance of paychecks to the service providers is performed directly by the State Controller's Office.

Although most of the services provided through the In-Home Supportive Services function are mandated, the level at which some are currently provided exceeds the minimum legal requirements specified by State law and provided in other comparable counties.

FY 2006-07 General Fund Budget by Program/Function

<u>Function</u>	<u>FY 2006-07 Adopted Budget</u>		<u>Departmental Revenue</u>	<u>General Fund Subsidy</u>	<u>Percent</u>
	<u>Amount</u>	<u>Staffing</u>			
<u>Non-Mandated Activities</u>					
01 IHSS Benefits Program	21,188,675	0.0	5,117,978	16,070,697	76%
<u>Mandated Activities</u>					
02 IHSS Indep Provid Svcs	26,745,128	0.0	0	26,745,128	100%
<u>Required</u>					
Admin/Support	<u>1,222,412</u>	<u>0.0</u>	<u>1,008,490</u>	<u>213,922</u>	<u>18%</u>
Total	<u>49,156,215</u>	<u>0.0</u>	<u>6,126,468</u>	<u>43,029,747</u>	<u>88%</u>

Note:

The FY 2006-07 budget presentation of the IHSS programs treats the Benefits Program and the Independent Provider Program differently. The \$21.2 million Benefits Program reports the County's portion of the expense, including \$5.1 million of State and federal reimbursements. The Independent Provider Program is reported on a net County cost basis, only showing the County's \$26.7 million cost and excluding the State and federal portion of the expenditures and revenues, which total \$115.1 million. This is due to the State's practice of paying the Independent Providers' wages directly, rather than passing to the County the State and Federal share of revenues, which would then be used to pay the independent providers.

Description of Programs and Functions

Administration and Support (REQUIRED): **\$ 1,222,412**

The IHSS Public Authority is administered through a contract between the Santa Clara County Public Authority Board (which is a legal entity created by State law) and the Council on Aging (COA). This contract is overseen by the County Executive's Office of Budget and Analysis. Public Authority staff are responsible for departmental management, accounting, budgeting, contract administration, limited case management and client services monitoring. Although the direct services performed by the IHSS Program are mandated, the amount of staff and other resources necessary to provide an 'adequate' level of funding is subject to determination by the Board of Supervisors pursuant to Government Code Sections 29063 and 29088. The projected FY 2006-07 budget is included in a combined appropriation of \$22,411,087 for IHSS benefits and COA contract services. This administrative cost includes \$1,149,484 for the County's administrative contract with the Council on Aging (COA), \$39,047 for County Counsel and Labor Relations services and \$33,881 for Special Departmental expenses. Approximately \$213,922 of this amount is a General Fund cost.

NON-MANDATED PROGRAMS AND FUNCTIONS

01 - IHSS Benefits Program (NON-MANDATED): **\$21,188,675**

The IHSS Benefits Program includes the cost of fringe benefits provided to IHSS service providers per the current contract with SEIU Local 715 representing independent providers. The current contract expires on September 30, 2006. Fringe benefits include medical, dental, vision and a VTA transit pass. The General Fund cost of the benefits program amounts to approximately \$16,070,697 or 76 percent of the total fringe benefit cost. County Counsel has determined that this service is non-mandated pursuant to State and federal law.

MANDATED PROGRAMS AND FUNCTIONS

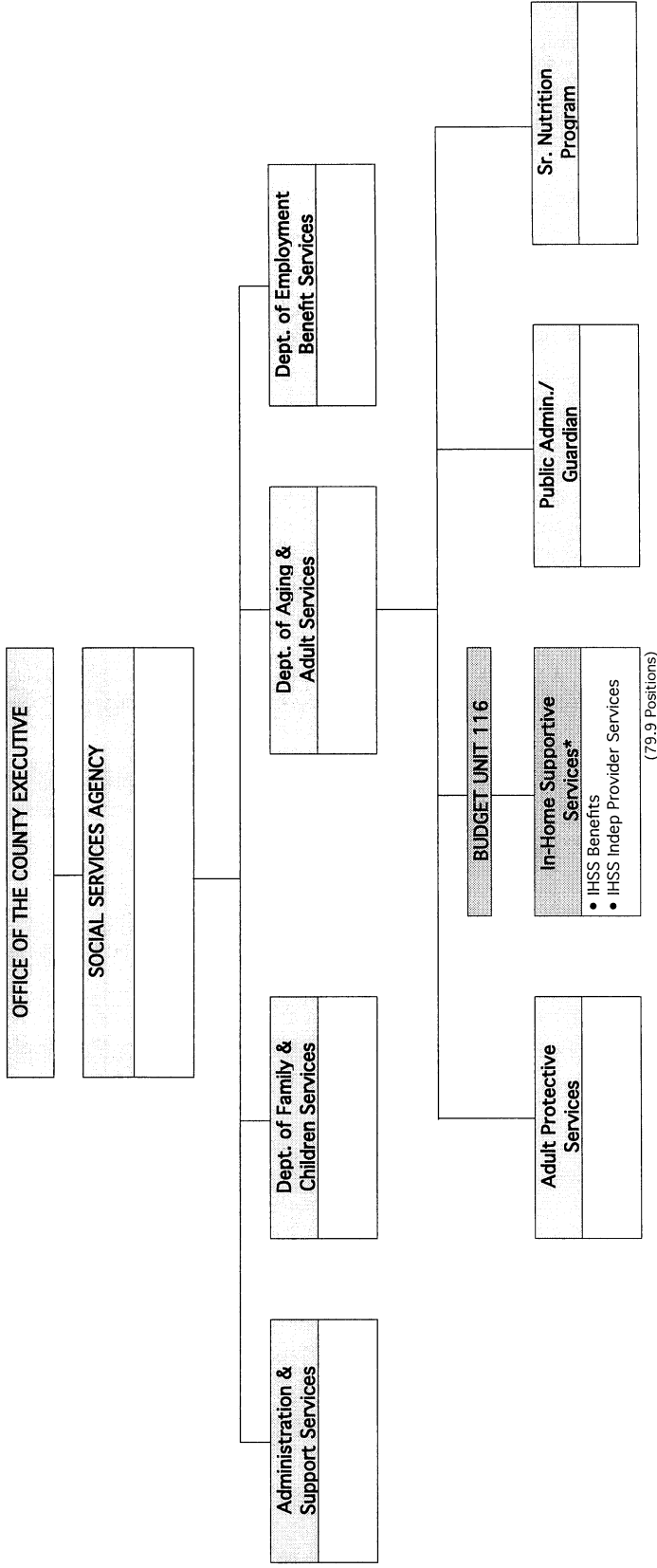
02 - IHSS Provider Services (MANDATED): **\$26,745,128**

Approximately 79.9 SSA staff administer the IHSS function and perform client assessments, determine eligibility and calculate the number of authorized monthly service hours for all County residents who apply for in-home supportive services. IHSS Provider Services assist approximately 11,900 clients at a projected FY 2006-07 County cost of \$26,745,158. Although IHSS costs for both provider services and benefits are eligible for reimbursement from the State and federal government, both State and federal regulations limit the total hourly rate of reimbursement to \$11.10 and \$13.50, respectively. Because the combined hourly cost of the County's compensation and benefit structure exceeds the maximum \$13.50 level, County costs in excess of the maximum reimbursable rate are not mandated. Consequently, County Counsel has

law, the rate of compensation and the extent of fringe benefits are not mandated. The amount of the County's General Fund overmatch is \$2,464,062.

Total In-Home Supportive Services FY 2006-07 Adopted Budget	\$49,156,215
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IN-HOME SUPPORTIVE SERVICES



* Budget Unit 116 provides funding for IHSS service provider wages and fringe benefits. The program is operated by the Department of Aging & Adult Services, within Budget Unit 505, which has 79.9 staff who determine eligibility, perform client assessments and authorize monthly service hours. The cost of the wages are reported to the County Executive's Office and budgeted in Budget Unit 116. The Office of Budget and Analysis calculates the fringe benefit costs, which are included in Budget Unit 116.

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ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Kristin Baker, Deputy County Counsel *KWB*

RE: IHSS Public Authority & Budget Unit 116 Mandate Analysis

DATE: August 11, 2006

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to Budget Unit 116 regarding the IHSS Public Authority.

There are no changes in mandated services performed by the IHSS Public Authority. The administration of the program remains required, the benefits are non-mandated and the provider services are mandated by Welfare and Institutions Code sections 12300-12314. Although the provider services are mandated, the level at which providers are paid is not mandated. The State and federal government will not participate in excess of 200% of the State minimum wage and our current provider rate exceeds the reimbursement limit of \$13.50 per hour.

c: Betty Malks, DAAS Director
Ann Ravel, County Counsel
James Ramoni, Program Manager

118 Procurement

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Non-Mandated	1	585,321	15%	585,321	100%	4.0	13%
Mandated	4	2,837,560	71%	2,769,443	98%	23.0	72%
Admin/Support	-	560,039	14%	560,039	100%	5.0	16%
Total	<u>5</u>	<u>3,982,920</u>	<u>100%</u>	<u>3,914,803</u>	<u>98%</u>	<u>32.0</u>	<u>100%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=percent of total staffing

Departmental Description

Since Santa Clara County has adopted California Government Code Sections 25500 to 25509 and Public Contract Code Sections 20120 to 20145 and established a Purchasing Agent, the Board must adhere to the guidelines established in these codes. These guidelines are spelled out as purchasing policies approved by the Board of Supervisors and documented in Policy Manual Section 5.0.

The Director of Procurement is the Purchasing Agent for the County. County Ordinance Code Sections A34-79 and A34-80 give the Procurement Director legal authority to contract on behalf of the County for goods, equipment and services. The dollar limit for the Procurement Director to contract for services is \$100,000 per budget unit per fiscal year per contract. Purchase of information technology related services are limited to \$500,000 per fiscal year per contract, provided that the services are related to a current or past technology acquisition of one or more technology products and County Counsel approves the contract as to form and legality. In addition, County Board Policy Sections A34-88 to A34-90 give the Director of Procurement the responsibility to manage, sell or dispose of surplus County personal property.

The Procurement Department supports all County agencies and departments and is charged with ensuring that procurements are legal, fair and open, and that County departments receive the products and services they need in a timely manner, at the lowest possible cost, and with minimal risk.

The County's procurement processes (both centralized and decentralized) has continually been re-structured to enable the Procurement Department to lead "strategic sourcing" initiatives whereby cost reductions can be achieved. This move toward strategic sourcing is consistent with best practices according to the National Association of State Procurement Officials (NASPO) and is widely accepted as an effective method of leveraging the efforts of a relatively small group of procurement professionals. The Department continues to achieve significant cost savings for the taxpayers of Santa Clara County by establishing master contracts that provide County departments with discounted pricing for a variety of products and services. Over \$13 million of projected savings from contracting activity will result from the Department's 2005 contracting efforts.

Since 2003, the Procurement Department has launched several initiatives in an effort to move from tactical buying towards a greater percentage of contracting activity and developing strategic supplier relationships. This began with a joint effort between the Office of the Chief Information Officer and Department of Procurement to re-source several computer hardware and software contracts resulting in significant savings and greater efficiency to County users. This was followed by similar successes in the Department's medical division and is currently being implemented in the facilities and institution areas.

FY 2006-07 General Fund Budget by Program/Function

<u>Function</u>	<u>FY 2006-07 Adopted Budget</u>		<u>Departmental</u>	<u>General</u>	<u>Percent</u>
	<u>Amount</u>	<u>Staffing</u>	<u>Revenue</u>	<u>Fund Subsidy</u>	
<i><u>Non-Mandated Activities</u></i>					
01 eProcurement	<u>585,321</u>	<u>4.0</u>	<u>0</u>	<u>585,321</u>	<u>100%</u>
Subtotal	<u>585,321</u>	<u>4.0</u>	<u>0</u>	<u>585,321</u>	<u>100%</u>
<i><u>Mandated Activities</u></i>					
02 Office and Technology	1,103,153	9.0	21,000	1,082,153	98%
03 Institutional	744,309	6.0	16,742	727,567	98%
04 Medical	898,848	7.0	0	898,848	100%
05 Property Disposal	<u>91,250</u>	<u>1.0</u>	<u>30,375</u>	<u>60,875</u>	<u>67%</u>
Subtotal	<u>2,837,560</u>	<u>23.0</u>	<u>68,117</u>	<u>2,769,443</u>	<u>98%</u>
<i><u>Required</u></i>					
Admin/Support	<u>560,039</u>	<u>5.0</u>	<u>0</u>	<u>560,039</u>	<u>100%</u>
Total	<u>3,982,920</u>	<u>32.0</u>	<u>68,117</u>	<u>3,914,803</u>	<u>98%</u>

Description of Programs and Functions

Administration and Support (REQUIRED): **\$560,039**

The Administration and Support function includes 1.0 Director of Procurement, 1.0 Executive Assistant, 1.0 Management Analyst, and 2.0 administrative and support staff for a total of 5.0 authorized positions. These positions are responsible for department management, department payroll, bill processing, statistical reporting and Board reports, accounting activities, processing property disposal revenue and overall signature authority for contract and purchase order approvals. Santa Clara County has adopted Government Code Sections 25500 to 25509 and identified the Director of Procurement as the Purchasing Agent for the County. Consequently, in order for the Procurement Department to abide by the adopted codes, the County must also provide adequate administrative oversight and support services to fulfill the requirements of the Procurement Director as set forth in these Government codes. The amount of staff and other resources necessary to provide an "adequate" level of funding is subject to determination by the Board of Supervisors pursuant to Government Code Sections 29063 and 29088.

NON-MANDATED PROGRAMS AND FUNCTIONS

01-eProcurement (NON-MANDATED): **\$585,321**

The eProcurement function includes 4.0 authorized positions. Its primary responsibility is to provide technical support to the County's enterprise accounting and procurement system, SAP, ensuring the system is able to facilitate procurement transactions and assist in the monitoring of County policy compliance. Since moving to Procurement from the Finance Agency in 2005, the eProcurement team has focused on developing a vision and technological roadmap toward realizing eProcurement best practices and optimizing the use of investments in current systems.

Of the \$585,321 budgeted in FY 2006-07 for eProcurement, \$75,000 is a one-time cost to configure the County's accounting system related to specific procurement activities and set the foundation for future enhancements.

MANDATED PROGRAMS AND FUNCTIONS

02-Office and Technology Contracting and Programs (MANDATED): **\$1,103,153**

The Office and Technology Contracting and Programs function includes 9.0 authorized positions and is responsible for procuring office and technology goods and services for the County. This includes computer software and hardware, maintenance and repair of computers and printers, document output equipment, services and supplies, telecommunication equipment and services, and networking services. The unit also develops and monitors contracts and agreements for office machines and equipment maintenance and repair, postage, promotional items, office supplies, other various information technology (IT) related services and service agreements.

The strategic sourcing activities for IT include evaluating the technology needs of departments; analyzing sourcing opportunities that leverage the County’s aggregate spending; and, soliciting for master contracts that provide the best value to the users and the County as a whole. IT staff who manage countywide contracts also provide training and statistical reporting. A major portion of IT staff time is spent managing turnkey acquisitions, which include systems (hardware and software), project management, implementation, training, and on going maintenance. They have also undertaken a streamlined method of acquisition when taking the procurement lead in IT projects, and play a key consulting role when assisting departments in other projects.

The Procurement Card (P-card) Program is also managed and administered Countywide by this group. The emphasis of this program has been to provide an efficient tool to facilitate low dollar transactions with an appropriate level of accountability.

In FY 2006-07, \$21,000 in revenue has been budgeted for the Office and Technology Contracting and Programs function. This revenue is generated from various sources, such as administrative fees from Hewlett Packard for the master workstation contract and other County master contracts utilized by other public entities.

03–Institutional Procurement and Contracting (MANDATED): \$744,309

The Institutional Procurement and Contracting function includes 6.0 authorized positions and is responsible for managing and procuring public works contracts and construction projects and institutional needs Countywide. Staff in this function work with County agencies to acquire goods and services to maintain and improve facilities, including developing contracts for furniture, flooring, landscaping and waste removal. In addition, all food for County departments, such as the Department of Corrections, Probation Department and Valley Medical Center, are purchased by these procurement professionals. They also purchase goods for support services such as automobiles, law enforcement equipment and supplies, specialized food service apparatus, etc. The unit initiates and maintains commodity contracts for janitorial supplies, clothing, bedding, etc. for County institutions, including correctional and health care facilities. The unit is currently engaged in developing strategic alliances to improve overall procurement efficiencies for these service departments.

In FY 2006-07, the Roads and Airports Department, a non-General Fund department, will reimburse \$16,742 of the budgeted cost of \$744,309 for institutional services.

04–Medical Procurement and Contracting (MANDATED): \$898,848

The Medical Procurement and Contracting function includes 7.0 authorized positions and is responsible for procurement services for the Health and Hospital System (HHS). Departments within HHS include the Valley Medical Center, Public Health, Mental Health, and Drug and Alcohol Services. Purchases include medical equipment and supplies, dental services, medical services contracting, medical record storage, surgical supplies, pharmaceutical contracts, and all related service agreements. The priority of the Unit is to ensure reliable and cost effective access to the goods and services for the aforementioned departments. There has and continues to be emphasis on optimizing the use of contracts by HHS and maximizing the effectiveness of the supply chain. To this end, the Unit analyzes current acquisitions to determine opportunities to categorize

commoditized items, and identify commonalities across contract portfolios to leverage the aggregate spend. An added benefit of this consolidation is the greater ability to ensure commodities are solicited as necessary and in accordance with Board policy.

05-Property Disposal (MANDATED): **\$91,250**

The Property Disposal function includes 1.0 authorized position and is responsible for the sale and safe disposal of all County personal property that is determined to be surplus. In carrying out these responsibilities, in accordance with Government Code Sections 25504 to 25507, the Senior Material Warehouse Handler sells the surplus property to individuals, resellers or at auctions. Items for sale may include computers and IT equipment, furniture, office machines, and vehicles. The unit also ensures that any equipment considered hazardous waste is properly disposed of according to the County's eWaste policy and best practices. Furniture not recycled to County departments is often sold to local furniture liquidators. Disposal of vehicles for Fleet Management and Roads and Airports is handled through County contracts with auction houses.

Property disposal activities generated \$79,527 in revenue in FY 2005-06. The amount of revenue budgeted in FY 2006-07 amounts to \$30,375.

Risks/Benefits of Non-Mandated Services

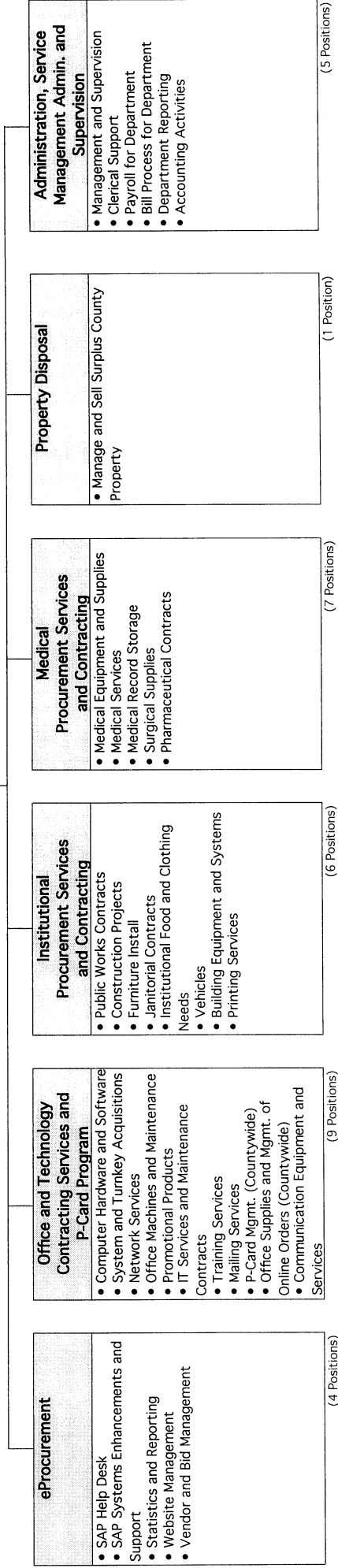
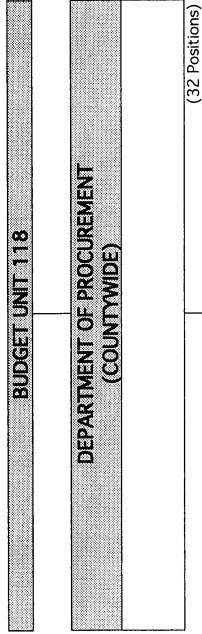
The County has not made sufficient progress towards realizing the eProcurement vision communicated in 2001. Considerable work remains in achieving the goals of optimizing end user utilization of acquired solutions and continued automation of business processes.

There are two main ongoing objectives: maximize the use of our current SAP suite and other applications through business process reviews and enhancements; and, prepare a more sophisticated workforce to take advantage of best practices in the rapidly evolving field of eProcurement. These objectives are consistent with the April 2005 memo to the County Executive that discusses moving the eProcurement team to the Procurement Department and the Board's FY 2006-07 Budget Strategy.

The goal of eProcurement is to streamline and reduce manual and redundant processes to allow departments to realize savings by using fewer resources for procurement activities, through enhancements and add-ons to existing systems. Add-ons may include software programs and applications that integrate or interface with SAP. These efforts are compulsory to help prevent the continued proliferation of counterproductive and inefficient workarounds and to assist in monitoring policy compliance.

Total Procurement FY 2006-07 Adopted Budget	\$3,982,920
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DEPARTMENT OF PROCUREMENT



- eProcurement**
- SAP Help Desk
 - SAP Systems Enhancements and Support
 - Statistics and Reporting
 - Website Management
 - Vendor and Bid Management

- Office and Technology Contracting Services and P-Card Program**
- Computer Hardware and Software
 - System and Turnkey Acquisitions
 - Network Services
 - Office Machines and Maintenance
 - Promotional Products
 - IT Services and Maintenance Contracts
 - Training Services
 - Mailing Services
 - P-Card Mgmt. (Countywide)
 - Office Supplies and Mgmt. of Online Orders (Countywide)
 - Communication Equipment and Services

- Institutional Services and Contracting**
- Public Works Contracts
 - Construction Projects
 - Furniture Install
 - Janitorial Contracts
 - Institutional Food and Clothing Needs
 - Vehicles
 - Building Equipment and Systems
 - Printing Services

- Medical Services and Contracting**
- Medical Equipment and Supplies
 - Medical Services
 - Medical Record Storage
 - Surgical Supplies
 - Pharmaceutical Contracts

- Property Disposal**
- Manage and Sell Surplus County Property

- Administration, Service Management Admin. and Supervision**
- Management and Supervision
 - Clerical Support
 - Payroll for Department
 - Bill Process for Department
 - Department Reporting
 - Accounting Activities

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COUNTY COUNSEL

Winifred Botha
Robert C. Campbell
Nancy J. Clark
Laurie F. Faulkner
ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Kristin Baker, Deputy County Counsel *KWB*

RE: Procurement & Budget Unit 118 Mandate Analysis

DATE: August 1, 2006

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to Budget Unit 118 regarding the Procurement Department. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the Procurement Department.

The Director of Procurement is appointed by the County Executive and serves as the County Purchasing Agent to carry out functions within the Government Code and Public Contracts Code. (Santa Clara County Ordinance Code section A34-78.) Section 5 of the Board Policy Manual establishes the Board's commitment to an open and competitive process and sets forth contracting policies and procedures for procuring goods and services. In the previous mandate study conducted in 2004, Procurement's functions were deemed discretionary and divided by purchasing group, including Administrative, Information Technology, Institutional, Medical and Property Disposal. This memo sets forth Procurement's core functions as mandates performed by all purchasing groups, such as contracting for goods or services. Below are a list of Procurement's core functions mandated by local law and two programs that are not mandated.

Purchase of supplies, material, equipment or personal property generally.

1. Legal Basis for Mandate: Ordinance Code section A34-79
2. Level or Requirement of Mandate: Government Code section 25508 permits the BOS to establish by ordinance, policies and procedures regarding the use of quotations and informal or formal bids for the procurement of materials, supplies, furnishings,

To Roger Mialocq, Management Audit Manager
Re: Procurement & Budget Unit 118 Mandate Analysis
August 1, 2006
Page 2

equipment, livestock and other personal property. Section A34-79 specifically exempts the purchase of supplies, materials, equipment or other personal property required by any County agency from competitive bidding, including supplies, materials or equipment required for construction or repair.

3. Other Comments: Procurement is planning on updating and revising this section of the Ordinance Code to make it consistent with the Board's intent as stated in Section 5.1 of the Board Policy Manual.

Contracts for Services.

1. Legal Basis for Mandate: Ordinance Code section A34-80, Government Code section 25502.5
2. Other Comments: Government Code section 25502.5 gives the Board of Supervisors the authority to establish an ordinance code that delegates authority to the Purchasing Agent to contract for services when the aggregate cost does not exceed \$100,000.00. The cited Ordinance Code delegates that authority to the Director of Procurement. Section 5 of the Board Policy Manual contains Board policies and procedures for contracting for services.

Purchases related to contracts for building construction, alteration and repair.

1. Legal Basis for Mandate: Ordinance Code section A34-81, Government Code section 25508.8, Public Contract Code section 22030 et seq.
2. Level or Requirement of Mandate: The Public Contracts Code sets forth a procedure for procuring contracts for building construction, alteration or repair that the Board of Supervisors has elected to follow.

Emergency Actions.

Legal Basis for Mandate: Ordinance Code section A34-82,

Purchase of official badges and identifying equipment for law enforcement.

Legal Basis for Mandate: Ordinance Code section A34-84

To Roger Mialocq, Management Audit Manager
Re: Procurement & Budget Unit 118 Mandate Analysis
August 1, 2006
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Property Disposal.

Legal Basis for Mandate: Ordinance Code section A34-90, Government Code sections 25504-25506.

The following functions are *not mandated* by federal, state or local law:

Storerooms and Warehouses.

1. Legal Analysis: Not mandated, Ordinance Code section A34-83, Government Code Section 25509
2. Other Comments: Presently, the County does not maintain a warehouse or storeroom. This function is permissive as authorized by the County Executive according to the Ordinance Code.

E-Procurement.

1. Legal Analysis: Not mandated.
2. Other Comments: The eProcurement system (1) maintains the procurement portion of the enterprise accounting and procurement system (currently SAP), which helps ensure compliance to purchasing policies and procedures, and (2) develops, maintains and assists with technological solutions that facilitate, support and aid in the management of procurement activities.

c: Jenti Vandertuig, Director of Procurement
Ann Ravel, County Counsel

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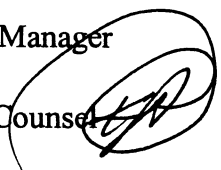
**Ann Miller Ravel
COUNTY COUNSEL**

**Martin H. Dodd
SPECIAL ASSISTANT COUNTY COUNSEL**

**Laurie F. Faulkner
Susan G. Levenberg
ASSISTANT COUNTY COUNSEL**

**CONFIDENTIAL MEMORANDUM
ATTORNEY-CLIENT PRIVILEGED COMMUNICATION**

TO: Roger Mialocq, Management Audit Manager

FROM: Karen J. Anderson, Deputy County Counsel 

RE: Procurement Department

DATE: October 22, 2004

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to the Procurement Department. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the Director of Procurement.

This office does not disagree with the mandate analysis prepared by the Management Audit Division.

c: Jenti Vandertuig, Director of Procurement

119 Special Programs

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Non-Mandated	11	84,793,351	47%	84,793,351	100%	0.0	0%
Mandated	<u>3</u>	<u>95,022,429</u>	<u>53%</u>	<u>95,019,429</u>	<u>100%</u>	<u>0.0</u>	<u>0%</u>
Total	<u>14</u>	<u>179,815,780</u>	<u>100%</u>	<u>179,812,780</u>	<u>100%</u>	<u>0.0</u>	<u>0%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=percent of total staffing

Departmental Description

The Special Programs budget includes three functions that are mandated by federal and State law and regulation or County ordinance. Unlike most County departments that have dedicated staff who provide services to either other departments or County residents, Special Programs does not have any staffing of its own, but is a budget unit established as a funding mechanism for various programs actually carried out in other departments. Special Programs funds these programs either through services and supplies expenditures, or through transfers to the budgets of the other departments.

In FY 2006-07, the Special Programs' Adopted Budget totals \$179,815,780, of which the largest share, \$169,573,995, is a transfer to the Santa Clara Valley Medical Center Enterprise Fund, providing General Fund monies to offset the annual shortfall between that fund's operating expenses and its revenues from other sources. As described in the section of this report addressing the Valley Medical Center (VMC), the County is not mandated to operate a hospital, but is mandated to provide health-care services to indigent residents. This issue is discussed further in the section of this report for Budget Unit 921.

FY 2006-07 General Fund Budget by Program/Function

<u>Function</u>	<u>FY 2006-07</u>		<u>Departmental</u>	<u>General</u>	<u>Percent</u>
	<u>Adopted Budget</u>	<u>Staffing</u>			
	<u>Amount</u>			<u>Subsidy</u>	
<u>Non-Mandated Activities</u>					
01 Mother's Milk Bank	53,385	0.0	0	53,385	100%
02 Budget Data Processing	166,613	0.0	0	166,613	100%
03 Firefighter Training	45,500	0.0	0	45,500	100%
04 Unincorp Library Service	51,000	0.0	0	51,000	100%
05 Firefighter Insurance	100,000	0.0	0	100,000	100%
06 Neighborhood Lighting	50,000	0.0	0	50,000	100%
07 Children's Health Initiative	3,000,000	0.0	0	3,000,000	100%
08 St. Francis Animal Shelter	9,980	0.0	0	9,980	100%
09 State Budget Impacts	1,367,095	0.0	0	1,367,095	100%
10 ECO Pass for Employees	250,000	0.0	0	250,000	100%
11 VMC Subsidy *	<u>79,699,778</u>	<u>0.0</u>	<u>0</u>	<u>79,699,778</u>	<u>100%</u>
Subtotal	84,793,351	0.0	0	84,793,351	100%
<u>Mandated Activities</u>					
12 Environ Health Funding	0	0.0	0	0	100%
13 VMC Subsidy *	89,874,217	0.0	0	89,874,217	100%
14 CJIC System **	<u>5,148,212</u>	<u>0.0</u>	<u>3,000</u>	<u>5,145,212</u>	<u>100%</u>
Subtotal	95,022,429	0.0	3,000	95,019,429	100%
Total	<u>179,815,780</u>	<u>0.0</u>	<u>3,000</u>	<u>179,812,780</u>	<u>100%</u>
* The Valley Medical Center is discussed further in the section of this report for Budget Unit 921.					
** The General Fund subsidy for the CJIC System has been rounded from 99.9 percent.					

Description of Programs and Functions

The Special Programs budget serves as a funding mechanism for various programs performed by other departments. Special Programs funds these programs either through services and supplies expenditures, or through transfers to the budgets of the other departments. The relative funding mechanism is noted in each of the non-mandated and mandated activities described below.

NON-MANDATED PROGRAMS AND FUNCTIONS

01-Mother's Milk Bank (NON-MANDATED): **\$53,385**
An annual services and supplies appropriation is provided for this program, which accepts donations of surplus breast milk from healthy breastfeeding women. The milk is pasteurized and dispensed by prescription to premature and sick babies, primarily those hospitalized at Valley Medical Center.

02–Budget Data Processing Costs (NON-MANDATED): **\$166,613**

This ongoing services and supplies appropriation is provided to support the County Executive’s Budget Reporting and Support System. While the County is required by State law to create an annual budget, there is no mandate to use specific technology to do so.

03–Training for Volunteer Firefighters (NON-MANDATED): **\$45,500**

An ongoing appropriation is provided to support the training of volunteer firefighters for the South Santa Clara County Fire District through a contract with the California Department of Forestry and Fire Protection.

04–Unincorporated Library Services (NON-MANDATED): **\$51,000**

This annual transfer to the County Library budget is made to subsidize the cost of library services in County-governed areas. The transfer is not mandated, but is made pursuant to a Joint Powers Authority contract between the County and various cities for operation of the County library system.

05–Insurance Coverage for Volunteer Firefighters (NON-MANDATED) **\$100,000**

This ongoing appropriation is made by policy of the Board of Supervisors to provide insurance coverage to volunteer fire departments in unincorporated areas throughout the County.

06–Neighborhood Lighting Project (NON-MANDATED): **\$50,000**

This annual transfer is made for a project to improve streetlights in the Burbank neighborhood adjacent to the City of San Jose, and in other County-governed urban areas. It is not mandated, but was made by policy of the Board of Supervisors.

07–Children’s Health Initiative (NON-MANDATED): **\$3,000,000**

This annual transfer to the Santa Clara Valley Health and Hospital System helps provide comprehensive health insurance to children whose family income is 300 percent or less of the federal poverty level. This program was developed to care for children who do not qualify for Medi-Cal or the State’s Healthy Families program. This program is not mandated, but was established as a policy of the Board of Supervisors.

08–St. Francis of Assisi Animal Shelter (NON-MANDATED): **\$9,980**

This annual transfer to the Roads and Airports Department budget pays the rental cost of Airport property occupied by the animal shelter. The transfer is not mandated.

09–Reserve for State Budget Impacts (NON-MANDATED): **\$1,367,095**

Creation of this reserve is not mandated, but was done as a policy of the Board of Supervisors to provide a source of funding to mitigate potential impacts of the State Budget.

10–ECO Pass (NON-MANDATED) **\$250,000**

This payment to the Valley Transportation Authority supports the ECO Pass program, which provides ECO passes to all County.

11–Santa Clara Valley Medical Center Subsidy (NON-MANDATED): \$79,699,778

Because revenues obtained by Valley Medical Center (VMC) from insurance companies, cash paying patients, and State and federal funding are not sufficient to recoup VMC's costs, a General Fund subsidy is provided as a transfer from the Special Programs budget to the VMC Enterprise Fund. As discussed in the section of this report addressing the VMC budget, the County is not mandated to operate a hospital, but is mandated to provide health care services to indigents. A prior analysis determined that the amount of General Fund support required to provide health care services to the indigent amounted to about 53 percent of the level of support. Based on this analysis, the amount of the transfer from the Special Programs budget that represents a non-mandated expenditure is \$79,699,778.

MANDATED PROGRAMS AND FUNCTIONS**12–Environmental Health Public Obligation (MANDATED):** \$0

This funding is provided to the Environmental Health Department as an operating transfer from the Special Programs budget. The Environmental Health Department normally finances its costs through fees charged to recipients of its services. However, the Department is mandated by State law to perform inspections of public swimming pools and school cafeterias, and is prohibited from charging fees for these services. In FY 2006-07, the cost of this public obligation is estimated at \$631,000 and is being drawn from the Department's fund balance, rather than the General Fund.

13–Santa Clara Valley Medical Center Subsidy (MANDATED): \$89,874,217

Because revenues obtained by Valley Medical Center (VMC) from insurance companies, cash paying patients, and State and federal funding are not sufficient to recoup VMC's costs, a General Fund subsidy is provided as a transfer from the Special Programs budget to the VMC Enterprise Fund. As discussed in the section of this report addressing the VMC budget, the County is not mandated to operate a hospital, but is mandated to provide health care services to indigents. A prior analysis determined that the amount of General Fund support required to provide health care services to the indigent amounted to about 53 percent of the level of support. Based on this analysis, the amount of the transfer from the Special Programs budget that represents a mandated expenditure is \$89,874,217.

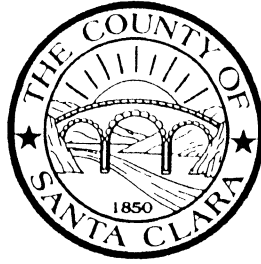
14–Criminal Justice Information Control System (MANDATED): \$5,148,212

The Special Programs budget provides this services and supplies payment to the Information Services Department Internal Services Fund for costs of providing access to the Criminal Justice Information Control (CJIC) System to General Fund Departments, such as the District Attorney and Sheriff. CJIC, which is the primary information resources for law enforcement in the County, contains criminal history information on numerous individuals and provides the current status of all persons with open cases, or who are currently serving sentences. This function is mandated due to various legal requirements imposed on the County departments that work within the national criminal justice system.

Total Special Programs FY 2006-07 Approved Budget	\$179,815,780
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ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Bob Campbell, Assistant County Counsel

A handwritten signature in black ink that reads "Bob Campbell".

RE: Special Programs, Budget Unit 119
Mandate Analysis Update

DATE: August 7, 2006

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to Budget Unit 119 regarding Special Programs. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the Office of Budget and Analysis.

Budget Data Processing Costs

1. Legal Basis for Mandate

The prior analyses determined that this function was non-mandated because while State law requires the County to prepare an annual budget (Gov. Code 29000 et seq.), "there is no mandate to use a specific technology to do so". However, since the budget function is mandated, some level of costs to perform that function should be considered mandated.

2. Level or Requirement of Mandate, if applicable

State law imposes the budget process and requires the completion of certain documents but does not dictate how that is to be done. If it can be determined that the use of the Budget Reporting and Support System (BRASS) is the most cost-effective means by which to comply with State law, then the total cost should be considered mandated by State law. If the County has made a policy choice to use BRASS even though it may be more expensive than other methods, then the cost of the least expensive method should be considered mandated.

Roger Mialocq, Management Audit Manager
Re: Special Programs, Budget Unit 119, Mandate Analysis Update
August 7, 2006
Page 2

Environmental Health Public Obligation

1. Legal Basis for Mandate

The prior analyses concluded that the Department is mandated by State law to perform inspections of public swimming pools and school cafeterias and is prohibited from charging fees for those services.

I concur that the Department is required to perform inspections of public swimming pools under the provisions of Section 116053 of the Health and Safety Code. I also concur that the Department is mandated to inspect school cafeterias based on a new State law that takes effect on January 1, 2007. This new law clarifies a previously ambiguous law concerning whether school cafeterias are "retail food facilities".

I agree with the prior determination that the Department may not charge fees for these services as a result of the provisions of Section 6103 of the Government Code.

2. Level or Requirement of Mandate, if applicable.

With regard to the inspection of school cafeterias, the Department is required to inspect retail food facilities under the provisions of the California Uniform Retail Food Facilities Law (Law), commencing with Section 113700 of the Health and Safety Code. The Law currently in effect does not clearly exclude school cafeterias within the definition of "food facility". However, a new State law, SB 144 (Ch. 23, Stats. 2006), which becomes effective on January 1, 2007, completely revises the current retail food facilities law. Under the provisions of the bill, Section 113789 of the Health and Safety Code specifically defines "food facility" to include school cafeterias and Section 114265 provides that all permanent food facilities, which would include cafeterias, are required to meet the applicable provisions of the new Retail Food Code. As a result, there no longer appears to be any question about the applicability of the inspection mandate to school cafeterias.

c: Greg Van Wassenhove, Director, Agriculture and Environmental Mgmt.
Ben Gale, Director, Dept. Of Environmental Health
Sally Logothetti, Administrative Svcs. Mgr.
Ann Ravel, County Counsel

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Debra L. Cauble
Laurie F. Faulkner
Susan G. Levenberg
ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Debra L. Cauble, Assistant County Counsel *dlc*

RE: Mandate Analysis for County Executive's Office (Budget Units 107, 119, 217)

DATE: September 29, 2003

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to the Office of the County Executive, Budget Units 107, 119, and 217. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the County Executive's Office.

BUDGET UNIT 107

Administration

The County Executive describes this function as including general administrative positions, oversight of court/county issues; support to the Local Agency Formation Commission (LAFCo), and cable franchise management.

1. Legal Basis for Mandates. The County executive states that the general administrative function is mandated under Section 4 of the County Charter. We understand this reference to be to Article IV of the Charter, which describes the role of the County Executive. Under the provisions of Article IV, as well as Section 701, the Charter mandates that the County have a County Executive, and an unclassified confidential secretary and administrative position for the Executive. The Charter does not mandate other positions in the County Executive's Office.

County support of LAFCo is no longer statutorily mandated. Government Code Section 56384 authorizes the LAFCo to appoint an executive officer and legal counsel, and other staff as the Commission deems appropriate. In our County the LAFCo has elected to continue the prior use of County Executive staff to fulfill the duties of executive officer and other support positions. This arrangement with the County is formalized under a contract and provides for full cost recovery for the County services provided to LAFCo.

We did not identify any other legal mandates for activities within the Administration function.

2. Level or Requirement of Mandate, If Applicable. As noted, the Charter specifies three positions to be maintained in the Office of the County Executive. LAFCo levels of staffing is established by the agreement between LAFCo and the County.

Habitat Conservation Program

Legal Basis for Mandate. We concur with the County Executive's analysis that there is no legal mandate for this function.

Special Projects

The County Executive identifies the following activities within this functional area: Fairgrounds Revitalization, Elmwood Surplus Land Development, Civic Center Strategic Development.

Legal Basis for Mandate. The activities within this functional area are economic development projects which are not legally mandated but have been initiated by the Board of Supervisors to pursue established policy goals.

The Silicon Valley Theater Financing Corporation is a nonprofit corporation created for the purposes of financing the theater at the Fairgrounds. Creation of the corporation was advantageous to the County but was not legally mandated.

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Office of Public Communication

This functional area includes a variety of public communication activities on behalf of the County. It also includes staff support to three sister-county commissions.

Legal Basis for Mandate. As noted by the County Executive, the public communication functions of this Office are not mandated by law. The three sister county commissions were created by ordinance of the Board of Supervisors (codified in Division A6 of the Ordinance Code). The ordinance code requires certain staffing support by the Clerk's office but does not mandate support by the County Executive's Office. However, Board Policy 3.39 provides that the County Executive's Office will provide programmatic and administrative support to the commissions.

Office of Women's Advocacy

Legal Basis for Mandate. We concur with the County Executive's analysis that there is no legal mandate for this function. As noted below, however, the Ordinance Code does require staff support in the County Executive's Office for the Commission on the Status of Women.

SACPA (Substance Abuse and Crime Reporting Act; Prop. 36)

Legal Basis for Mandate. State regulations implementing SACPA (Title 9, Code of California Regulations) require counties to designate a County Lead Agency to administer the Act locally and to receive funds. As a condition of receiving funds, counties must annually submit a county plan describing the processes and services that they will employ to implement the Act, as well as proposed expenditures. The plans must be developed and implemented in collaboration with all county agencies and any other entities responsible for administering the Act and with input from providers of drug treatment services, impacted community parties and federally recognized American Indian tribes. County Executive's Office resources devoted to fulfilling these requirements are a mandated function.

Level or Requirement of Mandate, if applicable. Proposition 36 and the regulations implementing it do not establish a specific level of support in order to satisfy the legal mandate.

Children's Services

Legal Mandate. We concur with the County Executive's analysis that there is no legal mandate for this function.

Legislative Program

Legal Mandate. We concur with the County Executive's analysis that there is no legal mandate for this function.

Integrated Pest Management Program

1. Legal Mandate. The Board of Supervisors has established a County IPM Program by ordinance (Div. B28 of the County Ordinance Code). The Ordinance requires the appointment of an IPM Coordinator within the Office of the County Executive to oversee and coordinate the Program.

2. Level or Requirement of Mandate, if applicable. The Ordinance describes the scope of the IPM Program that must be overseen by the IPM Coordinator.

Public Safety Program

The County Executive's Office states that this functional area includes oversight of indigent defense, Local Law Enforcement Block Grant (LLEBG) administration, and administration of the Board's program to fund nonprofits who provide legal services to low income persons with unmet needs for such services.

1. Legal Mandate. The County is required under the Penal Code to provide a defense in criminal proceedings for indigent defendants. This obligation is currently met through assignment of attorneys from the Public Defender's Office and through contracts for provision of representation when the Public Defender is unable to represent an indigent defendant due to conflict. To the extent County Executive resources are required to administer the conflict program, those resources should be considered mandated.

In order to obtain funds through the Local Law Enforcement Block Grant program, the County must comply with certain requirements regarding planning and oversight. To the extent such activities are required in order to comply with Grant terms, once the County has elected to apply for and use the grant funding, the activities should be considered mandated.

As noted by the County Executive's Office, there is no legal mandate for the County to provide civil legal services to persons who cannot afford them.

2. Level or Requirement of Mandate, If Applicable. There are no legal requirements mandating a particular level of service in this functional area.

Office of Budget and Analysis

1. Legal Mandate. Section 404(d) of the County Charter provides that the County Executive must "supervise and direct the preparation of the annual budget of the County and be responsible for its administration after adoption."

2. Level or Requirement of Mandate, If Applicable. Activities of the Office of Budget and Analysis in furtherance of the Charter requirements concerning the budget should be considered mandated.

Office of Emergency Services

The County Executive's Office states that this functional area includes planning and coordination of emergency and disaster efforts and training, coordination of the Santa Clara County Operational Area, support to the local Emergency Preparedness Council, and coordination of the Emergency Alert System.

1. Legal Mandate. Under the California Emergency Services Act (Government Code Section 8550 et seq.) counties have a significant role in addressing regional and local emergencies. The Act provides for establishment of Operational Areas at the county level which serve a variety of purposes in coordinating emergency responses (Section 8605). The Act authorizes counties to create local disaster councils by ordinance, in order to develop plans for addressing local emergencies (Section 8610).

In order to implement provisions of the Act, our Ordinance Code (Division A8) requires the County Executive to perform various functions in the role of County Director of Emergency Services. The Code provides that the County Executive serves as the Operational Area coordinator, and directs the appointment of an emergency services manager to carry out various functions related to emergency planning and operations. Our Board has also elected to create a local disaster council by ordinance.

2. Level or Requirement of Mandate, If Applicable. To the extent the functions described above implement the referenced provisions of state law and local ordinance, they should be considered mandated.

Human Relations

1. Legal mandate. We concur with the Office of County Executive that the only mandated activities related to this functional area concern support to the Human Relations Commission and Commission on the Status of Women. County Ordinance Code Section A6-55 provides that the Commission's Executive Secretary shall be appointed by the County Executive, shall attend all meetings and shall provide staff assistance. Section A6-77 sets forth a similar requirement with respect to the Commission on the Status of Women.

2. Level or Requirement of Mandate, If Applicable. The Ordinance Code does not specify the level of support required by the executive secretary to the two Commissions, except to the extent it requires attendance at all Commission meetings.

BUDGET UNIT 119

This Budget Unit contains a varied range of expenditures.

Legal Mandate. We concur with the County Executive's Office that none of the activities are legally mandated, except as follows: (1) This Budget Unit includes an appropriation for certain work performed by the Department of Environmental Health, required by state law to be performed. We are reviewing the assumption that no fees may be charged to recover costs of these services; and (2) the one-time appropriation for implementation of the Health Insurance Portability and Accountability Act (HIPAA) is mandated to the extent the expenditures are being used to make information systems changes mandated by HIPAA.

BUDGET UNIT 217

The County Executive's Office reports that this Budget Unit includes certain court-related expenses (Maintenance of Effort payment to the State, expenses related to court facilities, and grand jury expenses). In addition, we are advised that it includes expenses which appear to overlap those described under the Public Safety Program of BU 107 (see discussion above) for indigent legal services and unmet civil legal needs.

1. Legal Mandate. The California Trial Court Funding Act of 1997 provided for the separation of local trial court functions from that of counties. The legislation required counties to continue "maintenance of effort" (MOE) payments to the state based upon a statutory formula. (Gov. Code Section 77201. 77201.1). State law also requires counties to provide suitable and necessary

Memo to Management Auditors
Mandate Analysis for County Executive's Office
September 29, 2003
Page 7

trial court facilities (Gov. Code Section 70311) until such facilities are later transferred under other provisions of state law. The California Penal Code (Sections 890.1, 914.5 and others) requires counties to provide specified budgetary support for the grand jury.

2. Other comments. The Board of Supervisors may wish to consider pursuing legislation to transfer fiscal responsibilities for the grand jury to the court, in line with the overall statutory scheme of separating court and county functions.

c: Peter Kutras, Jr.
Ann Ravel

120 County Counsel

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Non-Mandated	3	677,132	3%	396,120	58%	4.0	3%
Mandated	10	17,275,795	84%	9,005,559	52%	99.5	84%
Admin/Support	-	<u>2,643,379</u>	<u>13%</u>	<u>2,643,379</u>	<u>100%</u>	<u>15.0</u>	<u>13%</u>
Total	<u>13</u>	<u>20,596,306</u>	<u>100%</u>	<u>12,045,058</u>	<u>59%</u>	<u>118.5</u>	<u>100%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=percent of total staffing

Departmental Description

The Office of the County Counsel is charged with the performance of all civil legal services for the County departments, institutions, boards, commissions and districts of the County. These responsibilities are mandated pursuant to County Ordinance Code Section A22-16. To accomplish these responsibilities, the Office of the County Counsel has a FY 2006-07 projected budget of \$20.6 million that funds 118.5 positions, including 53.5 attorneys. Departmental and other client reimbursements total nearly \$15.8 million, some from General Fund sources. Outside funding sources total nearly \$8.6 million leaving about \$12.0 million as a General Fund cost.

Organizationally, the Office of the County Counsel has identified 13 major functions it performs in the fulfillment of its legal responsibilities. All of these functions are directly related to County departmental operations. In addition, required administration and support activities include management, fiscal, budget and information systems support. Of these 14 functions, six were previously presented on a consolidated basis as three functions, including both mandated and non-mandated components. For this Mandate Study, these functions have been separately listed and described to more accurately identify the non-mandated and mandated components and the related General Fund

subsidies. Although most of these functions could legally be performed by outside legal counsel, the costs associated with outside counsel have historically exceeded those of the Office of the County Counsel as documented in our 1988 management audit. Therefore, County Counsel generally utilizes outside counsel if the County does not have the expertise in the particular area of law, the County does not have sufficient staff resources, or the Office would have a conflict of interest to perform the required legal services.

FY 2006-07 General Fund Budget by Program/Function

<u>Function</u>	<u>FY 2006-07 Adopted Budget</u>		<u>Departmental</u>	<u>General</u>	
	<u>Amount</u>	<u>Staffing</u>	<u>Revenue</u>	<u>Fund</u>	<u>Percent</u>
				<u>Subsidy</u>	
<i><u>Non-Mandated Activities</u></i>					
01 Law and Justice *	166,220	1.0	9,150	157,070	95%
02 Health Services *	344,692	2.0	144,800	199,892	58%
03 Social Services *	<u>166,220</u>	<u>1.0</u>	<u>127,062</u>	<u>39,158</u>	<u>24%</u>
Subtotal	677,132	4.0	281,012	396,120	58%
<i><u>Mandated Activities</u></i>					
04 Law & Justice	289,845	1.5	15,000	274,845	95%
05 Health Services	344,690	2.0	0	344,690	100%
06 Social Services	166,220	1.0	92,062	74,158	45%
07 Workers Compensation	2,055,897	12.0	500,664	1,555,233	76%
08 Litigation	2,840,238	15.5	501,580	2,338,658	82%
09 Conservatorships	2,062,548	14.5	1,788,180	274,368	13%
10 Juvenile Dependency	5,452,128	32.5	4,545,060	907,068	17%
11 Transactional & Gen Govt	2,590,506	13.0	770,045	1,820,461	70%
12 Personnel and Labor	826,938	4.0	57,645	769,293	93%
13 Hospital Services	<u>646,785</u>	<u>3.5</u>	<u>0</u>	<u>646,785</u>	<u>100%</u>
Subtotal	17,275,795	99.5	8,270,236	9,005,559	52%
<i><u>Required</u></i>					
Admin/Support	<u>2,643,379</u>	<u>15.0</u>	<u>0</u>	<u>2,643,379</u>	<u>100%</u>
Total	<u>20,596,306</u>	<u>118.5</u>	<u>8,551,248</u>	<u>12,045,058</u>	<u>58%</u>
* These Non-Mandated functions were previously combined with functions 04, 05, and 06, but have been separated in order to reflect the significant amount of funding from non-General Fund sources.					

Description of Programs and Functions

Administration and Support (REQUIRED): **\$2,643,379**

The Office of the County Counsel includes the County Counsel, four Assistant County Counsels, and 10 administrative and support staff. These positions are responsible for departmental management, and fiscal, budget and information systems support. Because many of the direct services performed by the Office of the County Counsel are mandated, the County must also provide adequate administrative oversight and support services to fulfill these mandates. Although 100 percent of the cost of this function is reported as a General Fund cost, because the County Counsel's Office is able to charge many non-General Fund departments and entities for its services, approximately 41.5 percent of administrative and support costs are reimbursed from non-General Fund sources, but these reimbursements have been included in the 13 direct service functions and programs described below. The amount of staff and other resources necessary to provide an 'adequate' level of funding is subject to determination by the Board of Supervisors pursuant to Government Code Sections 29063 and 29088.

NON-MANDATED PROGRAMS AND FUNCTIONS

01-Law and Justice (NON-MANDATED): **\$166,220**

The Law and Justice legal services function provides general legal support to the Sheriff, Department of Correction, Probation and other law and justice departments for various matters, including contracts, MOU's, and general operations. A portion of the services in this area are considered as mandated, since they pertain specifically to law enforcement services by the Sheriff's Department and to laws and regulations for operation of a jail. See the section on Mandated Services for additional information.

02-Health Services (NON-MANDATED): **\$344,692**

The Health Services function is a partially non-mandated legal service that includes general legal advice to Public Health, Mental Health and Alcohol and Drug Programs on a variety of issues, including policies and procedures, service contracts, MOUs, RFPs, outreach services and grants, which all require timely legal review. Since many of the services provided by County Counsel relate to departmental services that are mandated by specific legal requirements pertaining to direct responsibilities of those departments, some portions of this service area are included in the mandated listing. See below for further information.

03-Social Services (NON-MANDATED): **\$166,220**

The Social Services legal support function provides general legal services to the Social Services Agency Administration, the Department of Employment and Benefit Services, and Department of Aging and Adult Services. Services to Department of Family and Children's Services for dependency matters and Public Administrator/Guardian legal services are served by other units of the County Counsel's Office. The general legal service includes legal advice on contracts, MOU's, RFP's and general operational matters. The annual cost of this function is estimated to be approximately \$166,220.

which is funded 78 percent from federal and State revenues and 22 percent from the County General Fund.

MANDATED PROGRAMS AND FUNCTIONS

04–Law and Justice (MANDATED): **\$289,845**

The Law and Justice legal services function provides timely enforcement of bail bond forfeitures through collection of monies due the County pursuant to summary judgments against bail bond companies. In addition, this function includes legal support to the Sheriff, Department of Correction, Probation and other law and justice departments for various matters such as Pitchess motions, HIV motions, subpoenas, response to Public Information Act requests, Grand Jury, civil rights and prisoner rights issues. These services are considered as mandated, since they pertain specifically to law enforcement operations by the Sheriff’s Department and to laws and regulations for operation of a jail.

05–Health Services (MANDATED): **\$344,690**

The Health Services function is a partially mandated legal service that includes on-going legal advice regarding compliance issues, HIPAA and privacy issues, response to subpoenas and Public Information Act requests, hearings for special education, disease control and other specific legal requirements pertaining to the direct responsibilities of the health departments.

06–Social Services (MANDATED): **\$166,220**

This portion of the Social Services legal support function provides general legal services related to SSA for IHSS, CALWorks, Supplemental Security Income (SSI), and other program areas administered by Department of Employment and Benefit Services, Department of Aging and Adult Services and Department of Family and Children’s Services, excluding dependency matters. The annual cost of this function is estimated to amount to be approximately \$166,220, which is funded 78 percent from federal and State revenues and 22 percent from the County General Fund.

07–Workers Compensation (MANDATED): **\$2,055,897**

The Office of the County Counsel is mandated by Ordinance Code Section A22-16 to act as the legal officer of the County and to defend all County departments in all civil actions filed against the County. Currently, over 500 employees have open cases with more than 1,000 separate claims. The County Counsel represents the County in all cases unless there is a conflict or a special circumstance. If such services were obtained from outside counsel, the cost of outside legal services would probably equal or exceed the cost of County Counsel. The cost of this function is entirely funded from Workers Compensation charges, which are approximately 77 percent General Fund costs.

08–Litigation (MANDATED): **\$2,840,238**

The litigation function provides for the legal defense of the County in all civil actions filed against the County, its departments and its employees. Ordinance Code Section A22-16 requires the Office of the County Counsel to act as the legal officer of the County in all civil matters unless the County Counsel certifies in writing to the County

Executive that the Office is “unable” to do so. Since the only justifications for being unable to act as the County attorney would be lack of sufficient staff, lack of expertise, or conflict of interest, the litigation function is mandated. Further, to the extent that such services were obtained from outside counsel, the cost of outside legal services would probably equal or exceed the cost of the County Counsel’s Office. Therefore, no General Fund discretionary monies would be saved from reducing or eliminating this function. The FY 2006-07 budget amounts to approximately \$2.8 million and funds 15.5 positions. Funding for this function is provided from County-wide insurance billings, which are in turn funded approximately 82 percent from General Fund monies.

09–Conservatorships (MANDATED): **\$2,062,548**

The Conservatorship function supports the Public Administrator/Guardian function of the Social Services Agency. County legal services are mandated for approximately 900 open Lanterman-Petris-Short (LPS) conservatorship cases. In addition, non-mandated legal services are provided for many of the approximately 1,200 open probate, decedent estate and elder abuse cases. If the County provides the service, legal advice and representation is necessary. County Counsel has 14.5 positions to support this function, including 4.5 attorneys. The total cost of this function amounts to approximately \$2.1 million of which the LPS mandated portion represents about \$0.3 million. Approximately 78 percent of these costs are reimbursed from federal, State and fee revenues.

10–Juvenile Dependency (MANDATED): **\$5,452,128**

County Counsel is mandated to appear at juvenile dependency hearings on behalf of the Social Services Agency-Department of Family and Children’s Services, when the parent(s) are represented by legal counsel. The County has approximately 10,000 dependency hearings annually pertaining to dependent and delinquent children which require the efforts of 32.5 County Counsel staff including 15.5 attorneys. These costs amount to approximately \$5.4 million annually and are entirely funded by the Social Services Agency. The County General Fund portion of these costs is about \$1.2 million.

11–Transactional and General Government (MANDATED): **\$2,590,506**

The Transactional and General Government function in the County Counsel’s Office provides legal advice for a wide variety of county departments and functions, from land use and planning to procurement of goods and services for County use. Examples of some service areas include preparation of impartial analyses of ballot measures; contract analysis; facilities and real property transactions; and representation on assessment appeals that would reduce the assessed value of property. In addition, the Office of the County Counsel provides legal services for many non-County agencies and special districts on a cost reimbursed basis. Approximately 3 percent of the costs are reimbursed from outside, non General Fund sources.

12–Personnel and Labor (MANDATED): **\$826,938**

The Personnel and Labor legal services function includes representation of the County in 20 to 25 Personnel Board hearings and grievance arbitrations annually. In addition, this function provides on-going general legal advice to the County Labor Relations staff and to County departments for due process employment issues and civil rights matters.

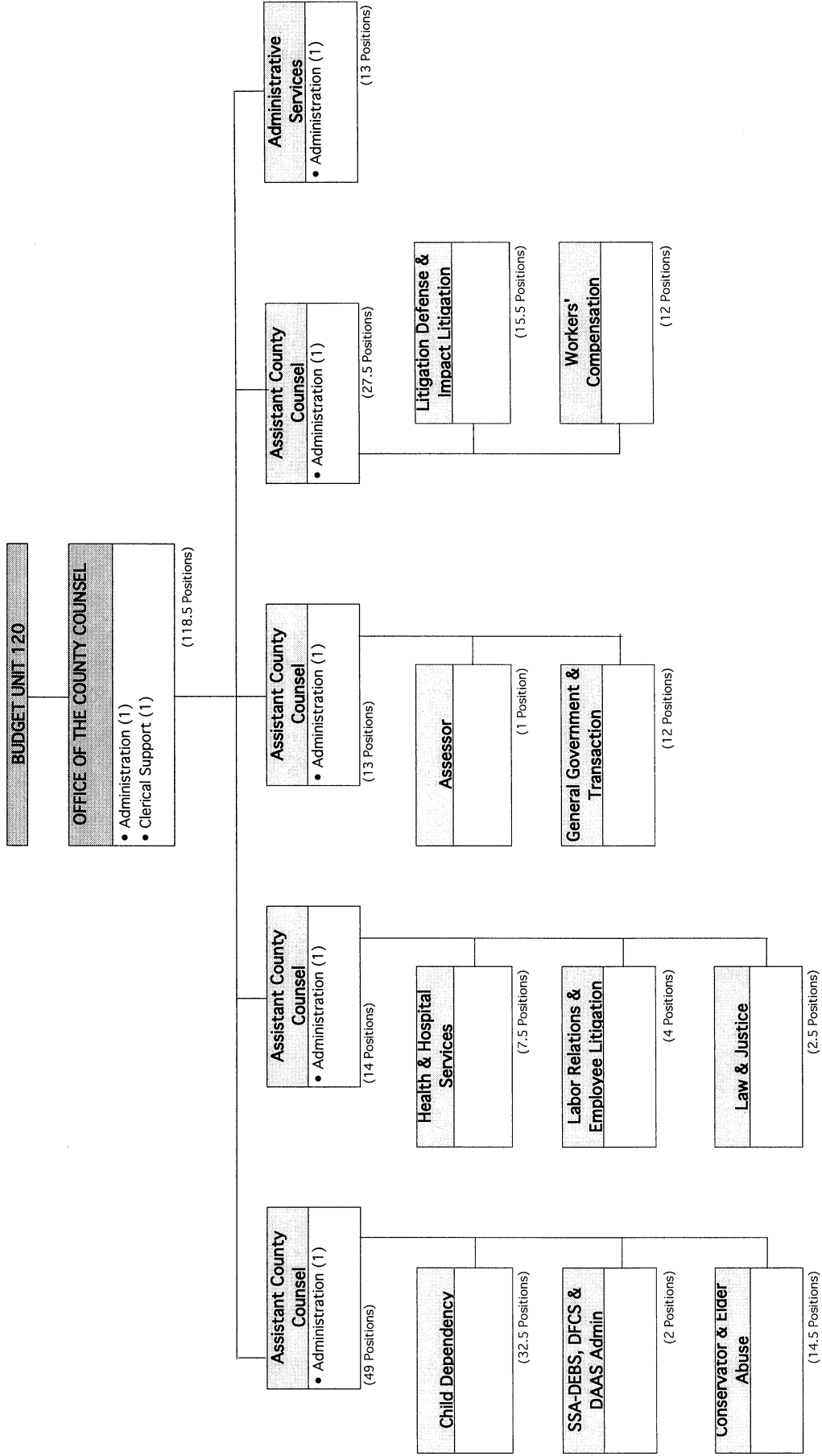
Nearly all services are General Fund supported with the exception of services provided to outside agencies, such as the Housing Authority, special districts and school districts.

13-Hospital Services (MANDATED): **\$646,785**

This is a mandated legal service that includes legal services to the Valley Medical Center on consent, license compliance, medicaid, HIPAA and other regulatory issues, service contracts, and general legal advice. This is an essential service since legal services are directly related to programs covered by specific legal requirements pertaining to responsibilities of the Hospital.

Total Office of the County Counsel FY 2006-07 Adopted Budget	\$20,596,306
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OFFICE OF THE COUNTY COUNSEL



Note:
Assistant County Counsel positions have been allocated to the functions which they oversee.

OFFICE OF THE COUNTY COUNSEL
COUNTY OF SANTA CLARA


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ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager
FROM: 
Ann M. Ravel, County Counsel
RE: County Counsel's Office, Budget Unit 120 Mandate Analysis
DATE: August 14, 2006

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a legal analysis of the legal mandates applicable to Budget Unit 120 regarding the County Counsel's Office. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the County Counsel's Office.

The Santa Clara County Charter provides, in Section 301(c) that the Board of Supervisors shall appoint the County Counsel. Section 701(a)(5) provides for one administrative position and one confidential secretary to the County Counsel.

Further, the Santa Clara County Ordinance Code, Section A22-16 states:

The County Counsel shall act as the legal officer of the departments, institutions, boards, Commissions and districts of the County government. No such agency shall employ or consult any attorney for legal advice or counsel in any civil affair of the County Government unless the County Counsel shall certify in writing to the County Executive that he is unable to act in behalf of the County.

The County Counsel is the legal advisor of the Board of Supervisors. (See Government Code § 26524.) The County is required to defend all civil actions brought against the County, its departments and/or employees. (See Government Code §§ 825, 995.)

Because of these broad mandates contained in the law, it could be interpreted that the County Counsel's office is mandated in its entirety. However, in order to read the mandate requirements in their most narrow fashion, the office has determined that administrative and

Roger Mialocq, Management Audit Manager
Re: County Counsel's Office, Budget Unit 120 Mandate Analysis
August 14, 2006
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support staff are required to effectuate the obligations contained in the Charter and Ordinance Code, and that certain programs are mandated as they pertain to legal obligations imposed by Federal and State law, constitutional law and court decisions upon the departments that the County Counsel serves. These include law and justice obligations, health services obligations, social services obligations, workers compensation, litigation, conservatorships, juvenile dependency, and hospital services. The transactional and general government mandates relate to those obligations of the County that are legally required as well, and the labor relations and personnel function mandates relate to those obligations that are imposed by case law and constitutional law that relate to the County's obligations to government employees.

OFFICE OF THE COUNTY COUNSEL MANDATE REPORT

Overview

The Santa Clara County Charter provides in Section 301(c) that the Board of Supervisors shall appoint the County Counsel. The Charter, Section 701(a) (5), also provides for one administrative position and one confidential secretary to the County Counsel. The Santa Clara County Ordinance Code establishes the Office of County Counsel. Section A22-11 to A22-19.

Santa Clara County Ordinance Code, Section A22-16 states:

The county counsel shall act as the legal officer of the departments, institutions, boards, commissions and districts of county government. No such agency shall employ or consult any attorney for legal advice or counsel in any civil affair of the county government unless the county counsel shall certify in writing to the county executive that he is unable to act in behalf of the county.

Pursuant to Government Code §26520 et seq., “[t]he county counsel shall defend or prosecute all civil actions and proceedings in which the county or any of its officers is concerned or is a party in his or her official capacity.” GC§ 26529. The County Counsel may render legal services to school districts or other public entities. GC §26520. Upon request the County Counsel shall appear for and represent the court or judge in his or her official capacity. GC §26524. The County Counsel is the legal advisor of the Board of Supervisors. GC §26526.

The County is required to defend all civil actions brought against the County, its departments and/or employees. GC §§ 825, 995. Legal services can be provided by County Counsel or through contracts with outside counsel approved by the County Counsel in accordance with the County Charter.

A substantial portion of services County Counsel provides are not mandated by law. Such legal services are provided to minimize exposure to liability and to assist the County in avoiding or resolving disputes early to avoid costly litigation. In the attached matrix we have identified our service areas and noted where law requires County Counsel to represent the County.

**OFFICE OF THE COUNTY COUNSEL
FUNCTIONS AND MANDATED PROGRAMS
September, 2003**

Program Area / Level of Service	Mandated/ Discretionary (Description)	Workload Measures	Costs / Revenues	Comments (GF benefit of reduction)
<p>Administration (16 fte) County Counsel (Uncl) Asst Cnty Counsel (Uncl) Conf. Secty (Uncl) Asst Cnty Counsel (3fte) Legal Secty (1fte) Adm Serv Mgr Mgmt Analysts (2fte) Sr Accountant Asst Acct&Acct Clk. IT Manager & DISC Ofc Spec/Receptn</p>	<p>The County Counsel, Asst County Counsel (unclassif) and Confidential Secty are mandated by SCC Charter, Article III, VII, §701(a)5. See also SCC Ord., §A22-11 to A22-19; Govt Code §26520 et seq. All other positions are non-mandated.</p>	<p>The County Counsel and Assistant County Counsels provide legal services to the Board and County agencies and departments in addition to their administrative duties.</p>	<p><u>Costs:</u> Mandated- \$ 591,420 non-Mandated \$1,713,550 (Note: these overhead costs are not included in prgm costs below)</p>	<p>Costs of these positions are included as overhead when computing the hourly rates, so they are reimbursed proportionately. Deletions of the non-mandated positions will reduce GF costs, but also decrease overhead included in the hourly rates, reducing revenues.</p>
<p><u>Conservatorships</u> LPS Mental Health: 1 Attorney 1 Paralegal 1 Clerical Probate/ Elder Abuse/ Decedent Estates: 6 fte Attorneys 4 fte Paralegals 7 fte Clerical, 1 Supv</p>	<p><u>LPS:</u> Mandated (level discretionary) See WIC §5114, §5354.5; Gov Code §§2400, 27430, et seq. Probate Code §2920, §§7600. County Counsel is required to represent the Pub.Guardian in mental health conservatorship (LPS) matters (SCC Ord. §A22-19; WIC §5114).</p> <p><u>Probate:</u> non-mandated. Legal services can be provided in- house or by outside counsel.</p>	<p>In FY02 there were 414 new petitions for appt of LPS conservatorship and 860 reappointments. PG has 854 open LPS cases. Cnty Cnsl appears in Probate Court on a 1 day/ week mental health conservatorship calendar and 3 days/ week on evidentiary hrs and writs - 3,272 hrs from Aug 2002-Aug 2003.</p> <p>There are approx. 1200 open Probate/ decedent estate cases with 400 Court hearings per year.</p>	<p><u>Cost</u> (salary+supplies): \$2,506,650 <u>Revenue:</u> \$2,519,650</p>	<p>All costs are billed to SSA. 70% of the costs are reimbursed to SSA by the State; the remaining 30% of costs are paid by SSA from GF allocations. Support costs and overhead charges are included in the hourly rate calculation. Fees are also collected from conservatees and estates for certain services.</p>

Program Area / Level of Service	Mandated/ Discretionary (Description)	Workload Measures	Costs/ Revenue	Comments (GF benefit of reduction)
<u>Juvenile Dependency</u> 15.5 fte Attorneys 7 fte Paralegal, 1Supv 12 fte Clerical, 1 ASO <u>Education Rights</u> .5 fte Attorney	<u>Mandated</u> (level discretionary) W&I §318.5, §350(a), §294: requires County Counsel to appear on behalf of DFCS at dependency hearings if parent is represented by counsel. Education Rights Project services are discretionary.	Approx. 1500 hearings per year: morning jurisdiction hrs in 3 courtrooms; afternoon trials in each courtroom; add'l long cause trials and drug case hrs; legal services to education rights program for dependent and delinquent children.	<u>Cost</u> (salary+supplies): \$4,896,000 <u>Revenue:</u> \$5,198,700	All costs are billed to SSA. 70% of the costs are reimbursed to SSA by the State; remaining 30% of costs are paid by SSA from GF allocations. Support costs and overhead charges are included in the hourly rate calculation.
<u>Litigation</u> 9 fte Attorneys 2.5 fte Paralegals 4 fte Clerical, 1 ClericalSupv(+below)	<u>Non-mandated</u> The County is required to defend all civil actions against the County, its departments and employees. GC §825, §995, §26529. Legal services can be provided in- house or by outside counsel.	Approx. 82% of the 90 - 100 open litigation defense cases are now handled in-house. Impact/ affirmative litigation work is also included. Some litigation work may be performed by staff in other sections when it relates to work in that client area.	<u>Costs</u> (salary+supplies): \$2,426,570 <u>Revenue:</u> \$2,725,800	All costs are billed to ESA Insurance at an hourly rate, and paid mainly from the insurance reserve fund. Use of outside counsel may increase costs. Support costs and overhead are in the hourly rate. Per case outside counsel defense costs averaged \$27,217 more than in-house costs over the past 3 years.
<u>Workers' Compensation</u> 6 fte Attorneys 2.5 fte Paralegals 4 Clerical (Supv above)	<u>Non-mandated</u> Labor Code §3700 requires an employer to have workers' comp insurance or certificate of self-insurance. Legal services can be provided in-house or by outside counsel.	Currently 374 employees have open cases, with 637 separate claims. Each date of injury represents a separate claim. Nearly all cases are now handled in-house.	<u>Costs</u> (salary+supplies): \$1,766,430 <u>Revenue:</u> \$2,001,300	All costs are billed to ESA Insurance at the current hourly rate, and paid from the insurance reserve fund. Support costs and overhead charges are included in the hourly rate.
<u>Health & Hospital Services</u> 6 fte Attorneys 2 fte Paralegals 2.5 fte Clerical (Supv shown above)	<u>Non-mandated</u> WI §17000: County must provide health care to indigents. Related legal services can be provided in-house or by outside counsel.	Advise on consent, license compliance and medicaid issues; review contracts for services, regulations, bylaws; general legal advice. AB3632 program for special education services to emotionally disturbed children is SB90 reimbursable.	<u>Costs</u> (salary+supplies): \$1,572,400 <u>Revenue:</u> (incl. .5fte attorney cost paid by Pub. Hlth)	Legal costs to VMC (3.7 fte attorney, 1.7fte paralegal) are paid by the Hospital, Fund 60. No GF cost savings are likely if staff is cut, due to use of outside counsel. Some GF cost savings may result if staff is cut from service to the non-billed client depts, but could be offset by costs for outside counsel

Program Area / Level of Service	Mandated/ Discretionary (Description)	Workload Measures	Costs/ Revenue	Comments (GF benefit of reduction)
<u>Personnel & Labor</u> 2 fte Attorneys .5 fte Clerical	<u>Non-mandated</u> Legal services related to labor and personnel matters can be provided in-house or by outside counsel.	Represent the County in 20-25 Personnel Board hearings and grievance arbitrations annually; on-going, general legal advice on labor and employment matters to Labor Relations and County departments. (3,170 Attorney hours in FY03.)	<u>Costs</u> (salary+supplies): \$443,130 <u>Revenue:</u> \$202,860	Billed clients are charged for this work at the usual hourly rate and all departments are charged for Personnel Board matters. Deletions in staff related to this area reduce GF salary costs. Per case outside counsel costs average more than in-house costs, which may offset any savings.
<u>Law & Justice Services</u> 3 fte Attorneys 1 fte Clerical	<u>Non-mandated</u> On-going, general legal advice can be provided in-house or by outside counsel.	Nearly 6,100 hours of legal service were provided to all law and justice agencies in FY03; 67% of the total time was provided to the Sheriff and DOC.	<u>Costs</u> (salary+supplies): \$ 681,000 <u>Revenue:</u> DOC transferred cost of 1fte atty in FY00	Our new reduction proposal and reorganization plan reduces service to justice departments by approximately 20% in order to maximize revenue in billable areas. Staff deletions related to these services would reduce GF salary costs.
<u>Social Services</u> 2 fte Attorneys .5 fte Clerical	<u>Non-mandated</u> General legal services to SSA Administration, Aging/Adult Services, and all programs except dependency and Public Administrator / Guardian.	Review contracts for services; compliance with regulations; confidentiality issues.	<u>Costs</u> (salary+supplies): \$ 443,130 <u>Revenue:</u> \$ 579,600	All costs are billed to SSA. 70% of the costs are reimbursed thru SSA claims to the State; the remaining 30% of costs are paid by SSA from GF allocations. Support costs are part of the hourly rate calculation.

Program Area / Level of Service	Mandated/ Discretionary (Description)	Workload Measures	Costs/ Revenue	Comments (GF benefit of reduction)
<p><u>Transactional & General Gov't</u> 7 fte Attorneys 1 fte Paralegal 2.5 fte Clerical</p>	<p><u>Mandated programs:</u> <i>Bail Bonds</i>: PC §1306(e), the DA or County Counsel shall enforce unpaid bail bond summary judgment. <i>Grand Jury</i>: PC §914- County Counsel or DA is required to represent the Grand Jury. <i>Registrar of Voters</i>: Elections Code §§9160(b) and 9500 requires county counsel to prepare impartial analysis of county and school measures placed on the ballot. <i>Assessment Appeals Board</i> Revenue and Taxation Code §1607 states the Assessment Appeals Board (AAB) cannot approve a stipulation regarding value until signed by the County legal officer on behalf of the County.</p>	<p>This program area includes both billed and GF County depts, including: Assessor, Registrar of Voters, Finance Agency (Controller, Tax Collector, Recorder, Dept of Revenue); Roads and Airports; Environmental Services Agency (Planning Dept, Parks and Recreation, Environmental Health, Dept of Weights/Animal Control) General Services Agency (Procurement, Facilities Dpt, Communications, Capital Programs, Intergov Services). Also other non-County agencies are represented, including Housing Authority, Fair Assoc, Central Fire Dist, Sanitation Districts, Grand Jury and other small, special district clients.</p>	<p><u>Costs</u> (salary+supplies): \$1,688,780 <u>Revenue:</u> \$ 765,800</p>	<p>Within this client group, approx. 2.3FTE attorney time is billable. Staffing cuts effecting billed departments reduce revenue more than the cost saving. Some General Fund cost savings may result if staff is cut from the non-billed client departments, but savings could be offset by costs for outside counsel.</p>

130 Employee Services Agency

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Non-Mandated	9	25,846,013	71%	14,151,098	55%	24.0	23%
Mandated	14	8,287,897*	23%	7,553,623	91%	65.5	62%
Admin/Support	-	<u>2,167,028</u>	<u>6%</u>	<u>756,566</u>	<u>35%</u>	<u>16.0</u>	<u>15%</u>
Total	<u>23</u>	<u>36,300,938*</u>	<u>100%</u>	<u>22,461,287</u>	<u>62%</u>	<u>105.5**</u>	<u>100%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=percent of total staffing

*Includes \$412,500 for hiring of five new Management Analyst positions for classification function, scheduled for Board approval and hiring in August 2006.

** Total Authorized Positions includes 8.5 unfunded positions (special qualification workers) in the Equal Opportunity Unit, and 5.0 Management Analyst positions to be hired in August 2006.

Departmental Description

The Employee Services Agency Budget Unit 130 is comprised of Human Resources, Labor Relations, Employee Benefits, Equal Opportunity and Employee Development Departments, Employee Relations Service and Executive Management Services. These services support the Board of Supervisors and County Executive in achieving the County's mission and goals to provide services related to the needs of the County workforce.

According to references in the Santa Clara County Ordinance Code, the County Code has had provisions for a personnel administration agency since at least 1978. The requirement for Merit System Rules and other aspects of the personnel system is derived from Article VII of the Santa Clara County Charter. The current Employee Services Agency, according to the Code, draws its authority from ordinances approved in October 1979 and October 1993.

FY 2006-07 General Fund Budget by Program/Function

<u>Function</u>	<u>FY 2006-07 Adopted Budget</u>		<u>Departmental</u>	<u>General</u>	
	<u>Amount</u>	<u>Staffing</u>	<u>Revenue</u>	<u>Fund</u>	<u>Percent</u>
				<u>Subsidy</u>	
<u>Non-Mandated Activities</u>					
01 EO Employment Plan	29,206	0.2	0	29,206	100%
02 EO DBE Program	29,206	0.2	0	29,206	100%
03 EO Silicon Valley Center	296,165	0.1	0	296,165	100%
04 EO Hands On/Diversity	48,875	0.1	0	48,875	100%
05 Employee Dev.-Training	1,175,574	7.0	205,000	970,574	83%
06 Employee Dev. Spec. Prgrm.	173,272	1.0	0	173,272	100%
07 Employee Dev.-Educ. Asst.	1,313,652	2.0	0	1,313,652	100%
08 Intergovernmental Rel.	431,564	4.0	335,744	95,820	22%
09 Employee Benefits	<u>22,348,499</u>	<u>9.5</u>	<u>11,154,171</u>	<u>11,194,328</u>	<u>50%</u>
Subtotal	25,846,013	24.0*	11,694,915	14,151,098	55%
*Totals don't add due to rounding.					
<u>Mandated Activities</u>					
10 Exec. Mgt.-Exec. Recruiting	367,277	2.8	0	367,277	100%
11 EO-Non-Discrim. Program	992,824	15.7	57,456	935,368	94%
12 EO-Confidential Records	26,202	0.2	0	26,202	100%
13 Exec. Mgt.-Appeals	38,426	0.2	0	38,426	100%
14 Labor Relations-Admin.	252,950	2.1	15,371	237,579	94%
15 Labor Rel.s-Negotiations	544,001	4.3	0	544,001	100%
16 Labor Rel.-Disciplinary	360,531	2.8	0	360,531	100%
17 Labor Rel.-Grievance	370,190	2.6	0	370,190	100%
18 Labor Rel.-Drug and Alcohol	30,149	0.2	13,732	16,417	54%
19 HR Ops.-Classification	1,184,464	12.4	0	1,184,464	100%
20 HR Ops.-Recruitment	1,871,270	15.7	0	1,871,270	100%
21 HR Ops.-Records	1,969,065	5.1	419,233	1,549,832	83%
22 HR Ops.-Oversight	43,632	0.4	0	43,632	100%
23 Benefits Administration	<u>236,916</u>	<u>1.0</u>	<u>228,482</u>	<u>8,434</u>	<u>4%</u>
Subtotal	8,287,897	65.5	734,274	7,553,623	91%
<u>Required</u>					
Admin/Support	<u>2,167,028</u>	<u>16.0</u>	<u>1,410,462</u>	<u>756,566</u>	<u>35%</u>
Total	<u>36,300,938*</u>	<u>105.5*</u>	<u>13,839,651</u>	<u>22,461,287</u>	<u>62%</u>
*Includes five Management Analyst positions scheduled for Board approval and hiring in August 2006.					

Description of Programs and Functions**Administration and Support (REQUIRED):****\$2,167,028**

ESA Administration includes 16 authorized positions comprised of a Deputy County Executive, who provides oversight and policy guidance to Employee Services Agency

Management Audit Division

(ESA) Divisions, one senior executive assistant, and 14 employees in the Fiscal and Information Systems division. Of the 14 employees in the Fiscal and Information Systems division, 10 are fiscal support and four are information systems support.

The 10 fiscal personnel provide fiscal services to all programs within the Employee Services Agency, including financial assistance, budgeting, and accounting support to the agency. They are also responsible for all financial activities in the area of Accounts Payable, Accounts Receivable, Journal Entries, service agreements and board-approved contracts. Fiscal staff is responsible for preparing the annual financial statements to be included in the CAFR for the Insurance, Unemployment Insurance, Workers Compensation, Basic Life Insurance, and Delta Dental Insurance Funds. Additionally, they coordinate the annual fixed asset certification process, administer the departmental payroll and maintain trust funds. Fiscal employees in Employee Services Agency are also responsible for developing the benefit rates for employer/employee paid benefits and insurance including Retiree Medical Benefits, Health Insurance, Unemployment Insurance, General Liability Insurance and Workers Compensation.

The four Information Systems staff provide the entire range of IT support services to ESA, represent ESA interests in the County IT Governance process and prepare, assess, and implement county and Agency level IT policies and procedures. They also provide software and hardware systems support to all ESA employees including Risk Management, which is outside of this budget unit 130. This includes Windows Platform, e-mail system, Windows 2000, Windows 2003, instant messaging, video conferencing, EOD case tracking, insurance system, workers compensation system, state EDI reporting, PeopleSoft, Keyboard, Kronos, and SAP, the countywide accounting system.

Because some of the direct services performed by ESA are mandated the County must also provide adequate administrative oversight and support services to fulfill these mandates. The amount of staff and other resources necessary to provide an 'adequate' level of funding is subject to determination by the Board of Supervisors pursuant to Government Code Sections 29063 and 29088. No objective basis was identified to determine if the current budget for administrative and support staffing and related resources exceed the minimum legal funding level.

NON-MANDATED PROGRAMS AND FUNCTIONS

01 – EO - Equal Employment Opportunity Plan (NON-MANDATED): \$29,206

The Equal Opportunity function includes 0.2 authorized positions and is responsible for developing the Equal Employment Opportunity Plan. This EO Plan is a requirement for receiving Federal funds, per Department of Justice Regulations 28 C.F.R. Section 42.301. However, the County is not mandated to receive federal funds and therefore, this function is non-mandated.

To develop the Equal Employment Opportunity Plan staff members pull statistics from PeopleSoft on ethnicity, gender, etc., which are captured when people are first hired to the County. After the Equal Opportunity Plan is completed it is distributed to each

County Agency who review it and respond to the specific findings on their Department. Departments found to lack an appropriate level of diversity must provide a plan outlining how they will diversify their workforce further. The Equal Opportunity Plan is particularly important for the Probation Department, the Sheriff's Office and the Office of the District Attorney because they receive funds in excess of the minimum funding under this law and are therefore required by Department of Justice Regulations 28 C.F.R. Section 42.301 to provide an EO Plan that shows they are appropriately diversified. If they don't or are found to not meet the diversification requirements, they are at risk of losing these federal grants.

Although the County is not mandated to perform this function the County would incur significant financial risks if they did not do so. Federal funds account for a large proportion of the revenues received by the County and this Equal Opportunity Plan ensures that those Agencies receiving the funds are abiding by the requirements.

02 – EO – Disadvantaged Business Enterprise Program (NON-MANDATED): \$29,206
The Equal Opportunity Disadvantaged Business Enterprise (DBE) function is currently being performed by the Equal Opportunity Division Manager who is responsible for administering the DBE Program, and expends the equivalent of 0.2 FTE on this function. Since the County receives substantial federal funding, it is required to have a DBE program. This program enables the County to increase the participation of these businesses in County activities such as construction contracts, consultant agreements, service agreements and procurement activities that are federally funded. The County applies for and receives funds from FHWA (highway construction funds), FAA (airport improvement funds), and FEMA (emergency repair funds for public roads and highways.) In order to receive these funds, the County must comply with the United States Department of Transportation regulations under 49 CFR Part 26 and the standards set by the U.S. Small Business Administration section 3, and 13 CFR Part 121. These require FHWA recipients receiving funds authorized by this statute that are greater than \$250,000 in FTA planning, and that receive a grant of \$250,000 or more for airport planning or development to have a Disadvantaged Business Enterprise Program. Because the County receives this Federal financial assistance as a condition of receiving this assistance, they must sign an assurance that they will comply with 49 CFR Part 26. However, the County is not required to receive this assistance and therefore this program intended to prove that the County is meeting the federal funding requirements is not mandated. If the County does not receive the federal assistance, it will incur a significant financial loss. Additionally, there is no requirement that this program be managed out of the Equal Opportunity functional area.

The financial assistance that the County receives from this program is substantial. For Fiscal Year 2007 the County is expected to receive \$4.0 to \$6.0 million from the Department of Transportation on approved projects under this program. Therefore, if the County wants to continue to receive grant funds from the FHWA, the FTA, or the FAA it will need to continue to have a Disadvantaged Business Enterprise Program in place.

03 – EO – Silicon Valley Center (NON-MANDATED):

\$296,165

The Silicon Valley Independent Living Center ("SVILC") is a Service Agreement with the Silicon Valley Living Center with a termination provision. The SVILC provides advocacy, training and skill development services to the disabled. SVILC was founded as an Independent Living Center in 1976 by a small group of people with disabilities. It now serves more than 1,000 people with disabilities in Santa Clara County each year. The agency offers information and referral, vocational training, and placement, assists with technology issues, residential training, and training in independent living skills. It also provides therapeutic recreation, systems and personal advocacy, benefits counseling, peer and individual counseling, housing referrals and personal assistant referrals and placement.

The County is not mandated to provide this service. Currently the County has entered into a services agreement with the Silicon Valley Independent Living Center and this agreement has a termination provision. Staff oversight of this function requires the equivalent of 0.1 FTEs.

04 – EO – Hands On and Unity in Diversity / Diversity (NON-MANDATED): \$48,875
The Equal Opportunity Division has entered into a Service Agreement with "Hands On", a Community Based Organization (CBO) that provides services for the deaf and hearing impaired. The County spends an estimated \$3,485 on this program annually. The Equal Opportunity Division is also involved in planning and implementing the "Unity in Diversity" activities in partnership with the Board of Supervisors' offices, Human Relations Office and Employee Development. This program is designed to promote diversity as a positive value in the community. Approximately, \$9,000 of the Equal Opportunity Divisions' annual budget is for this program. Since no state, Federal, or local ordinance laws require Equal Opportunity to provide these functions, these are considered non-mandated. However, under the federally legislated Americans with Disability Act, and Fair Employment and Housing Act, the County is required to provide accessible services and facilities to the disabled, including translation services to the hearing-impaired. It has been determined by the department that a service agreement with a community-based organization like "Hands-On" is more cost effective than designating county employees to provide these services. Staff oversight equivalent to 0.1 FTE is required for this function.

05 – Employee Development - Training (NON-MANDATED): \$1,175,574
The Employee Development Training function includes 7.0 authorized positions (and serves as the central provider and resource for the County's training needs. The goal of Employee Development is to enable the County to have an effective, productive workforce by providing employees with opportunities to grow and develop new skills. Additionally, they aim to contribute to a strong County culture where all employees have access to programs and where a single, consistent message can be communicated.

Employee Development staff provide a variety of training programs, including Leadership training, required by the County for all supervisory and managerial employees; "Working Together" workshops, and a half-day New Employee Orientation course. A variety of professional development and computer skill courses are available during work hours to employees through the "CountyWise" catalogue published twice a year. These courses are provided through staff trainers and contracts with local

vendors. In addition, the County assists individuals who wish to obtain their AA degree by offering an accelerated AA and BA degree programs in partnership with the City of San Jose, Evergreen College and National University.

Other training offered by Employee Development includes assisting County Departments with needs assessments and customized classes. Recent classes provided of this type were Time Management and Team building. The staff also assist Executive Management by coordinating events and speakers for the Executive Managers Group. They support 2-4 events of this type annually. Additionally, the staff members in this functional unit train employees on the County's performance appraisal process.

There are no state, Federal or County Ordinances requiring the County to have an Employee Development Unit. Therefore, this function is discretionary.

06 – Employee Development – Special Programs (NON-MANDATED): **\$173,272**
The Special Programs function within Employee Development includes 1.0 authorized position and is responsible for providing services to employees and survivors' of employees. Employees in crisis have unique needs requiring specialized attention and services. The services offered also help to educate and assist employees about their benefits and make appropriate plans.

The Vacation Donation program enables one employee to donate vacation time to another employee who is facing an approved catastrophic situation preventing them from working. The program handles roughly 200 requests each year. The Precautionary Retirement Program allows employees facing a serious health condition to set up a retirement application to be processed upon the employees' death. This allows survivors to receive the highest benefit possible and is used roughly 15 times annually. The Assistance to Survivors' of County Employees is a program that provides support, guidance and assistance to survivors of employees by processing claims and handling the business associated with the employee's benefits. This program handles roughly 200 requests of varying degrees of need annually. The Crisis Response program provides a human link to the County for individuals who are injured or harmed from an event connected with the County.

Although these programs increase the quality of life for many individuals in the County, they are not mandated by State, Federal or County Ordinance. Therefore, this function is discretionary.

07 – Employee Development – Education Assistance (NON-MANDATED):**\$1,313,652**
The Education Assistance function includes 2.0 authorized positions and is responsible for administering over 45 separate negotiated funds that provide reimbursement for approved education, travel, licensing, and registration expenses. Education Assistance currently process almost 5,000 claims and reimburses \$ 997,000 annually to employees

Although this function is required by certain Bargaining Unit Agreements the County is not mandated by state, Federal or County Ordinances to provide it. Therefore, this function is discretionary.

08 – Intergovernmental Relations (NON-MANDATED): **\$431,564**

Intergovernmental Employee Relations Services function includes 4.0 authorized positions and is responsible for providing advisory and consultation services to 38 member public agencies under a joint powers agreement (JPA). The County is responsible for maintaining and administering this program on behalf of other jurisdictions. Major services include providing salary, benefit and contractual information to member agencies through the use of database and web site. The Unit also conducts special services, such as compensation surveys and classification studies for JPA members and non-members. Other services include bargaining settlements and trends, and contract research and analysis. Since the County is the host agency of the JPA, it receives fees from the participating member agencies. During fiscal year 2006-07 approximately \$ 366,326 in revenues is expected for this service.

This function is not mandated and the County could cease to participate in the Joint Powers Agreement. The risk of doing so is that the information generated and maintained by this service may not be available to the County or other members of the JPA.

09 - Employee Benefits (NON-MANDATED): **\$22,348,499**

The Employee Benefits function includes 9.5 authorized positions and is responsible for administering a full range of benefit programs from initial hire through retirement for employees, retirees and their families. As part of the administration of these benefits, the staff members also provide training in benefits administration to county departments. The budget for Employee Benefits includes trust fund/internal service fund expenditures pertaining to life insurance and dental benefits.

Most of the benefits programs that are offered by the County to its employees are the result of collective bargaining agreements and other decisions by the Board of Supervisors. With the exception of the Administration of the PERS retirement system, and Military Leave Salary Augmentation Administration, and certain benefit programs such as FMLA, CFRA, Pregnancy Disability Leave, and Veterans and Military Leave, the County is not mandated to provide specific benefit plans to the employees. However, because the County is providing these other benefits and programs, additional legal mandated requirements must be met.

According to the Department, about 50 percent of employee benefits costs are recouped from premiums charged to General Fund Departments who in turn pay for those premiums with General Fund discretionary revenues. Accordingly, a \$1 increase in benefits costs would not translate into \$1 of General Fund savings.

While this is non-mandated so long as the County is offering these benefits, this function should be considered required.

MANDATED PROGRAMS AND FUNCTIONS

10 – Executive Management Services (MANDATED): \$367,277

The Executive Management Services function includes 2.8 authorized positions and is responsible for providing Countywide Executive Management services and staff support functions. This includes providing comprehensive recruitment facilitation, nationally, regionally, and statewide. Staff members coordinate and facilitate executive relocation. They conduct reference checks for new prospective Executive employees. They act as an advisory and informational resource from pre-hire to retirement of executive management employees. They also provide organizational analysis to departments to help them assess and determine the level of staff needed to perform their duties.

The staff members also research, analyze and develop comprehensive compensation surveys annually in order to assist in the maintenance of the County's system of job classifications and comparable salaries as required by Merit Systems Rules and applicable mandates. These tasks help ensure that job specifications are current and accurate and that the County is competitive in attracting potential management employees as mandated by approved Board Resolutions.

Staff members in Executive Recruitment also conduct comprehensive research and complex analyses; provide reports, information and recommendations to executive managers on issues affecting County agencies/departments and personnel. They are a resource for County executive managers and their personnel.

This function is mandated because approximately 89 percent of the job classifications recruited by this unit are included in the classified service as defined by the Charter and the County Ordinance Code. Recruitment costs related to the remaining 11 percent, which are in the unclassified service, are non-mandated expenditures.

11– Equal Opportunity-Non Discrimination Programs (MANDATED): \$992,824

The Equal Opportunity function includes 15.7 authorized positions (including 8.5 unfunded positions for special qualifications workers) and is responsible for providing comprehensive Equal Opportunity and diversity services to the County organization. Through the actions of the Equal Opportunity staff members, the County ensures that all employees are advised of the Equal Opportunity Policy and that the County's Equal Opportunity Policy is administered consistently on a countywide basis.

Numerous state and Federal laws exist which mandate that the County "shall not" discriminate in employment or pre-employment practices. Various legal authorities, such as the California's Fair Employment and Housing Act ("FEHA"), Government Code sections 12900 et seq., the Rehabilitation Act of 1973, the Civil Rights Act of 1964 (Title VII), the Civil Rights Act of 1992, the Age Discrimination in Employment Act, and the Equal Pay Act of 1963 stipulate that the County "shall not" discriminate in employment or pre-employment. Additionally, the Americans With Disabilities Act ("ADA") and FEHA both require that an employer engage in an interactive process with an employee to determine whether they can accommodate the employee's medical condition or disability. If the County were to be found in violation of any of these laws

as a result of a claim filed with the U.S. Equal Employment Opportunity Commission or other Agencies, it could lead to significant legal litigation costs, and potential monetary damages awarded.

There are four primary services that the Equal Opportunity staff members provide to ensure that the County is abiding by the mandates “to not” discriminate highlighted above. First, they develop, implement, and administer County policies, guidelines, and procedures pertaining to Equal Opportunity, reasonable job accommodation, and discrimination – harassment – retaliation prevention. Secondly, they train County employees in the areas of discrimination, harassment, retaliation, and sexual harassment prevention, reasonable accommodation, , Equal Opportunity and diversity. California Government Code Section 12950.1 requires all public agencies with 50 or more employees to provide two hours of sexual harassment awareness training and education to all supervisory employees once every 2 years. Currently County policy requires that supervisory (leads, supervisors, managers, and executives) employees attend sexual harassment prevention training every two years, however, given this new law, we will need to establish protocol to ensure that supervisory employees attend training once every two years. Also, new supervisory employees must receive harassment awareness training within 6 months of their assumption of a supervisory position. The County policy will need to be revised and a protocol established to ensure that supervisory employees attend training within 6 months of appointment. Thirdly, they review, investigate, track, resolve or settle and dispose of all civil rights complaints of discrimination/harassment filed by County employees, Federal Equal Employment Opportunity Commission and California Department of Fair Employment and Housing. This is accomplished through a formal discrimination complaint process. Finally, they provide develop, implement, and administer a Reasonable Accommodation Program. This program involves working with the employee or prospective employee to understand their particular disability and to determine whether the County can accommodate the employee’s medical condition or disability in the workplace.

Although the County must ensure that they are not discriminating in employment or pre-employment, how the County chooses to implement this is not mandated by any state, Federal, or local law. Currently, the County has chosen to delegate this responsibility to a centralized “Equal Opportunity” Department but that is not a requirement. If there were a more efficient manner in meeting these various non-discrimination mandates that could just as legally be implemented.

The Equal Opportunity function involves dealing with confidential personnel information regarding discrimination complaints. The staff members are mandated by County Ordinance Code Division A-16, which establishes the County’s Information Practices and Individual Privacy Ordinance to maintain this confidential personnel information accordingly.

During FY06-07, the department estimates they will be reimbursed half the cost of an Equal Opportunity Officer from DOC and HHS, and the full cost of one EO officer from the Probation Department.

12 – EO – Maintain Confidential EO Employee Records (MANDATED): \$26,202

The Equal Opportunity function includes 0.2 authorized personnel who are responsible for maintaining confidential employee records. Due to staffing reduction in the Department of Correction, and Health and Hospital Services Agency all closed and open cases have been transferred to the Equal Opportunity Department. The County Ordinance Code, Division A-16 establishes the County's Information Practices and Individual Privacy Ordinance. This Ordinance Code imposes numerous and detailed requirements on record maintenance and disclosure. Violations can bring serious penalties and sanctions. The Ordinance Code also mandates that EOD maintain confidential employee personnel information regarding employee discrimination complaints.

There has been a significant increase in demand for reasonable job accommodation activity in the last year due to our efforts to address the issue of employees who have been on long-term leave. In addition, due to Workers Compensation law changes, effective January 1, 2004, the Workers Compensation Division will be forwarding workers' compensation cases through the County's Reasonable Job Accommodation process. It is projected that approximately 200 workers' compensation cases will be reviewed for reasonable accommodation annually. Currently, the coordinator of the disabled programs is being utilized to address reasonable accommodation cases, with assistance from other equal opportunity officers. The Equal Opportunity Manager handles cases pertaining to peace officers.

13 –Countywide - Appeals Hearing Officer (MANDATED): \$38,426

The Appeals function includes 0.2 authorized position and is responsible for conducting and investigating, analyzing, assessing, writing reports and submitting findings and recommendations in written form regarding appeals filed by County employees. This function is handled by ESA administration, and not by Human Resources, to ensure objectivity. To ensure that the County and related agencies are in compliance with required mandates the staff member conducts an Agency EO Complaint Investigation, and provides a written report of findings and any resolution. The Appeals staff member also serves on the Biennial Position Allocation Review Board. In addition, the staff member assigned to Appeals monitors implementation of remedies when required and/or directed.

This function is mandated and performed in accordance with County Charter, Article III, Section 301(3); 302(a), Article VII, Section 701 (b). Additionally, the Civil Rights Act 1964 and the Rehabilitation Act of 1973 (Title VII), the Americans Disabilities Act, and Fair Employment Housing Act.

Other statutes under which this function is performed include 704(b) Merit System Rules, Chapter III-Article 2, A25-96-A25-104; Merit System Rules, Chapter VI-Article 3, A25-640-A25-641 SCC/CEMA MOU and SEI.

14 – Labor Relations - Administration (MANDATED): \$252,950

The Labor Relations Administration function includes 2.1 authorized positions and is responsible for representing Deputy County Executive in meetings and developing County policies and procedures related to federal, State law and regulations. The unit

is responsible for managing the implementation of County policies and procedures to comply with federal, State laws and regulation and also monitoring the implementation of Labor Agreements. The Labor Relations Division develops County policies and procedures on laws and ordinances affecting employment issues (such as family and medical leave), and on Countywide and department policies affecting employees and other issues. They also coordinate the Labor Relations Program with Personnel Programs. Additionally, they monitor and implement layoff provisions per the MOU and Merit System Rules.

The Labor Relations staff members maintain the confidential employee information in accordance with County Ordinance Code, Division A-16. This Ordinance establishes the County's Information Practices and Individual Privacy Ordinance and imposes numerous and detailed requirements on record maintenance and disclosure.

15 – Labor Relations – Negotiations (MANDATED): \$544,001

The Labor Relations Negotiations function includes 4.3 authorized positions and is responsible for the collective bargaining process between the County and 24 bargaining units represented by 19 labor organizations representing about 15,000 County employees, and approximately 600 temporary employees. The Unit is also responsible for representation issues with 2 additional bargaining units representing approximately 255 Santa Clara County Fire District employees and approximately 7,000 In-Home Support Services (IHSS) Public Authority employees.

Labor Relations serves as the County spokesperson in negotiations of labor contracts on behalf of the Board of Supervisors with Unions and Associations representing County employees. They bargain on behalf of the County within established limits. They conduct wage and premium pay comparisons and bargain with Unions and other Associations within established limits. The staff members develop proposals and contract language when necessary pertaining and used in negotiations. They also research, analyze, and cost union and County proposals.

This function is conducted in accordance with Government Code section 3505 which mandates that the County meet and confer in good faith regarding wages, hours and other terms and conditions of employment.

16 – Labor Relations – Disciplinary Processes (MANDATED): \$360,531

The Labor Relations Disciplinary Processes function includes 2.8 authorized positions and is responsible for providing guidance and advice to departments regarding disciplinary matters. The staff members prepare and present cases before arbitrators, hearing officers and the Personnel Board. They represent the County at hearings on appeals of disciplinary actions and grievance arbitration hearings. They conduct training on progressive discipline concepts, requirements and practices. When applicable, the staff members will negotiate settlements and coordinate implementation of settlements and hearing awards. During calendar years 2003, 2004 and 2005, 684 discipline cases arose and 367 cases were resolved.

This function is performed in accordance with County Charter Section 703, mandates the County to manage its disciplinary matters. It does not specifically mandate that the

Labor Relations Unit should do this. However, currently the County has delegated that responsibility to the Labor Relations Unit.

17 – Labor Relations – Grievance Handling (MANDATED): **\$370,190**

The Labor Relations Grievance Handling function includes 2.6 authorized positions and is responsible for providing a method of resolving disputes regarding wages, hours, and other terms and conditions of employment that arise between management and employees. Staff members assist in formal dispute resolution, provide advice to operating departments on grievance related matters, and prepare and present cases for arbitration and hearings. During calendar years 2003 to 2005, 354 MOU grievances were filed, and 162 cases closed.

The Grievance Handling function is performed in accordance with County Ordinance, Section A25-339 and Government Code section 3500 which mandates that employee-employer relations be administered pursuant to statutory requirements, and the Fair Labor Standards Act, the California Family Rights Act, Americans With Disabilities Act (ADA), the Drug-Free Workplace Act of 1988, and the Military and Veterans Code.

18 – Labor Relations Drug and Alcohol Testing (MANDATED): **\$30,149**

The Labor Relations Drug and Alcohol Testing function includes 0.2 authorized positions and is responsible for administering testing under the Department of Transportation (DOT) regulations. The Unit is responsible for establishing controlled substance and alcohol testing programs to assure fitness for duty by applicants and employees who are required to drive commercial motor vehicles or other specified vehicles and/or to perform a safety-sensitive function. It also conducts testing of certain employees under DOT regulations and maintains the DOT records for the County.

This function is performed in accordance with The Federal Omnibus Transportation Employee Testing Act of 1991, which requires the County to have a Drug and Alcohol testing program.

19 – HR Operations – Classification (MANDATED): **\$1,184,464**

The Human Resource Classification function currently includes 7.4 FTE's and is responsible for classifying and maintaining a countywide position classification plan. The FTE's identified above also include an unclassified Management Analyst that will expire December 31, 2006. The Classification Plan requires the grouping of positions in classified service into classes based on the principle that positions shall be in the same class when their duties and responsibilities are sufficiently alike to justify the same title, definition of responsibility and employment standards. In order to maintain the countywide Classification Plan, staff members conduct class and reallocation studies and provide organizational guidance to departments. They also create and maintain the Master Salary Ordinance for the County.

This function is mandated under County Charter and the Merit System Rules. The County's merit system/classification plan has already been established. The County is required to properly allocate all new positions within the plan and maintain the plan so

as to remain current. This necessitates the County to perform class and reallocation studies to reflect changed circumstances.

Employee Services Agency is planning on adding 5 positions, effective August 28, 2006 to address this mandated function. Human Resources continues to carry a significant backlog of classification studies because of the deletion of five Management Analyst positions over the last three years. Addition of five Management Analyst positions will allow Human Resources to reduce the classification backlog and conduct new classification studies in a timely manner. This is also necessary in order to adhere to recent contract provisions in the SEIU Local 715 contract that outline specific timelines for completing classification studies as well as the need to address changing operational needs of the County. This would increase staffing for this function to 12.4 FTEs.

20 – HR Operations – Recruitment (MANDATED): \$1,871,270

The Human Resource Recruitment function includes 15.7 authorized positions and is responsible for a full range of services associated with the recruitment and hiring of employees. In addition to recruiting qualified candidates, the staff members assist and train departments in interpreting and applying provisions of County Ordinance and Contracts pertaining to recruiting. They approve transfers, temporary appointments, in grades and administrative adds/delete. In addition, the recruiting staff members analyze and prepare reports for the Board of Supervisors, County Executive and Board Policy Committees on resource allocation, feasibility, organizational structure, program evaluation, administrative procedure, and other matters of concern. Staff members conduct highly strategic, comprehensive and timely recruitment and secure the appointment of competent and skilled candidates to fill the appropriate positions. Included in these efforts is the continued enhancement of electronic job application capabilities that has expanded the County's recruitment pool.

In addition to normal recruitment activities, Human Resources Recruitment assists departments with strategic workforce planning. As with many public sector entities, the County has an aging workforce. HR is meeting with departments throughout the County to develop their Human Resources Profile to assist them in planning future workforce needs.

This function is mandated and performed in accordance with County Ordinance, Sec. A25-111-115 which requires that certain functions be performed for the filling of classified positions including, posting announcements, creating and maintaining forms and notices and screening and examining applicants. The recruiting activities performed by staff members in this function enable services required by law to be provided. So long as there are specific services required by law there will be a need to recruit qualified candidates to perform those services.

21– HR Operations – Records (MANDATED): \$1,969,065

The Human Resource Records function includes 5.1 authorized positions and is responsible for maintaining and securing access to personnel files for all County employees. This requires that the personnel files accurately reflect the employment history of employees while complying with applicable laws related to employee record retention and privacy. Additionally, staff members in this function are responsible for

processing adjustments to workers compensation actions, rehires, reinstatements and payroll changes.

The HR/PR PeopleSoft system maintains the accurate records of employee, payroll and benefit information. The system assists in creating and maintaining this information in a manner that is mandated by law. Additionally, the Employee Benefits staff members perform transaction processing for Government Center Departments who generates personal transaction data.

Staff is continuing to utilize electronic technology to facilitate human resources planning. We are continuing to maintain the applicant provider system and the electronic Personnel Action Requests to process and route all employee personnel transactions electronically. The most recent endeavor is development of electronic personnel files for each of the County's 15,000+ employees.

The function is performed in accordance with state and Federal laws and labor contracts. These laws require the maintenance of information in employee personnel files. Federal and state laws also require that such information be maintained in confidence and made available under certain conditions to employees and others, such as through subpoenas. There is also numerous state and Federal laws that require the records be maintained properly with respect to hours worked, amounts paid, and other personnel issues.

The Fair Labor Standards Act requires the County to maintain accurate records of employee, payroll and benefit information. OSHA, FEH and EEOC and other state and Federal laws require maintenance of information. The County is mandated to maintain accurate records of personnel transactions. FLSA requires accurate record keeping of employee hours worked, pay rate, etc. Currently, the County is meeting this mandate through the processing of HR/PR information for the Government Center Departments.

22 – HR Operations – Oversight During In Placement (MANDATED): \$43,632

The HR Operations performs oversight of the placement of employees affected by restructuring, reengineering, or budget actions. A total of 0.4 FTE's are dedicated to performing this function. The amount of staff time dedicated to this function changes depending on the number of employees affected by any reduction in workforce recommendations. The County Charter and the Merit System Rules provide mandates regarding personnel actions during layoffs and other structural or program changes. Oversight of this process and placement of employees is required to ensure compliance with Charter and Merit System Rules.

23 – Employee Benefits-Benefit Administration (MANDATED): \$236,916

The Employee Benefits – Benefit Administration function includes 1.0 authorized personnel and is responsible for administering the full range of county benefits programs for employees, retirees and their families, as well as coordinate the determination of Safety Disability Retirements, advanced disability payments, and Military Leave Salary Augmentation Administration. The County is also mandated to

provide certain benefit programs such as FMLA, CFRA, Pregnancy Disability Leave, Veterans and Military Leave.

This function is mandated and performed in accordance with County Ordinance, state and Federal law which instructs the County on how to administer the Public Employee Retirement System (PERS) retirement system. This function also includes the County's costs for administration of its participation in PERS, as mandated by County Charter Section 711, which requires the Board of Supervisors to provide for the retirement and pension of county officers and employees, or to contract for such services.

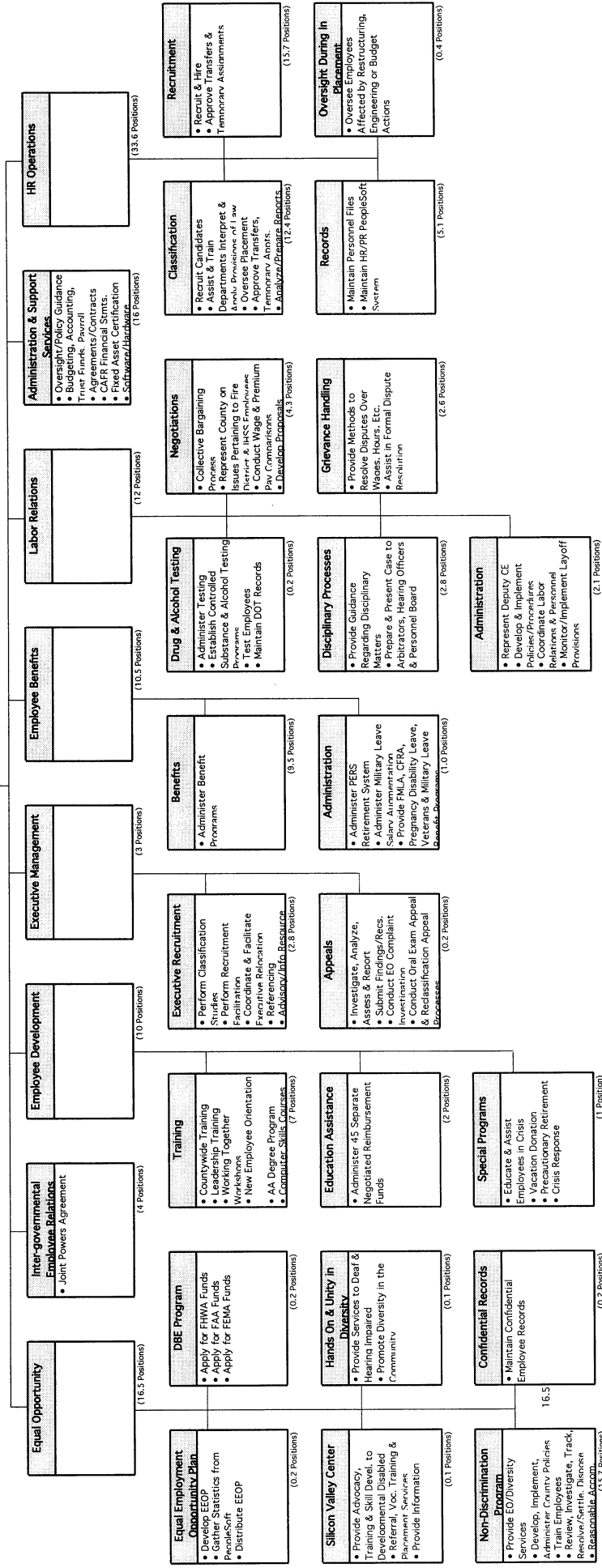
Total Employee Services Agency Adopted FY 2006-07 Budget	\$36,300,938
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EMPLOYEE SERVICES AGENCY

BUDGET UNIT 130

EMPLOYEE SERVICES AGENCY

(105.5 Positions)



* Provides executive management and administrative support to Employee Benefits, Labor Relations and Human Resource Operations Divisions.

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Winifred Botha
Robert C. Campbell
Nancy J. Clark
Laurie F. Faulkner
ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: *for* Leslie Orta, Deputy County Counsel *Bob Campbell*

RE: Equal Opportunity Department's Disadvantaged Business Enterprise Program
Employee Services Agency, Budget Unit #130
Mandate Analysis Update

DATE: August 2, 2006

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to Budget Unit #130 regarding the Equal Opportunity Department's administration of the Disadvantaged Business Enterprise (DBE) program. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the EOD Department.

I have reviewed my September 30, 2003 memo and 2004 update and find there are significant changes in the DBE program requirements since that time, as discussed below.

Disadvantaged Business Enterprise Program

1. Legal Basis for Mandate

Title 49, Code of Federal Regulations, Part 26 is entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Program." Compliance with the requirements of this program are mandatory for the county because it receives substantial funding from the federal government (FHWA (highway construction funds), FAA (airport improvement funds) and FEMA (emergency repair funds for public roads and highways)).

A recent Ninth Circuit Court of Appeals decision involving the Washington state DOT held that the program there lacked sufficient evidence to support the use of race conscious measures on federal-aid contracts. It is important to note that the federally mandated DBE

Memo to Roger Mialocq, Management Audit Manager
Re: Equal Opportunity Department's Disadvantaged Business Enterprise Program (BU130)
August 1, 2006
Page 2

program was not declared unconstitutional. The decision is controlling for California and other western states within its jurisdiction. The federal DOT has determined that its program may not meet the new evidentiary standards established by the Ninth Circuit.

On May 1, 2006, Caltrans implemented a race-neutral DBE program which applies to this county as a recipient of federal transportation funding. The following changes took place immediately:

Local agencies no longer have their own separate DBE programs unless such programs have been approved by a federal agency. Instead, local agencies must complete a "Disadvantaged Business Enterprise Race-Neutral Implementation Agreement."

Local agencies may no longer advertise and award contracts with federal-aid funds containing race-conscious DBE goals.

All federal-aid contracts must contain race-neutral language. Sample contracts are provided by the federal DOT.

Instead of a mandated DBE participation goal for county projects funded with federal monies, the state of California, through Caltrans, will aim to meet its federally-mandated statewide overall participation goal. The DBE participation levels on county projects will assist the state in meeting its federal requirements for continued funding.

2. Level or Requirement of Mandate

The statutory duties prior to May 1, 2006 were carried out by the EOD staff at ESA who work in concert with the Roads & Airports Agency Construction Operations and Highway & Bridge Design groups, as well as any other County department (such as Parks) who receives federal funds for public works projects. Although the EOD staff has been responsible for this function, the duties could be assigned as the County Executive deems appropriate.

Since May 1, 2006, the mandated function for EOD staff has been significantly reduced. The county's construction documents were immediately changed to delete the mandatory DBE participation goal requirements and instead encourages contractors to provide opportunities for DBE firms to work on county projects. To the extent any do, these figures will be reported to EOD and their staff will report them to the state.

c: Diane Von Merta, Manager, Equal Opportunity
Ann Ravel, County Counsel

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ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Lori E. Pegg, Lead Deputy County Counsel *lep*

RE: Department of Equal Opportunity and Employee Development Mandate Analysis
- Budget Unit 130

DATE: August 3, 2006

The County Executive and the Board of Supervisor's Management Audit Division requested that we provide a written assessment of the analysis of the legal mandates applicable to Budget Unit 130 regarding the Department of Equal Opportunity and Employee Development Mandate Analysis.

Based on our review of the current mandate studies, we do not have any changes to the initial assessment that we provided on September 16, 2003, and the subsequent assessment dated October 15, 2004.

c: Diane Von Merta, Manager, EOED
Nancy J. Clark, Assistant County Counsel
Ann Miller Ravel, County Counsel

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ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Nancy J. Clark, Assistant County Counsel *Nancy J. Clark*

RE: Employee Services Agency, Budget Unit 130, Mandate Analysis

DATE: August 4, 2006

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of the legal mandates applicable to Budget Unit 130, Employee Services Agency of Santa Clara County. Below are comments or supplemental analysis, as needed, about the mandates in the functional areas identified by the Employee Services Agency with the exception of the Equal Opportunity Division. That function was analyzed by Lori Pegg and her analysis will be provided in a separate memo. Copies of our prior mandate analyses conducted in 2003 and 2004 are also attached for your reference.

There is one change to the prior mandate analysis for Budget Unit 130. The Employee Benefits function (09) was previously listed as non-mandated. However, there is one specific employee benefit, employee retirement or pension, that is mandated by County Charter. There are other benefits required by state and federal law. Accordingly, the portion of the employee benefits function which includes retirement benefit and administration of same and other benefits required by state and federal law should be changed to accurately reflect a "mandated" status.

With respect to the retirement or pension benefit function, this is mandated by County Charter section 711 which states that "[t]he Board of Supervisors shall provide for the retirement and pension of county officers and employees or contract for such service." The County currently levies property taxes to cover a portion of the County's retirement costs.

There are other benefit programs that are required to be provided by federal or state law such as administration of the PERS retirement system, Military Leave Salary Augmentation Administration, Family Medical Leave Act, California Family Rights Act, Pregnancy Disability

Roger Mialocq, Management Audit Manager
Re: Employee Services Agency Mandate Analysis
August 4, 2006
Page 2

Leave, and Veterans and Military Leave.

There are specific benefits required to be provided by collective bargaining agreement, such as medical benefits, but these are not considered "mandated" by state, federal or local law. There are other benefits, such as the Accidental Death/Dismemberment, Supplemental Life Insurance and Long-Term Disability programs provided by the County that are not required by law or contract. All these are employee-paid benefits with no county cost.

If you have any questions, please give me a call.

Attachments:

- 1) ESA Mandate Analysis, dated October 26, 2004
- 2) ESA EOED Mandate Analysis, dated October 15, 2004
- 3) Office of Labor Relations Mandate Analysis, dated September 16, 2003
- 4) Human Resources Mandate Analysis, dated September 12, 2003
- 5) Benefits Administration Mandate Analysis, dated September 12, 2003

c: Luke Leung, Deputy County Executive
Ann M. Ravel, County Counsel



Kimberly Forrester

08/04/2006 01:17 PM

To: CCO

cc:

Subject: Update for Prof. Staff Directory - SSA

Gina Sessions has been appointed as the Director of Development and Operational Planning for SSA.

You can update your Professional Staff Directory on page 90 if you like. Her phone number has not been provided. Her email is gina.sessions@ssa.sccgov.org.

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**Nancy J. Clark
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Susan G. Levenberg
ASSISTANT COUNTY COUNSEL**

**CONFIDENTIAL MEMORANDUM
ATTORNEY-CLIENT PRIVILEGED COMMUNICATION**

TO: Robin Courtney, Management Audit Division
FROM: Lori E. Pegg, Lead Deputy County Counsel 
RE: Employee Services Agency Updated Mandate Report
DATE: October 26, 2004

Nancy Clark and I have reviewed the attached updated Mandate Report for the Employee Services Agency ("ESA"). We believe that the ESA Mandate Report accurately reflects whether the specified programs or functions are mandated or not.

Please call me if you have further questions regarding this matter.

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**CONFIDENTIAL MEMORANDUM
ATTORNEY-CLIENT PRIVILEGED COMMUNICATION**

TO: Roger Mialocq, Management Audit Manager

FROM: Lori E. Pegg, Lead Deputy County Counsel 

RE: Employee Services Agency,
Department of Equal Opportunity and Employee Development

DATE: October 15, 2004

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing an updated written assessment analyzing the legal mandates applicable to the Employee Services Agency, Department of Equal Opportunity and Employee Development. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the Department.

A. Develop, Implement, and Administer County Policies, Guidelines, and Procedures Regarding Non-Discrimination On the Basis of Disability and The County's Reasonable Accommodation Program.

The Americans With Disabilities Act ("ADA"), California's Fair Employment and Housing Act ("FEHA") (Government Code sections 12900 et seq.), and the Rehabilitation Act of 1973, each prohibit discrimination in employment and pre-employment practices. Each of these laws apply to the County. In addition, the ADA and FEHA both require that an employer engage in an interactive process with an employee to determine whether the employer can accommodate the employee's medical condition or disability. And these laws require that the County advise employees of their rights under these laws.

Confidential Memorandum to Roger Mialocq
Re: Employee Services Agency
October 15, 2004
Page 2

Although these laws mandate that the County not discriminate against applicants and/or employees on the basis of disability, and although these laws require the County to engage in the reasonable accommodation process, these laws do not mandate that the County develop, implement or administer County policies, guidelines and procedures to comply with these laws. How the County complies with these laws is discretionary.

In a County this size, however, it is unrealistic to assume the County could comply with its legal obligation not to discriminate and to engage in the interactive process without developing policies and procedures to implement this legal obligation.

B. Develop, Implement, and Administer County Policies, Guidelines, and Procedures To Comply With Federal And State Laws and Regulations Prohibiting Discrimination, Harassment, and Retaliation.

The Civil Rights Act of 1964 (Title VII); the Americans With Disabilities Act ("ADA"); California's Fair Employment and Housing Act ("FEHA") (Government Code sections 12900 et seq.); the Rehabilitation Act of 1973; the Age Discrimination in Employment Act; the Equal Pay Act of 1963; the Civil Rights Act of 1991 - each prohibit discrimination in employment and pre-employment practices. Each of these laws apply to the County.

Although these laws mandate that the County not discriminate against applicants and/or employees and require that the County advise employees of their rights under these laws, they do not mandate how the County must comply with these laws.

In a County this size, however, it is unrealistic to assume the County could comply with its legal obligation not to discriminate without developing policies and procedures to implement this legal obligation.

C. Develop, Implement, and Monitor the County Equal Employment Opportunity Plan.

Department of Justice Regulations (28 C.F.R Section 42.301). These Regulations provide that "recipient agencies" that meet all of the following criteria are required to maintain an Equal Employment Opportunity Plan (EEOP):

- a. Have 50 or more employees; and
- b. Receive a total of \$25,000 or more in grants or subgrants; and
- c. Have 3 percent or more minorities in service population (however, if less than 3 percent minorities in service population, an EEOP must still be prepared, but must focus on the employment practices affecting women only).

Confidential Memorandum to Roger Mialocq
Re: Employee Services Agency
October 15, 2004
Page 3

Recipient agencies that meet criteria (a) and (c), and that receive over \$500,000 are required to submit an EEOP with their application to the Office for Civil Rights, Office of Justice Programs for review.

The Probation Department, the Sheriff's Office and the Office of the District Attorney receive funds in excess of the minimum funding under this law. If the County does not comply with the EEOP mandates, the County is at risk of losing these federal grants.

D. Develop and Provide Training In the Areas of: Discrimination, Sexual Harassment Prevention, ADA, Equal Opportunity, and Diversity.

Recently the California Legislature enacted AB 1825, which requires that, by January 1, 2006, employers with 50 or more employees must provide two hours of sexual harassment awareness training and education to all supervisory employees. After January 1, 2006, each employer with 50 or more employees must provide sexual harassment training and education to each supervisory employee once every 2 years. It also requires that the information be "presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination and retaliation." Therefore, training on the laws prohibiting sexual harassment is now a mandated function.

There is no similar legal mandate requiring training on the ADA, equal opportunity or diversity. In a County this size, however, it is unrealistic that the County could comply with its legal obligations not to discriminate without some minimum level of training.

E. Provide Guidance And Assistance to County Management In Resolving EEO/Diversity, Employee Conflicts and Other Related Issues.

No law mandates that a County department must provide guidance and assistance to County Management in resolving EEO/diversity, employee conflicts, and other related issues.

F. Investigate And Respond To Civil Rights Complaints Of Discrimination/Harassment/Retaliation Filed by County Employees with the EEOC and DFEH.

The Civil Rights Act of 1964 (Title VII); the Americans With Disabilities Act ("ADA"); California's Fair Employment and Housing Act ("FEHA") (Government Code sections 12900 et seq.); the Rehabilitation Act of 1973; the Age Discrimination in Employment Act; the Equal Pay Act of 1963; the Civil Rights Act of 1991 - each prohibit discrimination in employment and pre-employment practices. Each of these laws apply to the County.

Confidential Memorandum to Roger Mialocq
Re: Employee Services Agency
October 15, 2004
Page 4

The Equal Employment Opportunity Commission ("EEOC") is the federal agency with jurisdiction to enforce the federal anti-discrimination laws. The Department of Fair Employment and Housing ("DFEH") is the California agency with jurisdiction to enforce California's Fair Employment and Housing Act.

In Fuller v. City of Oakland (9th Cir. 1995) 47 F.3d 1528 the Ninth Circuit indicted that employer is required to investigate allegations of discrimination even after the harassment has ended. The Court indicated that the following circumstances have been found inexcusable in investigating harassment and discrimination cases: (1) the lack of adequate staffing; (2) the lack of funds to conduct an investigation; and (3) the "overload of cases" to investigate or the pressures of production.

The County is legally required to respond to and comply with the EEOC and DFEH investigations into complaints filed against the County. Thus, it is a mandate for the County to respond to these claims. The law does not indicate, however, that a specific department respond to these complaints.

Although it is a good practice to investigate, review, track, resolve or settle all civil rights complaints filed by County employees, these practices are not legal mandates.

G. Disadvantaged Business Enterprise Program.

U.S. Department of Transportation, 49 C.F.R. Part 26, Section 26.21, requires that all FHWA recipients receiving funds authorized by this statute, FTA recipients that receive \$250,000 or more in FTA planning, and FAA recipients that receive a grant of \$250,000 or more for airport planning or development must have a DBE program meeting the requirements of this section.

EOD has advised that we expect that this year the County will receive in excess of the minimum in grants from the Department of Transportation. Thus, if the County wants to continue to receive grant funds from the FHWA, the FTA, or the FAA it must comply with these regulations. This program, however, is not a legal mandate.

California Public Contract Section 2000 provides that a local agency may require that a contract be awarded to the lowest responsible bidder who meets goals and requirements established by the local agency relating to participation in the contract by minority business enterprises and women business enterprises.

Confidential Memorandum to Roger Mialocq
Re: Employee Services Agency
October 15, 2004
Page 5

H. Coordinates the Placement of Disabled Individuals Under Special Qualifications Worker Program (SQW).

This is a discretionary program under Salary Ordinance NS-5.02, Section 16, H51

I. Plan and Implement "Unity in Diversity" activities in partnership with the Board of Supervisors' Offices, Human Relations Office and Employee Development.

This is a discretionary program set forth in a Board of Supervisors Proclamation.

J. Silicon Valley Living Center.

This is a discretionary program. The County has a services agreement with the Silicon Valley Living Center with a termination provision.

K. Hands On: Services for the Deaf and Hearing Impaired.

This is a discretionary program. The County has a services agreement with Hands On.

L. Maintain Confidential Employee Personnel Information.

Ordinance Code, Division A-16 establishes the County's Information Practices and Individual Privacy Ordinance. This Division imposes numerous and detailed requirements on record maintenance and disclosure. Violations can bring serious penalties and sanctions. Because EOD maintains confidential employee personnel information regarding employee discrimination complaints, EOD is mandated to maintain such records pursuant to this ordinance.

c: Leode Franklin, Deputy County Executive
Maria Dupras, Director, Dept. of EO/ED
Diane Von Merta, Manager, Equal Opportunity
Ann Miller Ravel, County Counsel



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**CONFIDENTIAL MEMORANDUM
ATTORNEY-CLIENT PRIVILEGED COMMUNICATION**

TO: Roger Mialocq, Management Audit Manager
FROM: Lori E. Pegg, Lead Deputy County Counsel
RE: Office of Labor Relations
DATE: September 16, 2003

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to the Employee Services Agency, Office of Labor Relations. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the Department.

A. Labor Relations Program Administration - Mandated

County Ordinance Code, Section A25-339 sets forth the County's policy to promote full communication between the County and its employees in their employee-management relations. The ordinance requires that the County provide a reasonable method of resolving disputes regarding wages, hours and other terms and conditions of employment between management and employee organizations. Thus, Section A25-339 mandates that the County administer a labor relations program. How the County complies with this mandate, however, is discretionary.

Pursuant to Government Code section 3500, the MMBA does not supercede the County's ordinance Section A25-339, but simply strengthens the County's existing merit system rules. This statute provides that because the County has duties and responsibilities under existing collective agreements, costs are not reimbursable as state-mandated costs. But, the statute makes

Confidential Memorandum to Roger Mialoq
Re: Office of Labor Relations
September 16, 2003
Page 2

clear that the County shall administer its employee-employer relations pursuant to statutory requirements and thus is a legal mandate. How the County complies with this mandate, however, is discretionary.

The Office of Labor Relations analysis indicates that it is mandated to provide services pursuant to the Fair Labor Standards Act, the Family Medical Leave Act, the California Family Rights Act, Americans With Disabilities Act ("ADA"), the Drug-Free Workplace Act of 1988, and the Military and Veterans Code. Although these laws mandate that the County comply with their provisions, they do not mandate how the County must comply with these laws.

B. Negotiations - Mandated

Government Code section 3505 mandates that the County meet and confer in good faith regarding wages, hours, and other terms and conditions of employment with representatives of recognized employee organizations. Because the County has numerous recognized employee organizations it must meet and confer in good faith or "negotiate" with those organizations. How the County implements this mandate, however, is discretionary.

The County is contractually obligated to comply with the terms and conditions of its agreements with its recognized employee organizations. These contractual obligations, however, are not a legal mandate.

C. Disciplinary Actions - Mandated

Section 703 of the County Charter sets forth the duties and functions of the Personnel Board. Section 703 also sets forth certain mandates for the Personnel Board and the Board of Supervisors but does not set forth a mandate as to a particular department that must manage disciplinary matters. Although the County is mandated to manage its disciplinary matters pursuant to Section 703, how the County implements this mandate is discretionary.

In addition, Section 708(a)-(f) sets forth mandates for the Personnel Board and the Board of Supervisors but not as to a particular department to administer disciplinary actions, notification of appeal rights, or hearing processes. Although the County is mandated to administer its disciplinary matters pursuant to Section 708, how the County implements this mandate is discretionary.

In a County this large it is unrealistic to assume that the mandates set forth in Section 703 or 708 could be implemented without a delegation from the Board to a department to administer these discipline functions.

Confidential Memorandum to Roger Mialoq
Re: Office of Labor Relations
September 16, 2003
Page 3

D. Drug and Alcohol Testing - Mandated

The Omnibus Transportation Employee Testing Act of 1991 requires the County to establish controlled substance and alcohol testing programs to assure fitness for duty by applicants and employees who are required to drive commercial motor vehicles, other specified vehicles and/or to perform a safety-sensitive function as defined by the Act. Although the County is legally mandated to comply with this Act, how the County implements this mandate is discretionary.

E. Grievance Handling - Mandated

The County's Ordinance Code, Chapter V - Employee Grievance Procedures, Sections A25-500 - A25-599 mandates a grievance process for employees to complain regarding any phase of the employee's employment or working conditions. Section A25-509 mandates that for grievances arising out of an alleged violation of merit system rules, the employee should attempt to resolve the grievance within the department or may present the complaint directly to the personnel director.

Many of the County's negotiated agreements with its recognized employee organizations also contain grievance procedures. The County is contractually obligated to comply with the terms and conditions of its agreements with its recognized employee organizations. These contractual obligations, however, are not a legal mandate.

F. Maintain Confidential Employee Personnel Information - Mandated

Ordinance Code, Division A-16 establishes the County's Information Practices and Individual Privacy Ordinance. This Division imposes numerous and detailed requirements on record maintenance and disclosure. Violations can bring serious penalties and sanctions. Because the Office of Labor Relations maintains confidential employee personnel information, it is mandated to maintain such records pursuant to this ordinance.

c: Leode Franklin
Luke Leung
Ann Miller Ravel

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MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Nancy Clark, Lead Deputy County Counsel *nc*

RE: Human Resources, Mandate Analysis

DATE: September 12, 2003

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to Human Resources. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by Human Resources.

1. Classification/Maintain countywide position classification plan - Conduct class and reallocation studies

These functions are mandatory under County Charter and the Merit System Rules. The County's merit system/classification plan has already been established. The County is required to properly allocate all new positions within the plan and maintain the plan so as to remain current. This requires class and reallocation studies as necessary to reflect changed circumstances.

2. Classification/Provide organizational guidance to departments

There is no legal mandate to provide guidance to departments. However, such guidance may be necessary to ensure that the merit/classification system is properly maintained.

The amount of assistance provided to departments is discretionary.

Memorandum to Roger Mialocq
Re: Human Resources, Mandate Analysis
September 12, 2003
Page 2

3. Classification/Create and maintain Master Salary Ordinance and Executive Mgmt. Salary Ordinance; Review Board transmittals involving amendments to the Ordinances.

The creation and maintenance of the salary ordinances is mandatory. The Board of Supervisors required to prescribe compensation (a legislative function) of all county officers and provide for number, compensation, tenure, appointment and conditions of county employment. (Govt. Code section 25300.) By Section 709, Board required to fix rates of pay commensurate with those prevailing throughout county for comparable work. Amendments to salary ordinances may be required by County Charter section 404(d)(e) for administration of budget and as necessary to meet Board goals. A certain amount of administrative service is necessary to carry out these functions.

4. Recruitment: Recruit Qualified Candidates for Vacant Positions

County Ordinance, Sec. A25-111-115 requires that certain functions be performed for the filling of classified positions including, the posting of announcements, creation and maintenance of forms and notices and screening and examination of applicants. Other than these mandated functions, there are no specific legal requirements with respect to recruitment. However, recruitment activities may be necessary in order to meet other legal mandates. So long as specific services are required by law, there is need to recruit qualified candidates to perform those services. The resources devoted to recruitment of qualified candidates, other than that necessary to fulfill County Ordinance obligations, is discretionary.

5. Recruitment: Assist and train departments in interpreting and applying provisions of County Ordinance and Contracts.

There is no mandate that this assistance and training be provided. It may be necessary to provide a certain level of assistance and training in these areas in order to assure compliance with County Ordinance and contracts. The level provided is discretionary.

6. Recruitment: Oversee the placement of employees affected by restructuring, reengineering, budget actions.

The County Charter requires the County Exec. to make transfers of employees based upon workload. Merit System Rules provide for certain personnel actions during layoffs and other structural or program changes. Oversight of this process and placement of employees is required to ensure compliance with Charter, Merit System Rules and MOUs. Level of oversight discretionary.

Memorandum to Roger Mialocq
Re: Human Resources, Mandate Analysis
September 12, 2003
Page 3

7. Recruitment: Approve transfers, temporary appointments, ingrades and administrative adds/deletes.

The County Charter, Merit System Rules and Memorandums of Understandings with employee organizations mandate that certain personnel actions are performed pursuant to specified rules. The operations of these rules is mandatory. The ADA and FEHA as well as the County's Reasonable Accommodation Policy mandates that searches of open positions be conducted in order to provide reasonable accommodation to disabled workers. The level of oversight and the exact approval process established to carry out this function is discretionary.

8. Recruitment: Analyze and prepare reports for the Board of Supervisors, County Executive, and Board Policy Committees on resource allocation, feasibility, organizational structure, program evaluation, administrative procedure and other matters of concern.

County Ordinance mandates that the employee service agency administers the personnel and organizational development system of the county and provide such other services as are directed by the board of supervisors or the county executive. The level and amount of services provided pursuant to this mandate is discretionary.

9. Records: Maintain and Secure Access to Employee personnel files and review/track contents for appropriateness.

Numerous state and federal laws require the maintenance of information in employee personnel files. Federal and state laws also require that such information be maintained in confidence and made available under certain conditions to employees and others, i.e., through subpoenas. Severe penalties can attach if information is not maintained correctly.

There is some discretion is the length of time documents are maintained, the method in which they are maintained, i.e., hard copy versus microfiche, etc.

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Memorandum to Roger Mialocq
Re: Human Resources, Mandate Analysis
September 12, 2003
Page 4

10. Records: Process adjustments to workers compensation, rehires, reinstatements, and payrolls.

Numerous state and federal laws require the proper maintenance of records related to hours worked, amounts paid, and other personnel issues. Federal and state laws also require that such information be maintained in confidence and made available under certain conditions to employees and others, i.e., through subpoenas. Severe penalties can attach if information is not maintained correctly. This function is mandatory.

c: Leode Franklin
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MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Nancy J. Clark, Lead Deputy County Counsel *NJC*

RE: Benefits Administration - Mandate Analysis

DATE: September 12, 2003

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to the Benefits Administration Division of the Employee Services Agency. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the Benefits Administration Division.

1. Administrative

As noted by Benefits Administrative analysis (attached), the County is legally required as a result of county ordinance, state and/or federal law to administer PERS retirement system, (which includes the determination of PERS Safety Disability Retirements and payment of advanced disability payments), and Military Leave Salary Augmentation Administration. It is also required to provide certain benefit programs such as FMLA, CFRA, Pregnancy Disability Leave, Veterans and Military Leave.

The Health Care Cost Containment Committee and the other Benefit plans, programs and services are discretionary, not mandatory. They are the result of collective bargaining agreements and other decisions by the Board of Supervisors to provide specified benefit plans.

However, because the County has chosen to provide these benefits and programs, there are additional legally mandated requirements which must be met. For example, because the County provides a medical insurance benefit, it is legally required to provide COBRA benefits. Because it provides sick leave, it must provide a certain portion of that leave to employees to care for an ill family member.

Memorandum to Roger Mialocq
Re: Benefits Administration - Mandate Analysis
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2. Countywide HP/Payroll System Coordination (PeopleSoft)

Certain of the services provided through the PeopleSoft system are mandatory such as the creation and maintenance of proper employee, payroll and benefit information. For example, the Fair Labor Standards Act requires employers to maintain accurate records of pay rates, hours worked, etc. The maintenance of a merit system also administrative services.

There is no requirement that such record keeping be accomplished through the PeopleSoft system which is discretionary. System audits and other reports or information analysis conducted via the PeopleSoft system is discretionary.

3. Human Resource Transaction Processing for Government Center Departments

Maintaining accurate records of personnel transactions is mandatory. FLSA requires accurate record keeping of employee hours worked, pay rate, etc. OSHA, FEH and EEOC and other state and federal laws require maintenance of information. How or the systems by which information is maintained is discretionary.

4. Training

The training conducted by benefits administration is discretionary. However, a certain amount of training may be considered to be "required" for the accurate administration of benefits.

c: Kathy Miller
Luke Leung
Leode Franklin
Ann Ravel

132 Risk Management

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Non-Mandated	3	670,238	1%	586,119	87%	3.0	5%
Mandated	10	64,989,044	98%	54,099,536	20%	51.0	86%
Admin/Support	-	730,412	1%	579,947	79%	5.0	9%
Total	<u>14</u>	<u>66,389,964</u>	<u>100%</u>	<u>55,265,602</u>	<u>83%</u>	<u>59.0</u>	<u>100%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=percent of total staffing

Departmental Description

The Risk Management Department performs 10 functions that are mandated by federal and State law and regulation and County ordinance. Governing State laws and regulations are principally the California Labor Code and California Code of Regulations Title 8, governing workplace safety, Title 40, regarding hazardous wastes and discharges, as well as portions of the California Government Code relating to settlement of claims against the County and providing for the County to insure itself as a governmental entity. Governing federal law is principally the federal Occupational Safety and Health Act of 1970, and associated federal regulations. Governing County ordinances include ordinances establishing a County workplace safety program, providing for employees' use of private vehicles on County business and establishing procedures by County employees for clothing and equipment damaged on the job. The FY 2006-07 projected expenditure budget for the Department is \$66.5 million. Approximately \$55.3 million of this was determined to be a General Fund expense, based on calculations by Risk Management and the Management Audit Division which showed that approximately 83 percent of assets in the Workers' Compensation Insurance Fund, Liability Insurance Fund and Unemployment Insurance Fund were accounted for by premiums paid into the funds from General Fund revenues, as

opposed to payments from restricted sources such as grants. This includes premiums paid by Internal Services Funds, which in turn get their resources from charges to General Fund departments, and premiums paid by Valley Medical Center, which receives a large General Fund subsidy.

To carry out its functions, the Risk Management Department is organized into five divisions, including separate divisions for the three insurance funds, the Occupational Safety and Environmental Compliance Division, and the Employee Wellness Program. The Unemployment Insurance Program operates as a separate cost center, but is not a separate operational division, because it is administered solely by a Senior Management Analyst position, 50 percent of whose time is allocated to that function.

FY 2006-07 General Fund Budget by Program/Function

<u>Function</u>	FY 2006-07 Adopted Budget		Departmental	General	
	<u>Amount</u>	<u>Staffing</u>	<u>Revenue</u>	<u>Fund</u>	<u>Percent</u>
				<u>Subsidy</u>	
<i><u>Non-Mandated Activities</u></i>					
01 Wellness Program	511,087	1.5	63,886	447,201	87%
02 Emergency Response Team	25,568	0.0	3,250	22,318	87%
03 Third-Part Subrogation	<u>133,583</u>	<u>1.5</u>	<u>16,983</u>	<u>116,600</u>	<u>87%</u>
Subtotal	670,238	3.0	84,119	586,119	87%
<i><u>Mandated Activities</u></i>					
04 Admin. Workers' Comp.	31,811,564	26.7	6,506,448	25,305,116	80%
05 Occup. Safety Env. Compl.	1,258,873	7.0	259,328	999,545	79%
06 Contract Insurance	103,144	0.8	13,113	90,031	87%
07 Workers Comp. Training	129,776	1.1	26,543	103,233	80%
08 Medical & Disab. Program	1,974,272	3.9	403,800	1,570,472	80%
09 Loss Prevention	776,917	1.0	98,771	678,146	87%
10 Job Placement for Inj. Wkrs.	237,755	2.6	48,628	189,127	80%
11 Prop. & Liability Claims	14,493,855	6.0	1,842,630	12,651,225	87%
12 Self Insur./Commer. Ins.	12,181,327	0.8	1,548,635	10,632,692	87%
13 Unemployment Insurance	1,909,143	0.5	118,619	1,790,524	100%
14 Adjusters Training	<u>112,418</u>	<u>0.6</u>	<u>22,993</u>	<u>89,425</u>	<u>80%</u>
Subtotal	64,989,044	51.0	10,889,508	54,099,536	52%
<i><u>Required</u></i>					
Admin/Support	<u>730,412</u>	<u>5.0</u>	<u>150,465</u>	<u>579,947</u>	<u>79%</u>
Total	<u>66,389,694*</u>	<u>59.0</u>	<u>11,124,092</u>	<u>55,265,602</u>	<u>83%</u>
* Difference from final budget of \$60,275 reflects the fact that staff administering the UI program is budgeted in Workers' Compensation fund, with a reimbursement from UI.					

Description of Programs and Functions

Administration and Support (REQUIRED): **\$730,412**

Administration and Support functions in the Risk Management Department include the salaries of the Risk Management Director, the managers of the Workers' Compensation and Insurance Divisions, who oversee multiple functions as described further below, and their support staff. A total of five positions are included.

NON-MANDATED PROGRAMS AND FUNCTIONS

01 – Emergency Response Team (NON-MANDATED): **\$25,568**

The Insurance Division administers and maintains the County's Emergency Response Team program, which uses County employees, who volunteer in addition to their other duties, to provide emergency response services at County facilities. Currently about 750 employees are trained in cardiopulmonary response, first-aid and evacuation procedures. Costs for this program include member supplies, providing initial training for new volunteers and refresher training for existing ones, developing training exercises and coordinating team leaders. Without such a program, the response by County employees to fires or other emergencies in County facilities may be more chaotic, increasing the chances of injury or deaths.

02 – Third Party Subrogation (NON-MANDATED): **\$133,583**

This function provides subrogation activities to recoup funds expended by the County as the result of actions of third parties who may be legally liable for the County's costs, primarily costs for providing medical care at Valley Medical Center to uninsured patients. This program was established by the Board of Supervisors in 1989 by County ordinance, as permitted by the California Government Code. While the program is not mandated, its costs are offset by revenue collections. Staffing for this program is 1.5 FTE's.

03 – Wellness Program (NON-MANDATED): **\$511,087**

The Employee Wellness Program provides health education classes, one-on-one consultations and counseling, health screening and follow-up services and health promotion programs for County employees. In Fiscal Year 2005, 13 classes were offered, and over the past five years an average of 1,061 employees annually have attended a class. Topics include heart disease prevention, stress management, women's health issues, smoking cessation and CPR. In addition the program provided more than 900 health screenings of various types to employees. The program also sponsored activity programs, such as the March Into May walking program, in which 1,278 employees participated. Since July 1, 2004 the EWP has functioned with one full time employee and one part time employee. As such, staffing for this function is 1.5 FTE's.

While this function is not mandated, limited research on Santa Clara County's Wellness Program specifically, and more extensive research on such programs generally, suggest such programs provide benefits in excess of their costs. In Santa Clara County, 38 participants in a class called "Living a Healthy Life with Chronic Conditions" were surveyed at the start and end of the seven-week class, and again three months after its

end. According to the results, 60 percent of participants had been taking one to eight hours a week off due to their condition at the start of the class, only 28 percent did so three months after the class ended. Fewer employees also reported limitations in the work they could do from their conditions. Surveys results from another class, "Preventing Diabetes", showed that the participants doubled their knowledge, understanding and awareness of the disease, and were also highly motivated to make lifestyle changes to reduce their risk of developing diabetes. These two classes are examples of how wellness programs can help reduce absenteeism, increase productivity and reduce utilization of health care services. Meanwhile, similar programs conducted by Bank of America and Pacific Bell, discussed on the Joint Venture/Silicon Valley website, reported savings of \$3.10 to \$5.96 for each dollar spent on similar programs.

It is estimated that 87 percent of costs for this program are reimbursed by General Fund departments or by Valley Medical Center, which receives a substantial General Fund subsidy.

MANDATED PROGRAMS AND FUNCTIONS

04 – Administer Workers Compensation Benefits to Injured Employees

(MANDATED):

\$31,811,564

The primary function of the Worker's Compensation Division is to administer benefits to employees injured on the job. This includes investigating claims and determining whether compensation is appropriate, issuing award payments and reviewing and determining the proper amount of reserves for the Worker's Compensation Insurance Fund. The Division also assists injured workers in returning to work via rehabilitation training and specific return-to-work programs, and monitors and facilitates injured employees' receipt of medical care. It also provides training on worker's compensation issues to managers in other departments.

In addition to performing these functions for the County, the Division provides these services for the Santa Clara County Fire District and is currently handling the Superior Court claims that occurred prior to Jan. 1, 2001. Because the primary funding source for the Division is premiums paid by other General Fund departments, many of whom receive revenues from non-discretionary sources, such as grant funds, \$1 of reductions in the Division does not translate to \$1 of discretionary General Fund savings. According to Risk Management staff, General Fund departments or Valley Medical Center, which receives a large General Fund subsidy, account for about 80 percent of the premiums that fund the Workers' Compensation Division.

Reflecting these functions, the staffing of 26.8 FTE's for this function is composed primarily of claims-related staff, including 15.0 claims adjuster positions at various experience levels, and 9.0 Claims Technician FTEs who support the adjusters. The Division reported that as of June 30, 2005, there were 2,515 open indemnity claims being processed by the 15 adjusters, an average of 168 claims per position.

In order to be eligible to purchase excess workers' compensation claims insurance from the California State Association of Counties Excess Insurance Authority, the County

must maintain a workload per adjuster no higher than 175 claims per adjuster, with a workload of 150 claims per adjuster preferred.

The Department believes that its current staffing level has allowed the County to enjoy very modest Workers' Compensation rates, when State benefits were increased and medical costs rose dramatically Statewide. The Department cited a 1993 audit that warned that high caseloads for adjusters contributed to escalating claim costs, because adjusters were not able to successfully manage all claims. According to the Department, current staffing levels have permitted operation of the Return to Work and Medical Management programs, which the Division estimates avoided about \$22 million in claim costs in FY 2004-05. Staffing levels for this program, versus other priorities, are a policy decision for the Board of Supervisors.

In addition to savings from staff reductions, savings in the Workers' Compensation Division also may be achieved by changes in the assumptions used to fund it. The Division is primarily funded through insurance premiums charged to other General Fund and non-General Fund departments. These premiums are determined by actuarial studies conducted by a contract actuary firm to estimate the County's liability for future death and injury claims by County employees, and Board of Supervisors' policies regarding how those future liabilities should be funded. Current Board policy, according to the Division, is to fund 50 percent of claims at a 50 percent confidence level.. This confidence level indicates that there is a 50 percent chance that the actual claim cost will be either higher or lower than the estimated cost. In both FY 2006 and 2007, the Board approved a temporary deviation from the policy to fund only the expected payout costs of the program.

According to the October 2005 report by Bickmore Risk Services, the County's actuary, current funding for the Workers' Compensation Fund is below the expected confidence level as of June 30, 2005. According to data in this report, current funding for the Workers' Compensation Fund is now effectively at about a 48 percent confidence level, close to the Board's policy of a level where there is a 50 percent chance that the funding will be sufficient to pay for the actual cost of existing and anticipated claims. This funding level is a significant improvement from the firm's September 2003 report, which found that this fund was funded at only about a 25 percent confidence level. While additional changes in County policies to further relax funding assumptions would permit further reductions in the required premium payments by departments to the Workers' Compensation Division, any further reductions would increase program risk and likely to jeopardize the viability of the workers compensation program itself.

Finally, the Division identified a number of expenditures within the claims adjustment function as non-mandated, meaning the Department could still carry out its function without them, albeit at a reduced efficiency level. These expenditures included:

Function	Cost
Contract private investigation services	295,943
Adjusting of internal workers' compensation claims	<u>25,000</u>
Total	\$320,943

05 – Provide Workers’ Compensation Training Countywide (MANDATED) \$129,776

The Division provides employees and managers with training to better understand the workers’ compensation system, its procedures, the mandated benefits and timelines, and the County’s Temporary Modified Return to Work program. This training helps departments meet mandates in the California Labor Code regarding worker health and safety, such as the mandate to file a complete report regarding every occupational injury or illness. These mandates are enforced based on periodic audits of insurers, including the County, to determine if workers’ compensation cases were handled appropriately. Violations, such as failure to pay reasonable cost of medical treatment for an injured worker, are punishable by penalties of \$100 to \$5,000 per violation, as well as a separate civil penalty of up to \$100,000 for willful failure to follow the law.

In addition, the \$55,000 cost of the annual Safety Seminar and Safety Awards administered by the Occupational Safety and Health Division is included in the he Workers’ Compensation Division budget. . This informational and training session is presented annually by the County’s Joint Union-Management Safety Committee. The Risk Management Department has identified this function as non-mandatory.

06 – Monitor and Facilitate Medical and Disability Program (MANDATED):\$1,974,272

The County is required to provide employees reasonable medical treatment to cure or relieve the effects of work-related injuries. It has chosen to do so by contracting with a firm that provides medical case management, bill review services and utilization review services to ensure that injured employees get appropriate medical care based on treatment protocols, and return to work as soon as medically possible. While the bill-review function could be provided by County staff rather than a contractor, as a result of the contract the Division has access to reduced medical care rates via the contractor’s preferred provider network. A June 2003 report to the Board of Supervisors estimated that the County had avoided about \$25 million in higher costs in the final three years of the agreement with the prior contractor.

07 – Job Placement for Injured Workers (MANDATED): \$237,755

Under the California Labor Code, employees injured on the job whose injury prevents them from returning to their former positions must be provided vocational rehabilitation benefits up to a maximum of \$16,000 each, to assist them in obtaining alternative employment. In addition, the Board of Supervisors has established a Temporary Modified Return to Work Program, whereby an employee who is temporarily unable to work at his/her regular job due to injury is provided a suitable temporary assignment for up to 12 weeks. While this program appears to be discretionary, having been established by the Board of Supervisors, the Division estimates that in the past two years more than \$3 million in temporary disability costs have been avoided by having this option available.

08 - Adjuster Training (MANDATED): \$112,418

On February 22, 2006, the State of California implemented training requirements for individuals designated as Worker’s Compensation Claims Adjusters and Medical Only Claims Adjusters (specified by Title 10, Chapter 5, and Subchapter 3). An individual can be designated a claims adjuster or medical-only claims adjuster by meeting the minimum number of training hours as follows: 160 hours of training (120 hours in a

classroom with an instructor) for Claims Adjusters and 80 hours of training (50 hours in a classroom with an instructor) for Medical-Only Claims Adjusters. In addition, each adjuster is required to complete 30 hours of continuing training every two years.

The State did provide an exemption for the training requirements for “experienced” Worker’s Compensation Claims Adjusters and Medical Only Claims Adjusters. Below are the experience requirements:

Have five (5) years in the last eight (8) years of on-the-job experience adjusting California Worker’s Compensation claims; or Supervising Claims Adjusters handling Worker’s Compensation Claims; or successfully completing the Self-Insurance Exam written examination (specified by Title 8, Section 15452 of the California Code of Regulations) and have either (1) worked as a claims adjuster or supervisor of workers’ compensation claims continuously since passing the examination, or (2) passing the exam within the previous five years. An Experienced Medical-Only Claims Adjuster must meet the following requirements: Have at least 3 years in the past 5 years of on-the-job experience adjusting California workers’ compensation medical-only claims.

The Division has in recent years promoted several employees from within to the Adjuster position. These employees would not qualify as experienced Claims Adjusters and would need to fulfill the training requirements. Further, some experienced Adjusters still need to complete the Self Insurance written exam. The Division is required annually to certify each adjuster with the State to ensure compliance with these regulations. In FY 06, the Division certified 12 of its adjusters with three still needing to meet the training requirements while all staff are required to meet the ongoing training requirements.

09 – Loss Prevention (MANDATED): \$776,917

The Insurance Division provides administration of insurance claims filed against the County for property damage or for other types of injuries for which the County may be liable. In order to prevent such losses, the Division also administers various programs to identify and reduce potential liability sources. These include a driver training and permitting program for County employees who drive while on County business, a program to inspect pressure vessels and boilers in County facilities, and general inspection of County facilities and County processes to identify and reduce potential liabilities, and analysis of information on vehicle accidents and other losses involving the County to determine how recurrence of such incidents may be avoided. The Division provides this function with staffing of 1.0 FTE.

10 – Administer Property and Liability Claims (MANDATED): \$14,493,855

The Insurance Division provides administration of insurance claims filed against the County for property damage or for various types of injuries for which the County may be liable. Management of such claims involves thoroughly investigating each incident where the County is alleged to be at fault, accurately assessing the County’s liability and potential damages, and, where appropriate, conducting negotiations to reach a favorable resolution of claims. The Division also manages claims where lawsuits are filed and legal expenses for the County’s defense are incurred. This function is mandated primarily under provisions of the Government Code permitting the Board of

Supervisors to delegate claims-settling authority to other County staff, and under County ordinance by which the Board has done so. If the Board chose to rescind those ordinances, it could do so, but would have to review each claim itself, probably with the assistance of County Counsel.

In order to perform this function, the Insurance Division maintains a staff of four claims adjusters and a claims manager. The Division reports that time equivalent to 2.0 FTE adjusters is assigned to these claims, while 1.0 FTE is assigned to the Third Party Subrogation function. There are also 3.0 clerical positions assigned to this function.

The Insurance Division stated that it believes the current level of staffing is responsible for the fact that only 11 percent of claims filed against the County end up in lawsuits, which it states is a relatively low percentage.

11 – Self-Insurance/Commercial Insurance Program (MANDATED): \$12,181,327

This program provides the County with insurance against its exposures to property and liability losses through a combination of self-insurance and commercial insurance. The self-insurance component is a program that is funded by the County to pay claims it may experience based on its exposure. An outside actuarial firm provides the County with annual reports on funding level recommendations based on selected criteria that include confidence levels, discount rates and loss exposure and experience. The County then funds the program at the appropriate level based on premium payments made by each County department to the Insurance Division; these funds are then used to pay claims. The commercial insurance component is actual insurance coverage purchased through a consortium of California counties. This coverage is typically called excess insurance as it only applies once the predetermined limit of the underlying self-insurance has been reached. This program also provides faithful performance bond coverage for County officials and employees as required by the California Government Code. This function is staffed with 0.8 FTE's.

Because the primary funding source for the Division is premiums paid by other General Fund departments, many of whom receive revenues from non-discretionary sources, such as grant funds, \$1 of reductions in the Division does not translate to \$1 of discretionary General Fund savings. The Division reports that about 87 percent of its premiums come from General Fund departments or from Valley Medical Center, which receives significant General Fund subsidies

As in the case of the Workers' Compensation Division, discussed previously, changes in the funding assumptions for liability insurance result in changes in the premiums departments are required to pay for coverage. A relaxation of those assumptions by the Board of Supervisors from the current policies would presumably permit lower premium charges to departments, resulting in General Fund savings. However, any change in charges to departments must be considered in the context of the long-term viability of the program in its ability to manage risk.

12 – Contract Insurance (MANDATED): \$103,144

The Insurance Division establishes and maintains standard insurance requirements for most County contracts. When a County department is contracting for unusual goods or

services, the Division assists the department in developing customized insurance requirements to address the potential exposures. Support is also provided to departments negotiating contracts, including when a third party to a contract seeks certain requirements from the County. The Division also provides training to all County departments on insurance requirements. Staffing of 0.8 positions is provided for this function.

In addition, the Division contracts with an outside firm to provide ongoing monitoring of County contractors to make sure that their insurance remains in force throughout the term of the contract, at a cost of about \$20,000. Without confirmation that contractors have met and continue to meet these obligations, the County's insurance requirements would provide little if any protection. Training is also provided to County staff on using this service. According to the Division, about 850 contracts are currently being monitored. The Division estimates that about \$30,000 of the monitoring costs are for public works contracts, where monitoring is required by provisions of the California Public Contracts Code.

The remaining cost is not mandated. However, while monitoring for non-public works contracts is a discretionary service, the Board of Supervisors has long expressed its concern with the proper drafting, negotiation and monitoring of goods and services purchased by the County from contracts, as evidenced by the various Board policies in this area, and by the Board's request for a 1998 Management Audit Division study of contracting practices in the County. Without the development and monitoring of insurance requirements for contractors that the Division provides, the County could unwittingly be exposed to legal liability and damages at financial cost to taxpayers.

13 – Occupational Safety and Environmental Compliance Division (MANDATED):

\$1,258,873

The Occupational Safety and Environmental Compliance Division oversees County compliance with occupational safety and environmental compliance laws and regulations at the State and federal level. For example, California Labor Code Section 6400 states that "Every employer shall furnish employment and a place of employment that is safety and healthful for the employees therein." More specifically, Section 6401.7 requires every employer to establish and maintain a written injury prevention program. Labor Code requirements are implemented through the California Code of Regulations, primarily through portions of Title 8, which defines specific safety requirements for hazardous jobs and hazardous work-related tasks. It is also important to note that as of January 1, 2000, governmental entities such as the County are subject to civil penalties for violations of worker safety rules, including failure to abate serious safety and health situations.

In terms of environmental compliance, the Division supervises County compliance with Federal regulations, principally portions of Code of Federal Regulations Title 40, which address handling and transportation of various types of hazardous materials, Title 7, which governs handling of pesticides, and other Federal regulations. The County also must comply with various State regulations in this area, particularly regulations regarding wastewater discharges and protection of drinking water supplies. At the

federal level, the County must comply with regulations regarding training in the handling of hazardous materials, as a result of the ongoing clean-up of hazardous materials on some County-owned properties, and because of the need for emergency response and reporting to any hazardous materials releases that occur at County facilities.

The functions cited by the Division involve a combination of mandatory and non-mandatory tasks, and are performed by 7.0 FTE's, as follows. Cost information on the various tasks was not provided.

Employee Health and Safety Oversight

Mandated

Injury and Illness Prevention Program—Mandatory under Labor Code Section 6401.7, as previously described, and enforced in detail under requirements of California Code of Regulations Title 8, Section 3203. This function supplies a means to develop and implement safety and health policies and procedures, to be in compliance with California OSHA requirements.

Injury Investigation and Reporting Activity—Mandatory under sections of Title 8. Division developed and maintains a computerized system to automatically generate California Occupational Safety and Health Administration reports of specific incidents of injuries and of statistical information.

Non-Mandated

Countywide Union/Management Safety Committee—The Division coordinates work of this committee, which is not a mandate because requirements of labor agreements are not considered a statutory or regulatory mandate, and because regulations prescribing methods of communicating worker health and safety information to employees include such a committee as one way to do so, but do not prescribe it as the sole method. The Division contends this committee is mandated by federal regulations requiring the employer to “include a system for communicating with employees in a form readily understandable by all affected employees on matters relating to occupational safety and health. . . .” However, those regulations further state that “substantial compliance” with this requirement can be achieved by “meetings, training programs, posting, written communications, a system of anonymous notification by employees about hazards, labor/management safety and health committees, or any other means that ensures communication with employees.” We believe that any combination of these methods would meet the requirement, rather than all of them being required. Therefore, we believe this committee would not be mandated except for its inclusion in labor agreements.” In the opinion of the Department, this committee is probably the most efficient and productive way to meet this mandated requirement.

Safety and Environmental Management Board—The Division coordinates the work of this panel of County managers, which was established under Board of Supervisors policy, and is therefore not a mandate.

Contract Oversight—The Division oversees an agreement between the County and U.S. HealthWorks to provide occupational medical and industrial hygiene services for the County. Contractual requirements are not considered a statutory or regulatory mandate.

Although many of these oversight functions are not mandated, the overall Employee Health and Safety Oversight function has provided benefits, according to the Division, which cites a decline in the County's injury rate, which has gone from 18.1 injuries per 100 County employees in Fiscal Year 1996, to 12.1 injuries per hundred in FY 2006.

Employee Training Function

Mandated

Safety Coordinator Training Activity—The Division provides training for volunteer Safety coordinators and full-time safety/environmental staff in various departments to inspect workplaces, respond to hazard reports, coordinate intra-departmental training and investigate accidents. These staff members also maintain records of these activities, assist in injury and illness record-keeping and represent each department during regulatory inspections. Six forums and 55 safety classes were offered to these employees and other County employees in FY 2005. According to the Division, these activities are required under the aforementioned requirement for the County to have an injury prevention plan, and under other requirements, such as a written emergency response plan in County facilities, a fire prevention plan, and a program to prevent repetitive-motion injuries.

Employee Training Programs—OSEC provides worker safety information as part of other training programs provided by the Employee Services Agency, including new employee orientation, TOPS training for clerical professional staff, supervisory training and programs on preventing workplace violence and maintaining an ergonomic workplace. OSEC also provides specific training sessions on California Occupational Safety and Health Agency and federal Environmental Protection Agency rules and regulations. As in the case of safety coordinator training, the mandates cited in support of this program are generalized requirements for the County to have various workplace safety programs, and for employees to be aware of them. More than 30 separate training sessions are provided during the fiscal year.

Non-Mandated

Safety and Health Lending Library—This is a video lending library of materials used to supplement department and agency safety meetings, at a cost of \$2,000 annually.

Safety Newsletter—Published semi-annually, at a cost of \$2,000 annually.

Although these two items are not mandatory, in the opinion of the Department they are cost effective and valuable tools for providing comprehensive occupational safety services.

*Facility Support and Auditing*Mandated

Facility Inspection—The County owns more than 203 buildings, and leases an additional \$50 million of space annually. The Division inspects these buildings for compliance with environmental, health and safety standards and regulations. In support of this function, OSEC cites State regulations regarding, for example, control of hazardous substances and air contamination in the workplace, ensuring provision of eyewash stations and shower facilities where needed, and providing work areas that are free of dangerous projections or obstructions, are in good repair and are free of oil, grease and water, or have protection against slips.

Indoor Air Quality Activities—The Division identifies and corrects indoor air quality issues involving molds, bloodborne pathogens, asbestos, and lead and ventilation problems. In support of this function, OSEC cites State regulations regarding control of these various substances. The Division also includes as part of this function overseeing contracts with three providers of hazardous material clean-up services.

Inspection and Interface—The Division is the primary point of contact for California Occupational Safety and Health Administration and California Environmental Protection Agency inspectors and regulators, including site visits, corrective actions and follow-up reports.

*Environmental Compliance*Mandated

Hazardous waste clean-up and waste minimization—The Division oversees County compliance in cleaning up hazardous materials from County-owned properties. There are currently 14 such sites where clean-up is occurring. The Division also oversees County efforts to reduce production of hazardous materials, which have declined from about 250 tons produced annually in Fiscal Year 1999, to about 50 tons in Fiscal Year 2005. Further, high-risk departments assign environmental compliance staff to supplement the work of OSEC.

Permitting and Property Acquisition—County chemical storage tanks require permits, which OSEC acquires and updates annually as required. It also investigates new properties considered for County purchase for evidence of contamination, and also provides information on the status of County properties considered for sale and lease.

14 – Unemployment Insurance Division (MANDATED): \$1,909,143

The function of this Division is to administer unemployment insurance benefits to County employees who are laid off. This function is mandated by the California Unemployment Insurance Code, which defines the County, as a public entity, as an “employing unit” required to make contributions to an unemployment insurance fund, and to pay unemployment benefits to eligible employees. The State law in turn

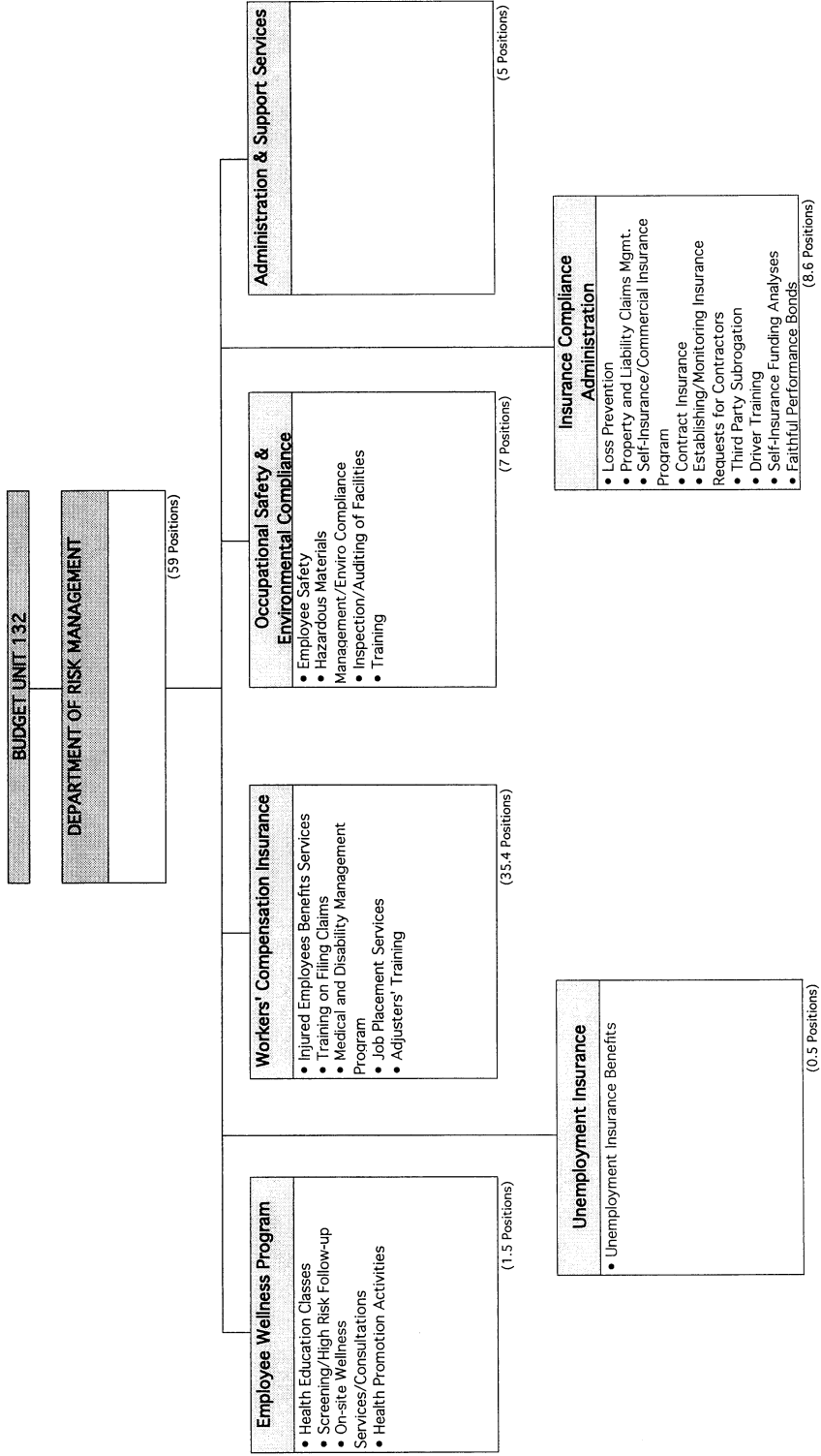
represents the delegation to the State by the federal government, under the Social Security Act and the Federal Unemployment Tax Act, the requirement to establish an unemployment insurance program, and to collect a tax equal to 6.2 percent of all wages paid by every employer.

The County must respond to all unemployment insurance claims filed by former employees, and quarterly provides wage information to the State Employment Development Department, while also paying to the State the reimbursable charges for unemployment insurance compensation paid to former County employees.

Unemployment Insurance activities are handled by an analyst in the Workers' Compensation Division whose position is split between Unemployment Insurance work and other duties. The remaining cost for this function is for benefits paid to former County employees, and about \$9,200 is paid to a third-party administrator for unemployment insurance claims.

Total Risk Management Department Adopted FY 2005-06 Budget	\$66,389,694
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DEPARTMENT OF RISK MANAGEMENT



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**Ann Miller Ravel
COUNTY COUNSEL**

Winifred Botha
Robert C. Campbell
Nancy J. Clark
Laurie F. Faulkner
ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager 

FROM: Winifred Botha, Assistant County Counsel 

RE: ESA Risk Management Unemployment Insurance Division Budget Unit 132
Mandate Analysis

DATE: July 27, 2006

The County Executive and the Board of Supervisor's Management Audit Division requested that we provide a written assessment of the analysis of the legal mandates applicable to Budget Unit 132 regarding ESA Risk Management Unemployment Insurance Division.

Based on our review of the current mandate studies, we do not have any changes to the initial assessment that we provided on September 2, 2003, and the subsequent assessment in October 2004.

c: Janet Moody, Director, Risk Management
Ann Miller Ravel, County Counsel

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ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager
FROM: Winifred Botha, Assistant County Counsel 
RE: ESA Risk Management Insurance Division Budget Unit 132 Mandate Analysis
DATE: July 31, 2006

The County Executive and the Board of Supervisor's Management Audit Division requested that we provide a written assessment of the analysis of the legal mandates applicable to Budget Unit 132 regarding ESA Risk Management Insurance Division.

Based on our review of the current mandate studies, we do not have any changes to the initial assessment that we provided on September 2, 2003, and the subsequent assessment in October 2004.

c: Janet Moody, Director, Risk Management
Ann Miller Ravel, County Counsel

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ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Winifred Botha, Assistant County Counsel 

RE: ESA Risk Management Safety and Environmental Compliance (OSEC) Division
Budget Unit 132 Mandate Analysis

DATE: July 27, 2006

The County Executive and the Board of Supervisor's Management Audit Division requested that we provide a written assessment of the analysis of the legal mandates applicable to Budget Unit 132 regarding ESA OSEC Division.

Based on our review of the current mandate studies, we do not have any changes to the initial assessment that we provided on September 2, 2003, and the subsequent assessment in October 2004.

c: Janet Moody, Director, Risk Management
Ann Miller Ravel, County Counsel

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ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Donna M. Diaz, Lead Deputy County Counsel *DM*

RE: Risk Management/Workers' Compensation Division Mandate Analysis

DATE: July 28, 2006

As requested by the County Executive and the Board of Supervisors, we are providing a written assessment of the analysis of the legal mandates applicable to Budget Unit 132 - ESA Workers' Compensation Division.

We noted one change during our review of the current mandate analysis, in the area of Adjuster Training. This training is mandated by the regulations which became effective on February 22, 2006. The regulations found at Title 10, California Code of Regulations Section 2592, et seq. are regulations which set forth the minimum standards of training, experience and skill that workers' compensation claims adjusters must possess to perform their duties with regard to workers' compensation claims.

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**Ann Miller Ravel
COUNTY COUNSEL**

**Debra L. Cauble
Laurie F. Faulkner
Susan G. Levenberg
ASSISTANT COUNTY COUNSEL**

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager
FROM: Donna M. Diaz, Lead Deputy County Counsel
RE: Workers' Compensation Division Mandate Analysis
DATE: August 28, 2003

A handwritten signature in black ink, appearing to read "DM Diaz", is written over the "FROM:" line of the memorandum.

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to the Workers' Compensation Division. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the Workers' Compensation Department.

I. Administer Benefits to Employees Injured on the Job

- WC 1 California Constitution - Article 14 Labor Relations; Section 4 - to compensate any and all of their workers for injury and disability**
- WC 2 California Labor Code; Section 3600 through 3605 - Fiduciary responsibility to investigate**
- WC 3 California Labor Code; Section 3700(c) Self Insurance Certificate and Labor Code Section 3710(c)**
- WC 4 California Labor Code; Section 3702.2(a) Self Insurance Annual Report**
- WC 5 California Labor Code; Section 3702.6(a) Self Insurance audit program**
- WC 6 Claim Form and Notice of Benefits - Labor Code Section 5401**

Memorandum to Roger Mialocq, Management Audit Manager
Re: Workers' Compensation Division Mandate Analysis
August 28, 2003
Page 2

- WC 7 Temporary and Permanent Disability - Labor Code Sections 4650 through 4663
- WC 8 Death Benefits - Labor Code Sections 4700-4709.
- WC 9 County Policy - Management Audit (January 6, 1994)
Board Accepted Recommendations:
Initiate and Internal Quality Improvement Plan
Initiate Case Closure Project
Initiate Medical Management
Initiate Modified Return to Work Policy and Program

The State Legislature has created a workers' compensation system which requires that each employer shall secure the payment of compensation by either obtaining insurance against liability to pay compensation or by securing a certificate of consent to self-insure. The entire system is mandated by law. We have reviewed the mandates as outlined above by the Workers' Compensation Division and we agree that compliance with these statutes is mandatory.

WC 9 is based on policy and is not a mandated procedure.

II. Provide Workers' Compensation Training Countywide

- WC 10 California Labor Code; Section 6409.1
- WC 11 California Labor Code; Section 129.5

We have reviewed the mandates as outlined above by the Workers' Compensation Division and we agree that compliance with these statutes is mandatory. Labor Code Section 6409.1 outlines the employer's mandated reporting requirements. The Workers' Compensation Division works in concert with the various departments to provide training necessary to ensure that the constantly changing reporting requirements of the law are complied with.

III. Medical and Disability Management Program

- WC 12 California Labor Code; Section 4600 - Employer has an obligation to provide reasonable medical treatment required to cure or relieve the effects of the injury at the expense of the employer.
- WC 13 County Policy - Medical and Disability Management
February 28, 1995 Contract with Business Health Services
- WC 14 January 11, 1999 Extension of Contract with Business Health Services

Memorandum to Roger Mialocq, Management Audit Manager
Re: Workers' Compensation Division Mandate Analysis
August 28, 2003
Page 3

WC 15 May 23, 2000 Contract with Reviewco (AKA HealthNet Plus)

WC 16 June 3, 2003 Extension of Contract with HealthNet Plus

See also WC 9 County Policy - Management Audit (January 6, 1994)

The provision of medical treatment is mandated. The utilization of medical and disability management services is a discretionary function of the department.

IV. Job Placement for Employees

WC 17 Vocational Rehabilitation - Labor Code Section 4635 through 4747

WC 18 County Policy - Modified Return to Work Policy (September 18, 1996)

WC 19 Local 715 Contract - Article 13 Benefit Programs

WC 20 Local 535 Contract - Article 13 Benefit Programs

WC 21 Local 1587 Contract - Article 13 Benefit Programs

WC 22 Building and Trades Contract - Article 12.1 Benefits Programs

See also WC 9 County Policy - Management Audit (January 6, 1994)

We have reviewed the mandates as outlined above by the Workers' Compensation Division and we agree that compliance is mandatory for WC 17 and WC 18. Labor Code Section 4638 mandates that employers determine whether modified or alternative employment can be provided to the injured worker in connection with exploration and development of a vocational rehabilitation plan.

DMD:rd

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Ann Miller Ravel
COUNTY COUNSEL

Debra L. Cauble
Laurie F. Faulkner
Susan G. Levenberg
ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Laurie F. Faulkner, Assistant County Counsel 

RE: ESA Risk Management Unemployment Insurance Division

DATE: September 2, 2003

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to the ESA Risk Management Unemployment Insurance Division. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by this department.

Administer Unemployment Benefits

1. Legal Basis for Mandate

UIB-1 California Unemployment Insurance Code Section 100
UIB-2 Social Security Act, Title III, Section 301
UIB-3 Social Security Act, Title IX, Section 901
UIB-4 26 USC 23, Section 3301
UIB-5 Union Contract with SEIU Local 535, Section 13.3

2. Level or Requirement of Mandate, If Applicable

There is an Excise Tax imposed on every employer of 6.2% of the total wages paid by the employer during the calendar year for employment. The employer must respond to all unemployment insurance claims filed by former employees.

3. Other Comments

The labor contract with SEIU local 535 restates that the County must follow state law.

Memorandum to Roger Mialocq, Management Audit Manager
Re: Unemployment Insurance Division Mandates
August 29, 2003
Page 2

The taxes imposed are mandatory and administering the benefits is mandatory. Whether the claims are handled by the County or a Third Party Administrator is discretionary.

c: Janet Moody, ESA Risk Manager
Ann Ravel, County Counsel

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**Ann Miller Ravel
COUNTY COUNSEL**

**Debra L. Cauble
Laurie F. Faulkner
Susan G. Levenberg
ASSISTANT COUNTY COUNSEL**

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager
FROM: Laurie F. Faulkner, Assistant County Counsel
RE: ESA Risk Management Insurance Division
DATE: September 2, 2003

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to the ESA Risk Management Insurance Division. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by this department.

A. Loss Prevention

1. Legal Basis for Mandate

INS 1 Ordinance Code Section A2-8

mandates county safety program to reduce or eliminate industrial and vehicular accidents in accordance with Cal OSHA and state mandated vehicle safety laws; courses and training are mandated

INS 2 California Code of Regulations, Title 8, Section 780

permit to operate a boiler is required

INS 3 California Code of Regulations, Title 8, Section 3203(a)(2)

Injury and Illness Prevention Program (IIP) is mandated for employers

INS 4 California Code of Regulations, Title 8, Section 3203, p. 3

8 elements of IIP including training and instruction

Memo to Roger Mialocq
Re: Insurance Division Mandates
September 2, 2003
Page 2

INS 5 Federal OSHA of 1970, Section 5 Duties
employers must furnish workplace free from hazards and must comply with OSH Act; employees must comply with standards and rules issued pursuant to OSH

INS 6 County Policy 407, Vehicle Use - County Driver Permits
employees who drive on County business must have a valid driver's permit; training is mandated; issuance of permit appears discretionary but part of the mandated safety program

INS 7 County Policy 407.1
some elements are mandated by Vehicle Code; other elements are discretionary

INS 8 Ordinance Code Section A31-9 Authority to Use Private Conveyance
discretionary authority of Risk Manager to allow use of private auto if insured

INS 9 County Policy 430 - County Vehicle Use
discretionary rules for use of County vehicles except valid driver's license

2. Level or Requirement of Mandate, If Applicable
3. Other Comments

B. Property and Liability Claims

1. Legal Basis for Mandate

INS 10 County Policy on Property Loss Replacement
this is a policy, not a legal mandate

INS 11 Ordinance Code A9-1 Claims by County Employees
mandates the repair, replacement of uniforms, clothing and equipment

INS 12 County Policy on Business Use of Private Vehicles
this is a policy, not a legal mandate, and authorizes discretionary approval

INS 13 MOU Correctional Officer Uniform Allowance and Equipment
contractual obligation to repair/replace

INS 14 MOU Probation Peace Officers Uniforms and Clothing
contractual obligation to repair/replace

INS 15 MOU Park Rangers Uniforms and Clothing
contractual obligation to repair/replace

INS 16 MOU DA Investigators - Use of Private Vehicles
this is not a mandate to allow private use, however, if private use is authorized, the County is contractually required to reimburse the driver's deductible under specified conditions including no fault of the employee/claimant
\$500 per claim maximum

INS 17 MOU Local 535 SEIU - Use of Private Vehicles
this is not a mandate to allow private use, however, if private use is authorized, the County is contractually required to reimburse the driver's deductible under specified conditions including no fault of the employee/claimant
\$500 per claim maximum

INS 18 MOU Deputy Sheriff's Uniform and Equipment
contractual obligation to repair/replace

INS 19 MOU SEIU 715 Repair/Replace Claims
contractual obligation to repair/replace

INS 20 Board Resolution granting Settlement Authority
there is a contractual obligation to repair and replace uniforms and equipment, how the County chooses to accomplish that is discretionary

INS 21 Gov't Code Secs. 970.4, 970.5, 970.8, 971.2
County must pay judgments against it plus interest in the fiscal year that the judgment becomes final, to the extent funds are available;
County must include in its budget a provision to provide funds sufficient to pay all judgments against it

INS 22 Gov't Code Secs. 910.8, 911.6(a), 911.6(c)
claim forms must be provided by the County;
the County has discretion to respond or not to a claim, and a claim with no response will be deemed denied after 45 days

2. Level or Requirement of Mandate, If Applicable

3. Other Comments

Cal-OSHA Title 8, obligates an employer to provide the necessary protective clothing and equipment to workers and classifications covered by it. While the County is obligated to repair and replace clothing and equipment, it is discretionary as to how that is accomplished. In other words, the obligation could be carried out by a third party administrator handling claims rather than in-house adjusters. Similarly, the reimbursement for private auto claims could be handled by a third party administrator.

The County has a mandatory duty to satisfy judgments against it.

The County also has a **mandatory duty** to defend and indemnify its employees for injuries arising from an act or omission occurring within their scope of employment. Gov't Code secs. 825, 825.6, 995, 996. The County Counsel has a **mandatory duty** to defend or prosecute all civil actions and proceedings in which the County or any of its officers is concerned or is a party in his or her official capacity. Gov't Code sec. 26529. Whether the County employs private firms or County Counsel to provide the defense is discretionary with the County Counsel. Gov't Code sec. 26526. SCC Ordinance A22-16.

C. Self-Insurance/Commercial Insurance Program

1. Legal Basis for Mandate

INS 23 Board Policy Resolution No. 03-05
this is discretionary, not a mandate

INS 24 Board Policy re Self Insurance
the decision to be self-insured for liability is discretionary, not mandatory

INS 25 Government Code secs. 990(a), 990(b), 990.4, 990.8
the decision to be insured at all for liability claims is discretionary, not mandatory, however, there is a mandatory duty to satisfy judgments against the County (See INS 21)

INS 26 Labor Code 3700(a)
County must secure the payment of compensation (Workers' Comp) by obtaining insurance or by securing a certificate of consent to self-insure

INS 27 Board Policy re Malpractice Risk Management Program
the policy to adopt a self-insurance program is discretionary, however, it appears

that the if the County chooses a self-insurance program, there are a number of mandates that must be met in order to qualify for federal reimbursement; these may be provided by SCVHHS

INS 28 Board Policy re Faithful Performance Bonds

bonds are required but the amounts are not prescribed, except that the judges set the bond amount for each member of the Board of Supervisors (Gov't Code sec. 24151); meeting these requirements may be done by a master bond; BOS sets the amount required

INS 28-1 Gov't Code sec. 24156

BOS has discretion to meet mandatory bond requirements by the purchase of bonds or self-insurance; the County has chosen self-insurance and a master bond as excess coverage

INS 28-2 Gov't Code secs. 1480, 1481

allows purchase of a master bond to meet bond requirements

2. Level or Requirement of Mandate, If Applicable

The level of insurance is mandated in some cases, but it is otherwise unspecified, i.e. "sufficient," or the amount is discretionary.

3. Other Comments

D. Contract Insurance

1. Legal Basis for Mandate

INS 29 Recommendations from Contract Streamlining Workshops

these recommendations as to best practices, streamlining and monitoring are discretionary, not mandated

INS 30 Board Summary of Proceedings

not a mandate and not based on a mandate

INS 31 Board Policies on Contracting and Bidding

the Board's policies are discretionary but some may be based on mandates, e.g. insurance or bonding requirements for public works contract

INS 32 Public Contract Code sec. 20120 - 20145

this code mandates the methods by which public contracts must be let and mandates award to lowest bidder; also mandates bonding requirements

2. Level or Requirement of Mandate, If Applicable

The Public Contracts code sets out the bid process by size and kind of contract.

3. Other Comments

The only mandate supplied is the bonding requirement. That the County requires insurance and indemnity provisions in its contracts does not appear to be mandated by any state law. Similarly, compliance with the County's discretionary policies is not mandated by any state law. Beyond requiring a bond from a successful bidder and having the Board approve the bond for the faithful performance of the contract, requiring certain contract provisions and insurance, and monitoring compliance are discretionary.

E. Third Party Subrogation

1. Legal Basis for Mandate

INS 33 Policy Establishing Third Party Collection Program at SCMVC
while a lien in favor of the County is established by law against the proceeds of a settlement or judgment against a third party tortfeasor (Gov't Code sec. 23004.1), the decision to enforce the lien is not mandated by state law

INS 34 Ordinance A18-41 Claims Against Third Parties

collection of all accounts within SCVHHS is mandated for the executive director by Santa Clara County Ordinance A18-4

2. Level or Requirement of Mandate, If Applicable

3. Other Comments


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**Debra L. Cauble
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ASSISTANT COUNTY COUNSEL**

**CONFIDENTIAL MEMORANDUM
ATTORNEY-CLIENT PRIVILEGED COMMUNICATION**

TO: Roger Mialocq, Management Audit Manager
FROM: Laurie F. Faulkner, Assistant County Counsel 
RE: ESA Risk Management OSEC Mandates
DATE: September 2, 2003

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to the ESA Risk Management Safety and Environmental Compliance (OSEC) Division. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by this department.

As demonstrated by the numerous mandates provided, there are many mandatory statutes and regulations as well as some contractual requirements imposed upon employers to provide a safe workplace free from occupational and environmental hazards. Some mandates dictate how substances are to be handled. Other mandates specify limits on certain substances or warnings that must be posted or records that must be kept.

Within the mandatory provisions, there is often discretion left to the department as to how to implement or effect the requirement. For example, several types of inspections are mandated to be "periodic" with no number given. Another example is in OSEC 7 regarding the Injury and Illness Prevention Program which requires that the Program "include a system for ensuring that employees comply with safe and healthy work practices." This makes it difficult to determine minimum compliance levels, much less determine minimum funding. Nonetheless, OSEC is charged with ensuring compliance with many regulations.

As indicated by the department, there is some discretion in the training budget.

With regard to facilities, in addition to all of the other mandates, the County has a duty to

Memo to Roger Mialocq

Re: OSEC Mandates


September 2, 2003

Page 2

it employees to maintain a safe environment in which to work, and to the public to avoid creating dangerous conditions on its property. See e.g. Gov't Code sec. 835. Failure to fulfill these duties results in workers' compensation claims and tort claims. Failure to comply with the specific Cal OSHA regulations is punishable by monetary fines which can be minimal or substantial depending on the serious of the violation and whether is a repeated. 8 CCR 336.

**c: Janet Moody, ESA Risk Manger
Ann Ravel, County Counsel**

S:\Main\Litigation\Attorneys\Faulkner\Mandates\ESAOSECDiv

From: Donna Diaz on 10/22/2004 04:36 PM
To: Jeff.Segol@cob.co.santa-clara.ca.us
cc: donna.diaz@cco.co.santa-clara.ca.us, Janet.Moody@esa.sccgov.org, Sheila
Mohan/ESA/SCC@SCC, Thelma Zuniga/ESA/SCC@SCC
Subject: Re: Temporary Modified Return to Work Program 



Mandates - TMRTW-10-22-04.wpd

I am not sure whether you can open the word perfect document, the text of the memo is below.

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County Counsel**

**Martin H. Dodd
Special Assistant County Counsel**

**Laurie F. Faulkner
Susan G. Levenberg**

Assistant County Counsel **CONFIDENTIAL MEMORANDUM**

ATTORNEY-CLIENT PRIVILEGED COMMUNICATION

TO: Jeff Segol, Supervising Management Analyst
FROM: Donna M. Diaz, Deputy County Counsel

RE: Temporary Modified Return to Work Program - Mandates

DATE: October 22, 2004

As requested by the Board of Supervisors' Management Audit Division, we are providing an analysis of the legal mandates applicable to the Temporary Modified Return to Work Program and the Senior Management Analyst's functions.

The Temporary Modified Return To Work Program was established as part of a Board Policy; however, the Labor Code and Workers' Compensation Laws strongly encourage employers to offer modified work by offering incentives in the form of cost savings for employers who return employees to regular, modified or alternative work. The employer benefits by returning an employee to work and avoiding the need to provide a Vocational Rehabilitation program which could range in cost anywhere from \$16,000.00 to \$30,000.00.

For injured employees with dates of injury which predate 1/1/03, the Labor Code sections discussed below, mandate the need for a Temporary Modified Return to Work Coordinator.

Labor Code § 46361 Labor Code § 4635 - 4656 were repealed by AB 227. However, the revision of Labor Code Section 139.5 requires the application of these statutes for claims with dates of injury that predate 1/1/04.

Once a treating physician declares an injured employee to be permanent and stationary and imposes work restrictions which prevent the injured employee from returning to his usual and customary occupation, rendering him a Qualified Injured Worker or entitling him the Vocational Rehabilitation benefits, Labor Code § 4636(d)(1) requires that the employee investigate the availability of modified or alternative work. The Labor Code requires the employer to provide the injured worker with information regarding the employer's ability to provide modified/alternative work - immediately (within ten days) of receipt of the treating doctor's final report. Labor Code § 4636(d) provides that vocational rehabilitation benefits are not owed if modified or alternative employment as identified and offered to the employee within ten days of the physicians final report.

Labor Code § 4636(d)(1) requires employers to promptly notify an injured worker as to the availability of alternative/modified work when the treating doctor's report reflects an inability of the injured worker to return to work.

Labor Code § 4638

Labor Code § 4638 anticipates the exploration of the available of alternative or modified work prior to the commencement of vocational rehabilitation services. And finally, Labor Code § 4634(a)(5) provides for termination of future potential liability for rehabilitation services where the employer offers appropriate modified or alternative work. Essentially, the employer's liability for vocational rehabilitation benefits terminates when the employer offers and the employee accepts or rejects appropriate modified or alternative work.

Labor Code § 139.47, 139.48 and 139.49

Effective 7/1/04 the Return to Work Program/Return to Work Fund was mandated by the Administrative Director and is referenced in Labor Code § 139.47, 139.48 and 139.49. The Director of Industrial Relations is required to establish and maintain a program to encourage, facilitate and educate employers to provide early and sustained return to work after occupational injury or illness. This reflects the intent of the Labor Code to encourage employers to offer employees opportunities to return to alternative or modified work.

Labor Code § 4658, - effective 4/19/04

Labor Code § 4659 provides for a reduction in the employer's liability for permanent disability if the employer offers an employee an opportunity to return to regular, modified or alternative work for a period of at least 12 months. If the employer is able to return an employee to regular, modified or alternative work within 60 days of the determination of disability, the employer's liability for the payment of permanent disability benefits is reduced by 15%. The Temporary Modified Return to Work Coordinator works with Human Resources to search County-wide for alternative or modified employment and to facilitate the return to work for these employees. Conversely, if the employer fails to offer an opportunity to return to regular, alternative or modified work, the employer's liability is increased by 15%.

Labor Code § 4658 offers the opportunity to limit and reduce the County's ever-increasing workers' compensation costs, by avoiding exposure for the provision of vocational rehabilitation benefits and decreasing the County's exposure for permanent disability benefits.

DMD:jls

County of Santa Clara


Employee Services Agency

County Government Center, East Wing
70 West Hedding Street, 8th Floor
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(408) 299-5990 FAX 993-0579



October 25, 2004

To: Roger Mialocq, Management Audit Division Manager
Jeff Segol, Management Audit Division Supervisor

From: 
Leode G. Franklin, Deputy County Executive

Subject: Response to Mandate Study – Risk Management (BU 132)

We are in receipt of the draft Mandate Study, forwarded to Risk Management on Thursday, October 21, 204 and have the following comments:

Please reference:

Section 4 – Administer Benefits to Injured Employees

The footnote "Maximum workload per contract with third-party adjuster" does not display which county this refers to.

The study recommends that Workers' Compensation achieve the same productivity level as Orange County, which has a pending count of 225 claims per adjuster. We do not believe that 225 is an appropriate level for a Workers' Compensation adjuster and also do not believe that Orange County has the same complexity of cases as Santa Clara County. For example, Orange County does not handle cases for a Fire District. Per our phone conversation with Orange County, they usually have a pending of 160 and follow the California Association of Counties Excess Insurance Authority (CSAC-EIA) guideline. They currently have several vacancies which could make their pending slightly higher. In addition, the County purchases excess workers' compensation insurance through the CSAC-EIA which requires that the County maintain a workload no higher than 175 and recommends that each adjuster handle 150 cases. If the County were unable to purchase insurance through the CSAC-EIA, the probable cost would be up to \$2.4 million. We presently spend \$1.2 million per year.

Section 5 - Provide Workers' Compensation Training County Wide.

The first sentence in the second paragraph should be changed as follow:

"In addition, the \$55,000 cost of the annual Safety Seminar was deleted from the OSEC budget in FY2004-05 and absorbed by the Workers' Compensation Division. The same is true with the annual Wellness Fair."

Section 7 – Job Placement for Injured Workers

The Senior Management Analyst in Workers' Compensation provides 50 percent of her time for Unemployment Insurance Benefits and 50 percent of her time for the Return to Work Program, both of which are mandated. This position provides guidance to ESA Human Resources with respect to Americans with Disability Act (ADA) accommodations, which are required by state and federal law. The position includes responsibility to interpret medical instructions for the injured employee and assists in the injured employee's job placement. I understand County Counsel is confirming with you that these duties are mandated.

Section 9- Administer Property and Liability Claims

In the table, the correct number for Claims per Adjuster for Santa Clara County is 166, not 196.

Section 12 – Occupational Safety and Environmental Compliance Division

In the first paragraph, please make the following change:

"Section 6401.7 requires a written injury *and illness* prevention program"

Countywide Union/Management Safety Committee

We believe that the most efficient and economical way to comply with state and federal regulations in through the Safety Committee, and we consider it mandated.

Although the Management Audit staff made no recommendations regarding staffing in this study, they did report that based on comparison to other counties, OSEC staffing was 1.5 positions greater than the minimum mandatory level.

We do not believe that the 0.5 environmental position in OSEC is discretionary. There are departments in the County other than those with in-house environmental staff;

these departments can also experience environmental issues. In addition, there are many environmental compliance issues that have Countywide implications, such as perchlorates, mercury, indoor air quality, cancer clusters and disease exposure. Without some centralized environmental support, there would be no staff to respond to environmental mandates on a County-wide basis.

OSEC supervises the County's compliance with a number of federal and state regulations related to environmental issues. If the 0.5 FTE for environmental issues is deleted, only departments with in-house staff will be supervised with respect to their compliance with these regulations.

The Mandate Report advises that if the County were to match Orange County, one additional OSEC position, a Senior Occupational Safety Specialist, could be determined to be a discretionary expenditure. We do not agree. It has been noted that Orange County intends to increase its staffing to a more appropriate level and we, therefore, do not feel that this is an appropriate comparison.

cc: Janet Moody, Risk Management Director
Sheila Mohan, ESA Financial and Administrative Services Manager

135 Fleet Management

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Non-Mandated	5	18,818,119	94%	9,664,171	51%	44.0	92%
Mandated	0	0	0%	0	0%	0.0	0%
Admin/Support	-	<u>1,220,375</u>	<u>6%</u>	<u>626,732</u>	<u>51%</u>	<u>4.0</u>	<u>8%</u>
Total	<u>5</u>	<u>20,038,494</u>	<u>100%</u>	<u>10,290,903</u>	<u>51%</u>	<u>48.0</u>	<u>100%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=percent of total staffing

Departmental Description

The Fleet Management Division of the Facilities and Fleet Department provides vehicles, fuel and maintenance services to all County departments, including Roads and Airports. Fleet Management maintains approximately 2,400 County vehicles that are either assigned to specific departments and charged through an internal service rate structure, or held in the County pool and charged to users on a daily basis. The Division, which operates as an internal service fund, has an annual budget of approximately \$20.0 million and includes 48.0 authorized positions. Of this amount, Fleet Management receives reimbursement totaling approximately \$9,747,591 from non-County and non-General Fund sources. Therefore, the General Fund subsidy of Fleet Management amounts to approximately 51 percent of its costs.

The services performed by Fleet Management are not mandated by Federal or State laws and regulations or County ordinance, but in most instances support County functions and programs that are mandated. These services include procuring vehicles, auto parts and gasoline, evaluating performance of alternately-fueled vehicles for the county fleet and actively promoting environmental-friendly measures, such as the County Van Pool Program and procurement of alternately fueled vehicles. Fleet

Management staff perform vehicle safety assessments whenever vehicles are in the garage for service, as well as twice annually, based on age, miles, and or condition of the vehicle. Fleet Management staff installs emergency equipment on vehicles, such as security cages, light bars, sirens, radios, computers, decals, and gun racks for law enforcement vehicles. Fleet Management also prepares vehicles for disposal through public auction or salvages parts from unrepairable vehicles to maximize the County's return on investment. Additionally, Fleet Management generates income by providing contract maintenance, paint and body repair, and fuel and emergency vehicle equipment installation for outside governmental agencies, including all non-revenue (non-bus vehicles for Valley Transit Authority).

Although the County is not mandated by law to have a separate Fleet Management function, certain County services, including the Sheriff's mandated law enforcement, mandated maintenance functions provided by the Department of Roads and Airports, and the maintenance and patrol of County parks, require County-owned vehicles. Such requirements are often dictated by utilization, geographic and specialized equipment needs of departments (i.e., Sheriff Patrol and prison transportation vehicles). Once County-owned vehicles are provided, the County must meet various laws and regulations related to proper vehicle operation, such as biannual vehicle smoke checks required by the Health and Safety Code and Bureau of Automotive Repair regulations, and commercial vehicle inspections required every 90 days by the Vehicle Code. While each entity operating County-owned vehicles could provide its own vehicle maintenance function, or contract for the work, economies of scale support centralizing this function. Furthermore, during FY 2005-06, Fleet Management provided 1,636 out of 2,400 vehicles and equipment to County departments providing mandated services. Consequently, approximately 68 percent of the maintained vehicles were used by functions or programs within County departments that have been designated as mandated.

FY 2006-07 General Fund Budget by Program/Function

<u>Function</u>	<u>FY 2006-07 Adopted Budget</u>		<u>Departmental Revenue</u>	<u>General Fund Subsidy</u>	<u>Percent</u>
	<u>Amount</u>	<u>Staffing</u>			
<u>Non-Mandated Activities</u>					
01 Fleet Maint & Repair	10,288,815	40.0	5,004,925	5,283,890	51%
02 Fueling Services	4,251,795	2.0	2,068,257	2,183,538	51%
03 Vehicle Procur/Disposal	192,190	2.0	93,490	98,700	51%
04 Depreciation	2,500,000	0.0	1,216,108	1,283,892	51%
05 County-wide Overhead	<u>1,585,319</u>	<u>0.0</u>	<u>771,168</u>	<u>814,151</u>	<u>51%</u>
Total	18,818,119	44.0	9,153,948	9,664,171	51%
<u>Required</u>					
Admin/Support	<u>1,220,375</u>	<u>4.0</u>	<u>593,643</u>	<u>626,732</u>	<u>51%</u>
Total	<u>20,038,494</u>	<u>48.0</u>	<u>9,747,591</u>	<u>10,290,903</u>	<u>51%</u>

Description of Programs and Functions

Administration and Support (REQUIRED): **\$1,220,375**

The Fleet Management Division of the Facilities and Fleet Department includes four administrative and support staff. These positions are responsible for management of the Division, some accounting, customer billing, purchasing, vendor payment and budget preparation functions. In addition, Fleet Management receives other administrative and support services from the Facilities and Fleet Department central administration. These services are provided by the equivalent of three full-time equivalent staff in budget unit 263. Because Fleet Management is able to charge many non-General Fund departments and entities for its services, approximately 49 percent of administrative and support costs are reimbursed from non-General Fund sources. However, in accordance with Government Code Sections 29063 and 29088, the amount of staff and other resources necessary to provide an 'adequate' level of administrative funding is subject to determination by the Board of Supervisors.

NON-MANDATED PROGRAMS AND FUNCTIONS

01 – Fleet Maintenance and Repair (NON-MANDATED): **\$10,288,815**

The Fleet Management function includes 40.0 authorized positions. The services performed by Fleet Management include maintenance and repair of the fleet of approximately 2,400 vehicles. Fleet Management estimates that approximately 68 percent of these vehicles are used by County functions and programs whose services are mandated. Vehicle maintenance and repair services include both routine and emergency repairs. Fleet Management staff perform vehicle safety assessments whenever vehicles are in the garage for service as well as twice annually based on age, miles, and or condition of the vehicle. Fleet Management staff installs emergency equipment on vehicles, such as security cages, light bars, sirens, radios, computers, decals, and gun racks for law enforcement vehicles. Additionally, Fleet Management provides contract maintenance, paint and body repair, and fuel and emergency vehicle equipment installation for outside governmental agencies, including all non-revenue (non-bus vehicles for Valley Transit Authority). The Fleet Maintenance and Repair function receives reimbursement totaling approximately \$5,004,925 from non-County and non-General Fund sources. Therefore, this function is approximately 49 percent reimbursed and 51 percent subsidized by the General Fund.

02 – Fueling Services (NON-MANDATED): **\$4,251,795**

Fleet procures fuel, dispenses and maintains fueling stations for County-wide use. Fleet pays for the bulk of Parks Department fuel requirements and is reimbursed by Parks. The County also provides fuel to outside agencies such as the VTA for their non-revenue generating operations. In addition, the Board of Supervisors has recently signed an agreement to sell fuel to the California Highway Patrol for their operations. Two staff support this function by monitoring weekly market rate for fuel purchases, reporting inventory, monitoring fuel dispensers and tanks. Tracking and evaluating

departments fuel use provides critical information to mandate departments such as the Sheriff who in turn bill outside municipalities for services provided. Fleet communicates departmental miles annually to ESA Risk Management for insurance and Road Tax fund reimbursement purposes.

The County is contractually obligated to provide fuel and fueling services during Emergency Operations to First Responders including County Fire, ambulance providers and other jurisdictions under Mutual Aid agreements.

03 – Vehicle Procurement and Disposal (NON-MANDATED): **\$192,190**

Fleet Management department procures and disposes of vehicles in compliance with the County Fleet Plan and as annually approved by the Board of Supervisors. Each year the department reviews utilization data from County departments and evaluates whether this justifies continued use of Fleet vehicles. This information is presented to OBA and the County Executive. Vehicles are replaced based upon Board approved criteria for mileage, vehicle class to ensure safe operations. Vehicles are disposed of through auction processes. The department evaluates the state of the Fleet daily and makes decisions to repair or dispose of vehicles.

04 – Depreciation (NON-MANDATED): **\$2,500,000**

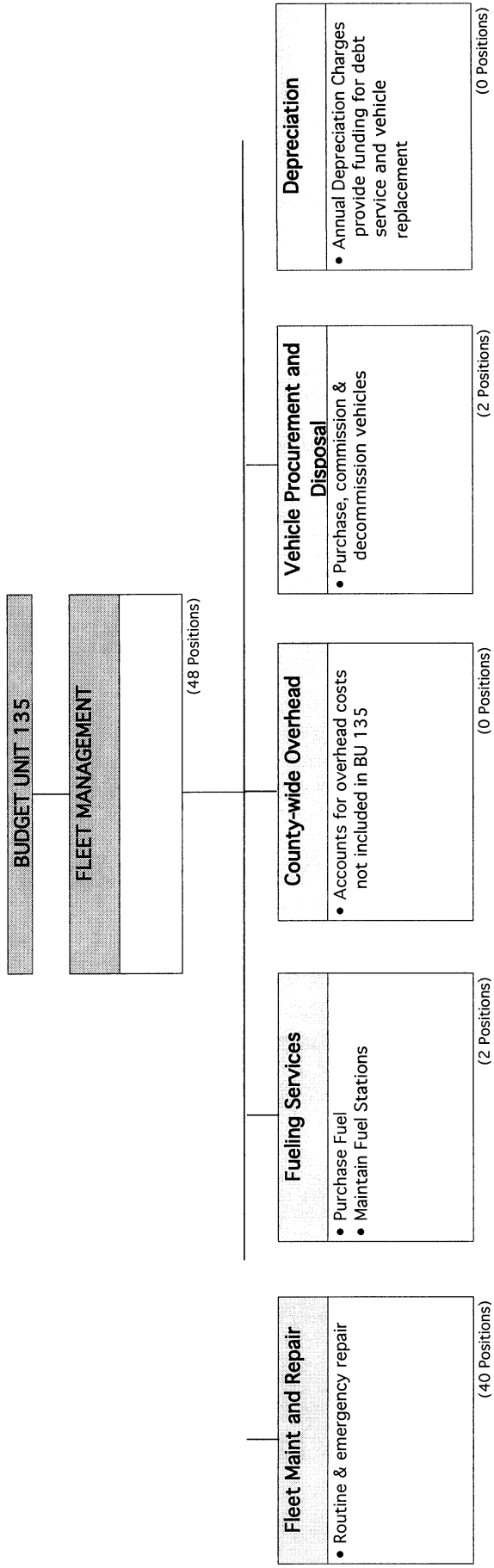
Departmental revenue charged to other County Departments includes vehicle depreciation. Revenue from this source is used to fund debt service and vehicle replacement costs. Actual debt service expenses for FY 2006-07 includes principle and interest payments of approximately \$1.4 million for vehicles that were financed in previous years. No staff are attributed to this function.

05 – County Overhead(NON-MANDATED): **\$1,585,319**

County-wide overhead for FY 2006-07 for BU 135 is approximately \$1.5 million. These charges include BU 263 Facilities charges of \$878,991, BU 118 Procurement charges of \$126,376, BU 110 Controller-Treasurer charges of \$40,689, BU 130-132 Employee Services Agency charges of \$35,674, BU 107 County Executive and Office of Budget and Analysis charges of \$20,845, building use charges of \$14,099, miscellaneous departmental charges of \$17,429. In addition, underestimated prior year charges rolled forward to FY 2006-07 and adjustments amounted to \$451,304.

Total Fleet Management FY 2006-07 Adopted Budget	\$20,038,494
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FACILITIES AND FLEET DEPT - FLEET MANAGEMENT DIVISION



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COUNTY OF SANTA CLARA



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Ann Miller Ravel
COUNTY COUNSEL

Winifred Botha
Robert C. Campbell
Nancy J. Clark
Laurie F. Faulkner
ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Bob Campbell, Assistant County Counsel

A handwritten signature in black ink that reads "Bob Campbell". The signature is written in a cursive style and is positioned to the right of the printed name in the "FROM:" field.

RE: Budget Unit 135 and Budget Unit 263
Mandate Analysis Updates

DATE: August 14, 2006

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to Budget Unit 135, Intergovernmental Services and Budget Unit 263, Facilities Department. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the Department.

Budget Unit 135

1. Legal Basis for the Mandate

Fleet Management is a division of the Facilities & Fleet Department and provides vehicles, fuel, and maintenance services to county departments including Roads & Airports and Parks. They maintain about 2300 vehicles which are either assigned to specific departments and charged through an internal rate structure or kept in a countywide pool and charged to users on a daily basis. Fleet staff procure vehicles (many bought through Procurement department too), auto parts and gas, and get involved in evaluating various alternative energy-powered vehicles.

The county is not mandated to have a Fleet Management division nor to own vehicles, however, many county staff functions require the daily use of automobiles, trucks, or other wheeled vehicles such as: park rangers, sheriff's deputies, building inspectors, construction project managers, airport staff maintenance workers. Instead of owning vehicles, the county could lease and maintain them. Since the county has chosen to own vehicles, it must comply with many laws applicable to maintenance, repairs, smog checks, and other types of regular

Roger Mialocq, Management Audit Manager
Re: Budget Unit 135 and 263, Mandate Analysis Updates
August 14, 2006
Page 2

checks. The vehicles must be properly maintained for the health and safety of county staff and the public which is true whether the county owns or leases them.

There are no changes to the previous mandate analyses concerning Budget Unit 135. However, a draft analysis provided by FAF identifies several new functions or requirements:
Bureau of Automotive Repair mandates:

- Mandated smog check pursuant to Health and Safety Code Section 44019. This is a mandate.
- Right to Repair Act. This is a proposed federal law and is not yet a mandate.

Air Resources Board mandates:

- The requirements of Section 44011 of the Health and Safety Code concerning fleet diesel smoke testing is a mandate.
- The public fleet rule refers to Sections 2022 and 2022.1 of Chapter 1 of Division 3 of Title 13 of the California Code of Regulations (CCR). These ARB regulations have been adopted by the ARB but have not been finally approved by the state Office of Administrative Law. Technically, they are not yet a mandate. However, it does appear that final approval of the regulations will occur prior to July 1, 2007 and at that point, this will become a mandate.
- Designated Underground Storage Tank Operator (UST). Section 2715(b) are part of Chapter 1 of Division 3 of Title 13 of the CCF. This is a mandate.

Environmental Protection Agency mandates:

- The Ultra-Low-Sulphur Diesel, Spill Prevention Program and Labeling Fuel Dispensers requirements are federal mandates found at Part 80 of Title 40 of the Code of Federal Regulations (CFR). These are mandates.

Department of Transportation mandates:

- The Rear Object Detection Systems is a proposed federal rule that is not yet effective. However, the Department of Transportation estimates that the rule will go into effect by late 2006 at which time it will become a mandate.

Occupational Safety and Health Administration mandates:

- The Exposure to Hexavalent Chromium requirements are a mandate. These are found at Section 1910 of Title 29 of the Code of Federal Regulations.

2. Level or Requirement of Mandate, if applicable

Fleet Management services are not mandated, but if the county requires its employees to operate vehicles as an essential job function, it must either lease or own them. As such, they must be maintained and comply with all applicable state and federal laws regarding maintenance, smog checks, fuel and other requirements.

Budget Unit 263

We reviewed the prior mandate analysis memo for this Budget Unit dated September 30, 2003 and updated in 2004 and find only one change in the mandated functions of the department which were addressed. This is also identified in the draft provided by FAF. This concerns the Civic Center Parking Garage and the impact of SB 1732, the Trial Court Funding Act.

1. Legal Basis for the Mandate

Civic Center Parking Garage:

In the prior analyses, the Garage was not considered a mandated function. However, under the provisions of SB 1732, the County remains responsible for providing parking for the Superior Court facilities. This mandate will continue even after the Court facilities pass from County to State ownership.

Fire/Life Safety:

In the draft analysis provided by FAF, no detail was provided concerning the changes in state or federal law affecting this function. As a result, we have not been able to analyze whether this is a mandated function.

Integrated Pest Management Ordinance:

This ordinance is found at Ordinance Code Section B-28. It is a mandate.

Energy mandates:

FAF's draft analysis refers to state regulatory changes to Part 6 of Title 24 of the CCR but provides no citations or other information concerning increased requirements for energy conservation and monitoring. Also referred to are recent Board policies and ordinance changes. Board policies do not meet the definition of a mandate. However, any new requirements in state regulations or County ordinances would constitute a mandate.

Roger Mialocq, Management Audit Manager
Re: Budget Unit 135 and 263, Mandate Analysis Updates
August 14, 2006
Page 4

Legislative mandates:

-SB 1732. In their draft analysis, FAF refers to SB 1732 but provides no additional information. SB 1732 does impose mandated functions and activities on the County in addition to the Garage mandate mentioned earlier.

-AB 1127. The draft analysis notes that AB 1127 allows fines and penalties to be assessed on the County. AB 1127 was enacted in 1999 and provides for the imposition of penalties for violations of employee safety. It is our opinion that this is not a mandate. A mandate is a requirement that the County comply with State or federal law or County ordinance. A fine is imposed for failure to comply with applicable law. A fine is not mandated; it can be avoided by meeting the requirements of the law.

Occupational Safety and Health Administration mandates:

-The draft analysis lists over 2 pages of possible mandates. Generally speaking, OSHA requirements are federal mandates with which the County must comply.

2. Level or Requirement of Mandate, if applicable

Civic Center Parking Garage

Under the provisions of SB 1732, the County is required to provide a certain amount of parking for the Court. That may be a certain percentage of the Garage parking spaces. It also may be possible to provide the parking elsewhere, although that is likely impractical.

SB 1732

SB 1732 imposes a number of functions and activities on the County which require the time and effort of County staff in order to complete them.

c: Ann Ravel, County Counsel
Larry Jinkins, Facilities and Fleet Director
Caroline Judy, Intragovernmental Support Services Manager
Leslie Orta, Deputy County Counsel

After some internal discussion, this Office is not taking the position that contracts are a mandate similar in nature to mandates imposed by state or federal law. For purposes of this study, the definition of what constitutes a "mandate" is, to some extent, a policy decision once you get beyond mandates imposed by state and federal law. Contracts are, for the most part, discretionary but once entered into impose mutual and legal obligations on the parties. Such relationships, though, are not typically considered "mandates". More important for this analysis, perhaps, is not whether leases are defined as mandates or not, but what are the implications to the County of breaking or terminating a lease? As Jeff points out, risk is a key factor and difference between leases and some other contracts. But there are other factors as well, I think that perhaps should be taken into consideration before including some lease costs as available for reduction. Is the space necessary to provide work space for County employees? Where would they be placed if the building became unavailable? Do the employees in the leased space perform a mandated function? If so, is it reasonable to include the cost of the lease as part of the overall costs associated performing the mandate?

Let me know if you have any questions or would like to discuss further.

Bob Campbell
Assistant County Counsel
70 West Hedding Street
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(408) 292-7240 Fax

NOTICE TO RECIPIENT

This communication is intended only for the person to whom it is addressed and may be protected by law. If you receive this in error, any review, use, dissemination distribution, or copying is strictly prohibited. Please notify Administration, Office of the County Counsel of the error immediately at (408) 299-5900 and delete this communication and any attached documents from your system. Thank you for your cooperation.

Jeff Segol
<jeff.segol@cob.sccgov.org>

08/10/2006 11:30 AM

To: Caroline Judy <Caroline.Judy@faf.sccgov.org>
cc: Larry Jinkins <Larry.Jinkins@faf.sccgov.org>, <katherine.harasz@cco.sccgov.org>, <robert.campbell@cco.sccgov.org>
Subject: Re: Contracts as mandates

Caroline:

"Although leases can be terminated, there is a significant body of law that describes the nature of the contractual obligations between the owner of property assets and the tenants of the property."

I need more information on what that significant body of law consists of, and whether in County Counsel's opinion it rises to the same level of requirement as the mandates that State and federal law specifically direct at the County.

My opinion is that the Board's discretion with regard to leases is the same as with other contracts. What may be different is the risk. That's something that the Board could evaluate. For example, our risk of damages on breaking a lease may depend on such items as whether we could sublet the property, whether there is another tenant available to landlord and how soon, what the legal costs are likely to be for the landlord to pursue the damages against us, etc. Instead of making an argument that says breaking a lease is an option, but not a very smart move, you don't even want the Board, or a department that needs to reduce its costs, to have the option. Since any other function that's based on contracts has access to the same argument (except the Management Audit contract, which has an at-will termination provision), I need analysis from the County Counsel of this argument. Under the terms of the assignment from Pete Kutras, County Counsel is the final arbiter of whether something is mandated or not.

I also still need the spreadsheet revised to show BU 263 expenditures on a gross basis, rather than net of reimbursements. Alternatively, if you want to give me the list of reimbursements you receive by department from whom they are received, I can determine which ones can be fully or partially accounted for as revenues, and which must be classified as General Fund subsidy.

Thanks,
Jeff Segol

On 8/10/06 11:18 AM, "Caroline Judy" <Caroline.Judy@faf.sccgov.org> wrote:

> Hi Jeff,
>
> I discussed the contracts as mandates issue with Robert Campbell; he
> initially agreed with me and indicated that he would put something in
> his write-up. At this point I am not sure whether he will do so or not.
>
> The issue is that the mandate study treats all contracts as equal, and
> considers all as non-mandates. This is based upon severability. The
> Board can exercise it's prerogative to not renew a contract, or can
> terminate the contract based upon terms of the agreement.

>
> Not all contracts are the same though. The AACI contract doesn't have
> the same penalties for severability as property leases. The County will
> incur a significant negative fiscal impact for early termination of
> leases. We will not incur the same penalties for terminating a service
> contract. In this respect the Board has more discretion with contracts
> for services.
>
> I make reference to the body of law regarding real property transactions
> but later reference specific codes that Kim Kernan provided. I am not
> sure how County Counsel wants to handle the lease issue.
>
> Caroline Judy
> Manager, Intragovernmental Support Services
> Facilities and Fleet Department
> County of Santa Clara
> 2310 N. First Street, 2nd Floor Suite 200
> San Jose, CA 95131
> 408-993-4784
> 408-993-4747 FAX
> caroline.judy@faf.sccgov.org
> -----Original Message-----
> From: Jeff Segol [mailto:jeff.segol@cob.sccgov.org]
> Sent: Thursday, August 10, 2006 10:27 AM
> To: Caroline Judy; Larry Jenkins
> Subject: Contracts as mandates
>
> FYI, I have given a copy of your write-up to Katherine Harasz, who is
> backstopping Kim Kernan, to address the contracts-are-mandated argument.
> Simply saying there is "a significant body of law" behind this concept,
> without giving any detail, or indicating County Counsel's view of the
> question, doesn't cut it. If they disagree with you, or decline to
> express
> an opinion one way or another, I will be adding it to the write-up,
> along
> with the information that yours is the only department making this
> claim. I
> haven't decided yet whether or not to point out that this argument, if
> accepted, basically means the Board can only do across the board cuts,
> since
> so much of what we do is contractually-based, it won't be possible to
> target
> among departments.
>
> Thanks,
> Jeff Segol
>
>
>
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Ann Miller Ravel
COUNTY COUNSEL

Debra L. Cauble
Laurie F. Faulkner
Susan G. Levenberg
ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Debra L. Cauble, Assistant County Counsel 

RE: General Services Agency Intragovernmental Services Mandate Analysis (BU 135)

DATE: September 30, 2003

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to the Intragovernmental Services Unit of the General Services Agency (BU 135). Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by GSA.

Administrative Services Unit/IS

GSA describes these functions as including management, accounting, information systems, and administrative staff that provide oversight and support for the entire Agency. It also includes certain special programs, primarily relating to fiscal and contract administration.

Legal Basis for Mandate. Based on the descriptions of the functions provided by GSA, we do not find any legally mandated activities applicable to this unit, with one exception. County Ordinance Code Section A34-2 states that there shall be a director of the General Services Agency.

Fleet Management

This unit provides vehicles, fuel, and maintenance services to all County department and

Memo to Management Auditor
Mandate Analysis for GSA Intragovernmental Services
September 30, 2003
Page 2

contracts to maintain certain VTA vehicles. There is no legal mandate that the County operate its own vehicle fleet function.

Printing Services

This unit provides printing and copying services for County departments. There is no legal mandate that the County operate its own printing services.

Utility Program

This unit is responsible for processing most of the County's utility bills and related functions to ensure eligibility for rebates and beneficial rate structures, and to analyze the effectiveness of energy conservation measures. There is no legal mandate for this program.

Records Retention

This unit is responsible for maintaining and administering the Records Retention Center. While many County records are subject to legal mandates concerning retention, there is no legal mandate that the County operate a centralized retention facility.

Mailroom Services

This function includes Countywide pickup and delivery mail services. There is no legal mandate for operation of this function.

Civic Center Parking Garage Administration

There is no legal mandate for this function.

c: Kevin Carruth
Ann Ravel

140 Registrar of Voters

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Mandated	8	11,922,851	84%	6,448,340	54%	38.0	73%
Admin/Support	-	<u>1,914,693</u>	<u>16%</u>	<u>1,250,811</u>	<u>65%</u>	<u>14.0</u>	<u>27%</u>
Total	<u>8</u>	<u>13,837,544</u>	<u>100%</u>	<u>7,699,151</u>	<u>56%</u>	<u>52.0</u>	<u>100%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=percent of total staffing

Departmental Description

The Registrar of Voters Department performs eight elections related functions that are mandated under federal law and State Elections Code Sections 12000 to 29000. The Registrar of Voters also performs administrative and support functions that include management, fiscal, budget and information systems support. The County has 740, 893 registered voters as of July 18, 2006. The Registrar of Voters' FY 2006-07 current level budget amounts to approximately \$13.8 million, of which \$6.1 million is reimbursed and \$7.7 million is a General Fund subsidy. All of the functions performed by the Registrar of Voters are either required or mandated.

FY 2006-07 General Fund Budget by Program/Function

<u>Function</u>	<u>FY 2006-07 Adopted Budget</u>		<u>Departmental Revenue</u>	<u>General Fund Subsidy</u>	<u>Percent</u>
	<u>Amount</u>	<u>Staffing</u>			
<i><u>Mandated Activities</u></i>					
01 Voter Registration	759,426	5.0	207,129	552,297	73%
02 Ballot Layout	3,437,296	5.0	937,501	2,499,795	73%
03 Precinct Mapping	282,932	2.0	112,267	170,665	60%
04 Absentee Processing	1,847,493	3.5	1,685,803	161,690	9%
05 Precinct Ops./ Outreach	2,586,728	9.0	1,309,514	1,277,214	49%
06 Candidate Services	527,449	4.5	150,858	376,591	71%
07 Training/ Staff Dev.	557,642	3.0	378,711	178,931	32%
08 Warehouse Operations	<u>1,923,885</u>	<u>6.0</u>	<u>692,728</u>	<u>1,231,157</u>	<u>64%</u>
Subtotal	11,922,851	38.0	5,474,511	6,448,340	54%
<i><u>Required</u></i>					
Admin/Support	<u>1,914,693</u>	<u>14.0</u>	<u>663,882</u>	<u>1,250,811</u>	<u>65%</u>
Total	<u>13,837,544</u>	<u>52.0</u>	<u>6,138,393</u>	<u>7,699,151</u>	<u>56%</u>

Description of Programs and Functions

Administration and Support (REQUIRED):

\$ 1,914,693

The Registrar of Voters Department includes a Registrar, an Assistant Registrar and 12 administrative and support staff. These positions are responsible for departmental management, and fiscal, budget and information systems support. Because the direct services performed by the Registrar of Voters Office are mandated, the County must also provide adequate administrative oversight and support services to fulfill these mandates. The staffing level and other resources necessary to provide an 'adequate' level of funding are subject to determination by the Board of Supervisors pursuant to Government Code Sections 29063 and 29088. No objective basis was identified to determine if the current budget for administrative and support staffing and related resources exceeds the minimum legal funding level. Costs of this function are offset by revenues of \$663,882, primarily for charges to local jurisdictions for election services.

MANDATED PROGRAMS AND FUNCTIONS

01 - Voter Registration (MANDATED):

\$759,426

The Voter Registration function includes 5.0 authorized positions and is responsible for registering citizens who are qualified to vote. This function also includes maintenance of an accurate register of the County's eligible voters. It examines and verifies signatures on initiatives, recalls and other election petitions. Costs of this function are offset by revenues of \$207,129, primarily for charges to local jurisdictions for election services related to this function.

02 – Ballot Layout (MANDATED): **\$3,437,296**

The Ballot Layout function includes 5.0 authorized positions. It is responsible for creating and translating the Sample Ballot and Voter Information Pamphlets (SBVIPs), e DRE (touch screen) ballots, Optical Scan (paper) ballots, audio ballots for use by vision-impaired voters, and other election materials. All ballots must be prepared in the five federally-mandated languages: English, Spanish, Vietnamese, Chinese, and Tagalog. Costs of this function are offset by revenues of \$937,501 from charges to local jurisdictions for the costs of adding local referenda and initiatives to the ballot.

The FY 2003-04 Mandate Study identified this program area as one in which the County was providing a level of service in excess of the minimum legal requirements by producing all ballot pamphlets in two languages. This practice significantly increased the Department's printing and mailing costs for each election. The Board of Supervisors directed that this issue be examined and more cost effective alternatives be formulated that would continue to meet all legal requirements of the election process. As a result, on August 17, 2004, the Board of Supervisors approved the Department's proposal to revise the process for producing and mailing Voter Language Preferred SBVIPs.

03 – Precinct Mapping (MANDATED): **\$282,932**

The Precinct Mapping function includes 2.0 authorized positions. It is responsible for establishing and updating precinct boundaries for the County, and selling maps to campaigns and other entities. Staff performing this function also determines the number and location of polling sites for each election and provide maps to all Polling Places, Field Inspectors and ROV staff. This function is offset by revenues of \$112,267, primarily from charges to local jurisdictions for precinct consolidations and other actions required for local elections, and miscellaneous charges for sales of precinct maps and other materials.

04 – Absentee Processing (MANDATED): **\$1,847,493**

The Absentee Processing function includes 3.5 authorized positions and is responsible for providing voting materials to voters who are eligible to vote for a particular election, but who are unable to get to the polls on Election Day. A total of 184,360 voters cast absentee ballots in the November 2004 Presidential Election. A total of 89,625 voters cast absentee ballots in the March 2004 Presidential Primary Election; 152,956 in the November 2005 Special Statewide Election; and 122,663 in the June 2006 Gubernatorial Primary Election.

As of July 13, 2006, there were 206,583 registered permanent absentee voters and 10,220 voters in Mail Ballot Precincts. The Department issued over 229,000 Absentee Ballots for the June 2006 Election and 229,767 for the November 2004 Election. It is projected that there will be a total of 350,000 voters who will be receiving voting materials by absentee ballot in the November 2008 Presidential General Election. Costs of this function are offset by revenues of \$1,685,803, primarily State SB90 revenue related to mandated costs of absentee voting, and federal revenues related to the County's adoption of new voting systems.

05 – Precinct Operations and Outreach (MANDATED): 2,586,728

The Precinct Operations and Outreach function includes 9.0 authorized positions. It is responsible for locating and surveying accessible polling sites to meet the new 2006 Secretary of State standards. Staff also recruits, selects, places and schedules training for election officers who work in each polling place. Staff must also recruit Spanish/English, Vietnamese/English, Chinese/English, and Tagalog/English-speaking election officers for more than 500 targeted voting precincts. Staff in this division also organizes voter registration drives. Staff participates in community events to provide outreach and education on the voting process to potential voters and to recruit potential election officers.

The Registrar of Voters Department has been in contact with the U. S. Department of Justice (DOJ), Civil Rights Division. The DOJ has provided specific guidelines for bilingual election officers that required the Department to increase its recruitment by and placement of bilingual election officers for all elections.

A second major cost component of the Precinct Operations and Outreach function is the compensation level of election workers. The rate of compensation of poll workers is established pursuant to Elections Code Section 12310, which delegates the level of compensation to the “governing body of the jurisdiction.” Comparisons of Santa Clara County’s compensation for poll workers relative to other California and Bay Area counties may be assessed as part of Phase II of the mandate study.

Also impacting these costs is the average size of each election precinct in terms of numbers of registered voters. State law permits precincts of up to 1,000 voters per precinct. The closer the County comes to that standard, the fewer polling places must be established, resulting in savings in election workers, election materials and voting machines used in polling places. While precinct size has been an issue cited in the previous mandate studies and other analyses of the Registrar of Voters, it appears to have now been addressed, since an analysis of average precinct size for the June 2006 primary election showed the County’s average precinct size was 916 voters.

Costs of this function are offset by revenues of \$1,309,514, including charges to local jurisdictions for services related to this function, and federal revenues received related to the County’s adoption of new voting systems.

06 – Candidate Services (MANDATED): \$527,449

The Candidate Services function includes 4.5 authorized positions and is responsible for providing assistance to candidates, local agencies and private individuals who wish to file for placement on the ballot. This function also maintains the campaign finance statements required by State law to be filed by candidates, persons supporting or opposing ballots measures and certain other types of committees. Cost of this function is offset by revenues of \$150,858, primarily charges to local jurisdictions.

07 – Training and Staff Development (MANDATED): \$557,642

The Training and Staff Development function includes 3.0 authorized positions and is responsible for scheduling and coordinating the extensive hands-on training of election officers and field inspectors and coordinating the online training program. This

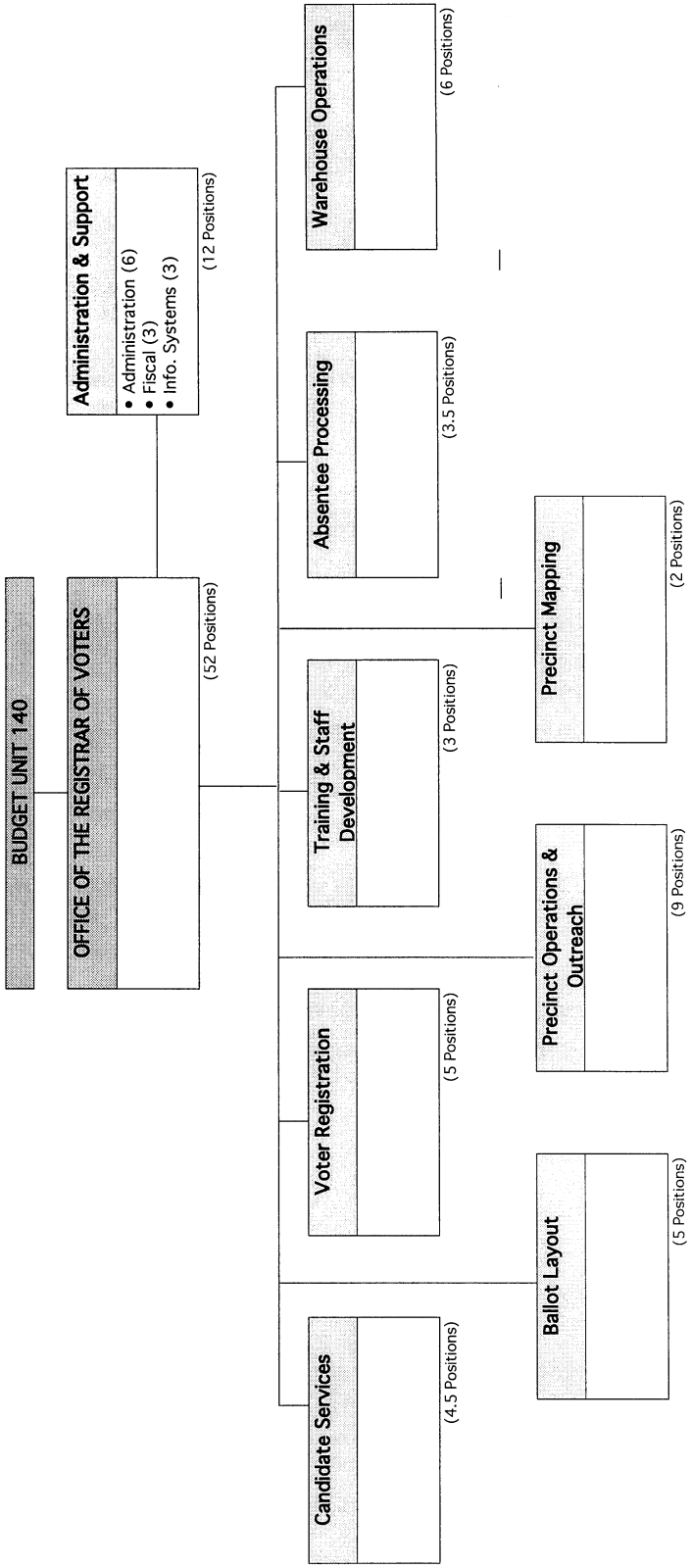
function is also responsible for developing and maintaining/updating procedure manuals, forms and providing technical assistance in the operation of the DRE Voting Machines and VeriVote Printers. Costs of this function are offset by revenues of \$378,711, including charges to local jurisdictions for election services, and federal revenues from the County's adoption of new voting systems.

08 – Warehouse Operations (MANDATED): **\$1,923,885**

The Warehouse Operations function includes 6.0 authorized positions and is responsible for addressing and mailing SBVIPs, preparation, logic and accuracy testing, and maintenance of the electronic voting equipment, delivery and pick-up of electronic machines and equipment to polling sites. The new Voter Accessible Paper Audit Trail VeriVote printers have been recently added to the Division. Staff performing this function also coordinates the purchase, distribution, and collection of other election materials, supplies, and equipment. Costs of this function are offset by revenues of \$692,728, including charges to local jurisdictions for election services, and federal revenues related to the County's adoption of new voting systems.

Total Registrar of Voters FY 2006-07 Adopted Budget	\$13,837,544
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OFFICE OF THE REGISTRAR OF VOTERS



**OFFICE OF THE COUNTY COUNSEL
COUNTY OF SANTA CLARA**

70 West Hedding Street
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**Ann Miller Ravel
COUNTY COUNSEL**

Winifred Botha
Robert C. Campbell
Nancy J. Clark
Laurie F. Faulkner
ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager
FROM: Katie Zoglin, ^{KZ} Deputy County Counsel
RE: Registrar of Voters & Budget Unit Number 140 Mandate Analysis
DATE: August 1, 2006

On September 15, 2003, County Counsel's Office provided you with a Mandate Analysis applicable to Budget Unit 140 regarding the Registrar of Voters. Below are comments or supplemental analyses, as needed, relating to any changes in the mandates that have taken place since County Counsel's last memorandum.

Training and Staff Development

Effective January 1, 2005, California law required that all direct recording electronic ("DRE") voting systems be federally certified and include "an accessible voter verified paper audit trail." Elections Code §19250. As a result, ROV staff had to devote time and resources toward the implementation of this mandate. For example, ROV staff had to ensure that Sequoia secured federal and state certification in time for the June 2006 elections. Additional training was required for staff to learn how to use the new voter verified paper audit trail. Staff in turn provided training to the public and precinct workers on this new equipment.

c: Jesse Durazo
Ann Ravel

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Ann Miller Ravel
COUNTY COUNSEL

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Susan G. Levenberg
ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Lisa Herrick, Deputy County Counsel *Lisa Herrick*

RE: Registrar of Voters Mandate Analysis

DATE: September 15, 2003

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to the Registrar of Voters ("ROV"). Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the ROV.

Administration and Support

1. Legal Basis for Mandate
None.
2. Level or Requirement of Mandate, if Applicable
Not applicable.
3. Other Comments

As the draft report from the Management Audit Division notes, adequate administrative oversight and support services (including departmental management, accounting and budgeting, and information systems) are required to fulfill the mandates of the ROV, since the ROV is required to perform all acts required by general provisions of law and other duties required under the Elections Code.

Memo to Roger Mialocq, Management Audit Manager

Re: Registrar of Voters Mandate Analysis

September 15, 2003

Page 2 of 7

Voter Registration

1. **Legal Basis for Mandate**
Elections Code Sections 2101-2209, 6003, 6101, 6106-6107, 6143, 6343, 6360-6405, 6420, 6523, 6581-6582, 6584-6485, 6596, 6621, 6781-6785, 6795, 8024, 8027, 8061, 8081, 8084, 8106, 8224, 8401, 8403, 9030-9033, 9114-9115, 9211, 9266-9267, 9308-9309, 9339-9340, 9404-9405, 9408, 9503-9504, 9602-9603, 10221, 11104-11107, 11222, 11224-11227, 11303, 11381, 14310-14311, 15302, 15350, 17000, 17200, 17278, 17300, 17400, 20107, 20510, 20540.
2. **Level or Requirement of Mandate, if Applicable**
No minimum levels are specified.
3. **Other Comments**
None.

Ballot Layout

1. **Legal Basis for Mandate**
Federal Voting Rights Act.
Elections Code Sections 2103, 12303, 13000-13317, 14111, 14201.
2. **Level or Requirement of Mandate, if Applicable**
No minimum levels are specified.
3. **Other Comments**
The Federal Voting Rights Act requires bilingual voter materials be made available if 5% or more than 10,000 eligible voters are of a language minority and are Limited English Proficient. Since the 2000 Census, the ROV in Santa Clara County must provide oral language assistance and voting materials in Spanish, Vietnamese, Chinese, and Tagalog.

Since approximately 1994, we understand that the ROV implemented a policy adopted by the of Board of Supervisors of distributing English/Spanish ballots to every registered voter. We also understand that the ROV implemented another Board policy of providing English/Vietnamese and English/Chinese sample ballots to voters depending on the voter's birthplace (Viet Nam, Hong Kong, or China) or as requested.

Memo to Roger Mialocq, Management Audit Manager
Re: Registrar of Voters Mandate Analysis
September 15, 2003
Page 3 of 7

The draft report from the Management Audit Division states that most of the English/Spanish voter pamphlets could have been produced in English only if the ROV had obtained information from voters designating a preference for English only materials when registering or when signing the roster-index when voting. Based on this assumption, the Management Audit Division concludes that the ROV could substantially reduce printing and mailing costs for two primary elections. We understand that the ROV, in printing English/Spanish voter pamphlets, has done so based on the Board's policy decisions described above. To the extent the Board makes different policy decisions, the ROV will proceed accordingly.

The draft report from the Management Audit Division also assumes that the ROV will conduct two primary elections this fiscal year. We note that legislation that would mandate a second primary election this fiscal year (SB 430) has not yet been (and may not be) signed into law.

Precinct Mapping

1. Legal Basis for Mandate
Elections Code Sections 12200-12262.
2. Level or Requirement of Mandate, if Applicable
No minimum levels are specified.
3. Other Comments
None.

Absentee Processing

1. Legal Basis for Mandate
Elections Code Sections 3000-3501, 4000-4108.
2. Level or Requirement of Mandate, if Applicable
No minimum levels are specified.
3. Other Comments
None.

Memo to Roger Mialocq, Management Audit Manager
Re: Registrar of Voters Mandate Analysis
September 15, 2003
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Precinct Operations and Outreach

1. Legal Basis for Mandate
Elections Code Sections 12280-12288, 12300-12327, 14100-14113, 14200, 14400-14443.
2. Level or Requirement of Mandate, if Applicable
No minimum levels are specified.

3. Other Comments

The draft report from the Management Audit Division states that the number of precincts in the County could be reduced pursuant to Elections Code Section 12261, and consequently, the number of poll workers and polling places could be reduced, resulting in a cost savings.

Precincts may be combined based on ballot type. Santa Clara County is comprised of 15 cities, 7 assembly districts, 4 senate districts, and 4 congressional districts. In addition, the County has 35 school districts and 19 special districts. Elections Code Section 12222 prevents establishing a precinct so that its boundary crosses the boundary of any supervisorial district, congressional district, senatorial district, assembly district, board of equalization district, judicial district, incorporated city, ward, or city council district. The ROV considers all of these boundaries in establishing precincts.

Also, the United States Department of Justice mandates establishing bilingual precincts and recruiting poll workers as well as providing all voting, training, and outreach materials in the targeted languages. The ROV identifies its precincts and employs four bilingual Election Specialists to meet the U.S. DOJ requirements. In addition, the Americans with Disabilities Act sets accessibility standards for polling places. In order to meet these specifications, the Precinct Operations Division staff surveys and evaluates polling places for compliance and provides supplemental supplies such as ramps and wedges at polling places in order to achieve accessibility.

The draft report from the Management Audit Division also states that the County pays its poll workers the highest stipend in the State of all counties surveyed, and suggests that County employees should be assigned to serve as poll workers. Local ordinance sets the rate of pay for poll workers and polling places (which, according to the ROV is actually much lower than other counties). To the extent the Board of Supervisors amends or repeals the local ordinance setting the rate of pay for poll workers and polling places, the ROV will proceed accordingly. And, local ordinance already allows for the recruitment of County workers to participate as Election Officers on Election Day.

Memo to Roger Mialocq, Management Audit Manager
Re: Registrar of Voters Mandate Analysis
September 15, 2003
Page 5 of 7

Candidate Services

1. **Legal Basis for Mandate**
 Elections Code Sections 12, 10002, 12000-12113.
 County of Santa Clara Ordinance NS 300-611.
 County of Santa Clara Charter Sections 201-202, 208.
 Education Code, including but not limited to Sections 1000-1017, 5000-5442, 15120-15126, 15340-15349.2, 18510-18518, 19510-19515, 19700-19702, 35700-35712.
 Government Code, including but not limited to Sections 34050, 34870-34884, 34900-34906, 60120-60127, 61110-61119, 61400-61410, 61450-61451.
 Health and Safety Code, including but not limited to Sections 4710-4718, 4970-4979, 6560-6563, 13840-13857, 13960-13970, 20101-20113, 32000-32003, 32200-32205.
 Public Utility Code, including but not limited to Sections 11850-11855, 13101-13107, 22731-22750, 26401-26406, 26651-26658, 27451-27456, 27501-27509, 29700-29705, 29750-29757, 40225-40237, 40500-40507, 50500-50507, 70225-70237, 80000-80007, 92000-92008, 97000-97007, 98400-98407, 105330-105337.
 Water Code, including but not limited to Sections 30730-30735, 35003-35006, 35100-35111, 39925-39933, 45100-45103, 50700-50707, 50730-50732, 60080-60083, 60210-60217, 71120-71135, 71461-71463.
 California Constitution, including but not limited to Article 2.
2. **Level or Requirement of Mandate, if Applicable**
 No minimum levels are specified.
3. **Other Comments**
 None.

Training and Staff Development

1. **Legal Basis for Mandate**
 Elections Code Sections 12309, 12223, 19340.
2. **Level or Requirement of Mandate, if Applicable**
 No minimum levels are specified.
3. **Other Comments**
 None.

Memo to Roger Mialocq, Management Audit Manager
Re: Registrar of Voters Mandate Analysis
September 15, 2003
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Warehouse Operations

1. **Legal Basis for Mandate**
Federal Voting Rights Act of 1965.
Elections Code Sections 13284-13289, 14100-14203, 17000-17506.
2. **Level or Requirement of Mandate, if Applicable**
No minimum levels are specified.

3. **Other Comments**

As discussed above, based on certain policy decisions by the Board of Supervisors the ROV to provided sample ballots to voters in bilingual format (English/Spanish, English/Vietnamese, English/Chinese) based upon voter request and/or birthplace (voters born in Viet Nam, Hong Kong, or China). To the extent the Board makes different policy decisions, the ROV will proceed accordingly.

New Voting System

1. **Legal Basis for Mandate**
In February, 2002, the Hon. Stephen V. Wilson, Judge of the United States District Court, Central District of California, ordered that nine California counties, including the County of Santa Clara, replace their punch card voting systems by March 2, 2004.
2. **Level or Requirement of Mandate, if Applicable**
The County of Santa Clara must replace its entire punch card voting system with a direct recording equipment (DRE) voting system.
3. **Other Comments**
As discussed above, the draft report from the Management Audit Division states that the number of precincts in the County could be reduced pursuant to Elections Code Section 12261, and consequently, the number of DRE voting machines to be purchased could be reduced. We note that on April 29, 2003, the County entered into a contract with Sequoia Voting Systems, Inc. to purchase 5,500 DRE voting machines and that the County is bound by the terms of the contract to purchase those DRE voting machines.

Memo to Roger Mialocq, Management Audit Manager

Re: Registrar of Voters Mandate Analysis

September 15, 2003

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We also note that the County will receive some funds to help defray the cost of the DRE voting machines from Proposition 41 as well as the Help America Vote Act.

c: Jesse Durazo, Registrar of Voters

Ann Ravel

County of Santa Clara

Registrar of Voters

1555 Berger Drive, Bldg 2

San Jose, CA 95112


Mailing Address: PO Box 1147, San Jose, CA 95108

408-299-VOTE (8683) FAX 408-998-7314

www.sccvote.org



October 21, 2004

TO: Roger Mialocq, Management Audit Division
FROM: Jesse Durazo, Registrar of Voters 
SUBJECT: Response to Mandate Report

With regard to the number of registered voters, as of 10/20/04, there were 855,000 voters in our system. However, we have another 15,000 voter registration cards that were received as of the 15-day close on October 18 which have not been input. Thus, the projected number of voters for the November 2004 election is 870,000.

With regard to the compensation level of election workers, Santa Clara County, at a cost of \$415 per precinct is 38% higher than Orange County's \$300. San Francisco County's \$491 and San Mateo County's \$440 are 64% and 47% respectively higher than Orange County.

The Registrar of Voters Office already has difficulty recruiting election officers for each election. To reduce the election officers' compensation to the level of Orange County's pay will tremendously impact the conduct of elections in Santa Clara County.

In addition, your statement that the County would reduce cost by utilizing county employees as election officers is incorrect. County employees who "volunteer" to work as election officers are paid the corresponding stipend (whether inspector or clerk) in addition to their regular salary for the day.

If you have any further questions, please contact Virginia Lee at 282-3011.



145 Information Services Department

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount*1</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>	<u>Amount</u>	<u>%*4</u>
Non-Mandated	6	11,653,498	28%	9,174,599	79%	56.6	28%
Mandated	4	24,618,483	59%	21,871,266	89%	126.9	62%
Admin/Support	-	<u>5,288,075</u>	<u>13%</u>	<u>5,229,306</u>	<u>99%</u>	<u>20.0</u>	<u>10%</u>
Total	<u>10</u>	<u>41,560,056</u>	<u>100%</u>	<u>36,275,171</u>	<u>87%</u>	<u>203.5</u>	<u>100%</u>

*1= Total expenditures were adjusted to exclude the duplicated costs within BU 145 for postage, printing, voice communication, and data processing services. Total expenditures in BRASS = \$46,127,419.

*2=percent of total adopted budget; *3=percent of adopted budget category; *4=percent of total staffing

Departmental Description

The Information Services Department (ISD) performs a countywide function of information and technology systems planning, development, support, acquisition and management. It has many County customers who manage and operate administrative and direct services throughout the County organization for the benefit of the County's 1.7 million residents. Some of these programs in turn interface with, and are an integral part of, state and federal information and technology systems throughout the governmental structure.

The primary purpose of ISD is to enhance the efficiency, effectiveness, and economy of the County's employees' business activities through implementation of information systems and technology, which enables their customer departments to meet their own mandated and non-mandated responsibilities. To accomplish this function, ISD has 203.5 coded positions, (31.5 fewer than in 2003 when the previous mandate study was done) or approximately 1.3 percent of the total positions allocated across all County departments. ISD is comprised of 7 specialized divisions, with 24 sub-divisions, 6 of which are funded from the General Fund and 8 that are funded through internal service

funds (ISF). For the purposes of this study, the Department's primary functions were divided into 10 main categories.

FY 2006-07 General Fund Budget by Program/Function

<u>Function</u>	<u>FY 2006-07 Adopted Budget Amount*</u>	<u>Staffing</u>	<u>Non-GF Departmental Revenue</u>	<u>General Fund Subsidy</u>	<u>Percent</u>
<u>Non-Mandated Activities</u>					
01 Data Processing & Voice Communications**	5,531,196	31.1	665,446	4,865,750	88%
02 Geographic Info Svs.	490,103	3.0	-	490,103	100%
03 GIS-Regional Budget Fund	1,181,920	2.0	1,237,323	(55,403)	(5)%
04 Printing Services	1,957,948	11.5	348,445	1,609,503	82%
05 Mail/Retention/Pony	1,889,901	5.0	227,685	1,662,216	88%
06 Enterprise IT Planning	<u>602,430</u>	<u>4.0</u>	=	<u>602,430</u>	<u>100%</u>
Subtotal	11,653,498	56.6	2,478,899	9,174,599	79%
<u>Mandated Activities</u>					
07 Data Processing Voice Communications**	19,743,036	110.9	1,401,380	18,341,656	93%
08 Network Infrastructure	3,277,199	9.0	45,000	3,232,199	99%
09 Crim Just Info Control	1,459,206	6.0	1,300,837	158,369	11%
10 HIPAA Security Officer	<u>139,042</u>	<u>1.0</u>	=	<u>139,042</u>	<u>100%</u>
Subtotal	24,618,483	126.9	2,747,217	21,871,266	89%
<u>Required</u>					
Admin/Support	<u>5,288,075</u>	<u>20.0</u>	<u>58,769</u>	<u>5,229,306</u>	<u>99%</u>
Total	<u>41,560,056</u>	<u>203.5</u>	<u>5,284,885</u>	<u>36,275,171</u>	<u>87%</u>
* Total expenditures were adjusted to exclude the duplicated costs within BU 145 for postage, printing, voice communication, and data process services. Total expenditures reported in BRASS = \$46,127,419.					
**The Data Processing & Voice Communications function was separated in order to reflect the portion of services provided to support non-mandated vs. mandated activities.					

Description of Programs and Functions

Based on legal analysis by the County Counsel's Office, the *basic* functions of ISD are not mandated; however, many of the detailed services ISD provides to County departments may reside within mandated functions located in departments and would therefore be mandated. Specifically, County Counsel's analysis indicates, "the County has no practical choice but to maintain information through electronic systems. Therefore, in a realistic operational sense, of the term, ISD's services could be

characterized as mandated to the extent that they support mandated functions of other departments and agencies.”

It is important to note that although some of the services ISD provides could be characterized as mandated, the County has the ability to obtain those services in alternative ways from ISD or alternative providers. An analysis of the cost effectiveness of alternative approaches to obtaining those services, however, would require in-depth analysis, which is outside the scope of this study.

ISD completed a comprehensive study to determine if each service it provides is within a mandated or non-mandated function performed by the customer. The Department’s analysis was based on the current services it provides to the mandated functions identified during the FY 2003 Mandate Study. If the designation of these functions changes as a result of the 2007-08 Mandate Study, this analysis would need to be modified accordingly.

The mandated services identified include mission critical applications such as Criminal Justice Information Control (CJIC), financial (SAP), Juvenile Records System (JRS), Payroll and the Time Capture systems, and the 911 Dispatch system to name a few. In addition, all of these applications are dependent upon CLARAnet, the internal County communication system, which also is designated as a mandated function by County Counsel.

According to the Department, its analysis indicates that \$20.2 million of its \$25.4 million Internal Service Fund (Fund 74-DP Services) revenue is received from General Fund County customers in support of mandated functions (See ‘Attachment I-Fund 74 Costs Supporting DP Services to GF Mandated Functions’). A detailed summary of the services provided to General Fund and Non-General Fund customers is provided in this report as ‘Attachment II-Fund 74 Costs Supporting DP Services Mandated Functions’.

Additionally, the Voice Communications Division of ISD provides telecommunication support to all County departments, with the exception of HHS & SSA, who maintain their own telecommunications systems. The Department’s analysis shows that \$2.3 million of its \$3.6 million revenue is received by GF departments who have been determined to provide mandated functions in the 2003 Mandate Study (see ‘Attachment III-Fund 74 Costs Supporting Voice Communication Services to GF Mandated Functions’).

Since the initial 2003 study, new laws have required the County to assign an IT Security Officer function to comply with the Federal Health Insurance Portability and Accountability Act of 1996 (HIPAA). This position reports to the CIO and is responsible for all IT security policies, procedures, and compliance including HIPAA requirements.

Administration and Support (REQUIRED):**\$5,288,075**

The Information Services Department includes coded positions for a Chief Information Officer, an Executive Assistant and administrative and support staff. Other central departmental management and support positions are responsible for departmental management, accounting, budget, procurement and personnel support. Because many of the direct services performed by ISD are mandated (due to its support of the County's mandated functions), the County must also provide adequate administrative staff oversight and support services to fulfill these mandates. Staffing and other resources necessary to provide an 'adequate' level of funding is subject to determination by the Board of Supervisors pursuant to Government Code Sections 29063 and 29088.

NON-MANDATED PROGRAMS AND FUNCTIONS**01 Data Processing & Voice Communication Services (NON-MANDATED) \$5,531,196**

Data Processing (DP) and Voice Communication services operate as an Internal Service Fund, charging a variety of rates for the numerous services they perform for Departments carrying out non-mandated and mandated functions. The DP services include a combination of Software Engineers, Database Administrators, LAN Analysts/Specialists, QA Engineers, Systems Software Engineers, etc., in order to provide services to its customers. For any particular function performed by DP, a variety of different services are typically included. The Department estimates that approximately \$5.5 million is included in its FY 2006-07 budget for services that support non-mandated functions in County Departments.

Due to the level of integrated functions within DP services, where one could not function without the other, separating the costs by division within Fund 0074 was not practical due to time constraints for the completion of this study. However, a separate explanation for each division is provided below.

Application Services

The Application Services Division provides departments with specific computer applications designed to address business needs of the departments. The specific computer applications are either acquired or developed by ISD. Application Services also develops enhancements to existing business systems for departments and oversees the operations of systems to ensure their effective and reliable performance. Application Services provides services in the following four areas:

a. E-Gov Oversight – Management oversight and business and technical expertise is provided in the delivery of the County's public and employee portal technology and on-line services. This work includes implementing, maintaining, and enhancing the software programs that support the portals and the business applications that are available on the portals.

b. Financial Systems & New Services – Technical expertise and leadership is provided to implement, maintain and enhance countywide

financial systems. These systems include the PeopleSoft human resource and payroll system, two applications that support countywide time capture for payroll processing, the Paybase warrant system, and the SAP countywide financial system. In addition, this area of Application Services is responsible for working with County agencies and departments to research, prioritize, obtain funding, and implement new countywide technology services such as document management, electronic personnel files, and electronic payment processing.

c. Enterprise & Dept. Systems – Technical and business expertise is provided to support critical operational systems for County agencies and departments.

d. Law & Justice Systems & Planning – Countywide support is provided to the law and justice community including application development, support and enhancements, as well as, detailed business process expertise, training, and user support. This group maintains the Criminal Justice Information Control (CJIC) system, the Juvenile Records System (JRS), and is instrumental in working with the criminal justice community in the development of new applications as well as overall systems and strategic planning. This group is also responsible for providing requirements analysis, system training, user guides and quality assurance reviews for all applications supported by the Application Services Division.

Customer Support and Server Infrastructure:

The Customer Support and Server Infrastructure Services division provides day-to-day management and administration of the desktops, servers, and LAN (Local Area Network) for several County departments, including the Coroner, Office of Emergency Services, and the Office of Pre-Trial Services.

The server staff provides management and administration for servers in customer departments as well as countywide applications. The servers house critical applications, such as the financial and payroll applications, budget applications, the County's Intranet and Internet Portals and Pre Trial Services case management application.

ISD's helpdesk (The TechLink Center) provides first line support for countywide applications, hardware, software, and communication problems that include the critical applications such as Payroll, SAP, Keyboard, E-Gov portals, and GIS, as well as computer virus alerts and emergency response actions.

The Cabling Unit provides project management, design, installation, and support for large Capital Programs cabling projects. This service also supports the connectivity to CLARAnet and Local Area Networks that support critical applications and departmental communications.

Project Support Services / Information Technology Support Services (ITSS)

The Project Support Services function provides database support for many systems, including the critical systems such as CJIC, JRS, Payroll, SAP, and Pretrial Services. In addition, ISD's application quality assurance services to departments in support of County public health and safety related applications, criminal justice, and financial systems, ensure the accuracy of the applications. These services include development, testing, implementation, quality control, maintenance, software updating, security and other services with an emphasis on minimizing administrative overhead and system costs.

Enterprise Data Center Operations

The Enterprise Data Center Operations Division (EDCO) provides mainframe and server support on a 24 -hours per day, 7 days per week basis. Some of the major systems supported include CJIC, JRS, SAP, Payroll, Time Capture systems, Property Tax, and the Registrar of Voters. EDCO supports the redundancy, and fail-over for these critical applications plus more, as well as provides the service to move tape backups of multiple systems to off-site storage for disaster recovery purposes.

Voice Communications

ISD Voice Communications maintains, designs and installs telephone systems and related equipment for County general government and justice agencies. Direct services are provided to approximately 8,000 County employees and to the general public. This organization also provides telephone bill review and payment for many of the larger County facilities such as the Civic Center and Berger Drive campuses. Much of the organization's budget is expended for payments to SBC Pacific Bell, MCI and Verizon for bills on behalf of other County organizations.

Voice Communications has a long-term working arrangement with Capitol Programs to provide telecommunications engineering and technical assistance for remodels and construction of new buildings. ISD Voice Communications also provides other services such as maintenance of public address systems, gate controls, inmate visitation phones and Board of Supervisors chamber phones. A central customer service call-in number is provided to customers and also access to 24 hour-7 days per week Help Desk services and first line support for hardware, software, and communication problems for critical and essential voice communication systems.

02- Geographic Information Services (GIS) (NON-MANDATED): \$490,103

GIS provides geographic data, resources, and technology that is used for public health and safety efforts, emergency planning and response, regulatory services, re-districting, land use planning, natural resources planning and management, and scientific investigations. Users of this resource include the Assessor, Public Health, Sheriff, Law Enforcement agencies, Planning, Parks, District Attorney, cities, utilities and many other private and governmental organizations

03– GIS-Regional Budgetary Fund 0242 (NON-MANDATED): **\$1,181,920**

This fund was established in FY 2005-06 and funded by external public agencies for the specific purpose of the maintaining and updating the County's basemap for regional purposes to support public health and safety, emergency preparedness and response, regulatory services, and multiple planning, maintenance and operational services to all the entities. There are no GF costs associated with this function.

04– Printing Services - Fund 0077 (NON-MANDATED): **\$1,957,948**

The Printing Services function includes 12.5 authorized positions and supports printing and copying services. The Internal Service Fund operation is funded by approximately 82 percent from General Fund departments and 18 percent from non-General Fund departments. The Printing Services staff are responsible for assisting clients through all stages of the document's creation and production, including: job planning, graphic design, and a variety of printing and bindery services. In-house production methods include a full service Document Production Center and two Quick Copy Centers. A production graphic technician performs graphic design functions and supports the entire Digital Printing and Offset Printing area by performing numerous pre-press functions.

Printing Services maintains historical records of each customer's printing requirements. Upon request, staff can retrieve a document from the existing library and reprint it, or a new document can be created that meets new requirements. The Printing Services staff develop paper, printing and color standards for County documents in conjunction with the County Design Coordinator. They also maintain a library of County logos and monitor their proper use on letterheads, forms and County publications. The unit stores original artwork for official forms and frequently used documents in addition to maintaining a history of department orders and revisions. While some of the printed documents are publicly available, there are also many proprietary documents. The printing unit serves many agencies such as the Public Defender, District Attorney, Registrar of Voters, Tax Collector, Assessors Office, and Health and Hospitals, all of which have numerous documents that are confidential.

05– Mailroom-Postage /Records/Messenger Driver (NON-MANDATED): **\$1,889,901**

The General Fund division of Printing Services is comprised of a staff of four who operate the mailroom at the 70 West Hedding Administration building and a staff of one who operates the Record Retention Center at 1553 Berger Drive.

The County Mailroom processed nearly three million pieces of US mail and packages last year, taking advantage of discount rates whenever possible. Total postage metered by the mailroom is approximately \$1.6 million per year and Messenger Drivers transport an average of 1,100 Pony envelopes each day. Three drivers currently handle five different routes. A dedicated run is made to the US Post Office at 8:00 am each morning to facilitate same day US Mail distribution to County Civic Center Buildings. Waiting for the Post Office to bring mail to 70 West Hedding would often delay the receipt of time sensitive documents to agencies performing mandated functions.

During FY2005-06, ISD relocated the Records Retention Center from a leased facility to the owned County Service Center at Berger Drive Building 1. Approximately 37,000

boxes of archived records are presently being stored and tracked at very low cost to various County agencies. Agencies such as the District Attorney, Public Defender, Registrar of Voters, and County Counsel rely heavily on ISD's storage and retrieval services. The Department monitors the destruction dates of these records and confirms destruction with the responsible agencies.

06– Enterprise IT Planning & Information Services (NON-MANDATED): \$602,430
The Enterprise IT Planning and Information Services Division provides services in two main areas: 1) Business Analysis and Portfolio Management and 2) Enterprise Architecture and Standards.

Business Analysis and Portfolio Management Services manages the County's IT Project Portfolio, assists departments with project guidelines and templates, reviews and reports on IT project status, and submits funding requests to the County Executive's Office and Finance and Government Operations Committee. This function also develops E-Government Policies and Information Architecture, which includes identifying the information that will be presented and determining how it is organized and accessed on the portals. The Business Analysis aspects of this function include analysis, requirements development, training, and RFP assistance for new applications. Additionally this unit coordinates customer/stakeholder feedback through advisory groups, focus groups, and product forums.

Enterprise Architecture and Standards Services plans and develops enterprise shared infrastructure, such as public and employee portals, and products, such as search engines, document management systems, statistical reporting products, and email subscription services to be shared with the enterprise. This function selects and implements the tools and methodology to support the shared infrastructure and services. Also, Enterprise Architecture and Standards Services transitions tools and support to the operational services within ISD.

MANDATED PROGRAMS AND FUNCTIONS

07– Data Processing & Voice Communication Services (MANDATED): \$19,743,036
As indicated above, Data Processing (DP) and Voice Communication services operate as an Internal Service Fund, charging a variety of rates for the numerous services they perform for Departments carrying out non-mandated and mandated functions. The DP services include a combination of Software Engineers, Database Administrators, LAN Analysts/Specialists, QA Engineers, Systems Software Engineers, etc., in order to provide services to its customers. For any particular function performed by DP a variety of different services are typically included. The Department estimates that approximately \$19.7 million is included in its FY 2006-07 budget for services that support *mandated* functions in County Departments.

For instance, in order to support the CJIC application, a mandated function, skills from several divisions in ISD are required. For example, Software Engineers write the code that enable CJIC to perform its mandated functions; Database Administrators manage the data structure and integrity of CJIC; Data Center operators ensure the application is

available at all times; and CLARAnet allows access to CJIC for both internal and external customers. The primary purpose of ISD being a 24x7 operation, with the level of security it maintains is all directly related to the CJIC application.

Due to the level of integrated functions within DP services, where one could not function without the other, separating the costs by division within Fund 0074 was not practical due to time constraints for the completion of this study. However, a separate explanation for each division is provided earlier in this section, under the non-mandated component of Data Processing & Voice Communication Services.

08– Network Infrastructure (CLARAnet) (MANDATED): \$3,277,199

The ISD CLARAnet provides for the design, administration, implementation, operation and maintenance of the County data network. The CLARAnet network is required for the use and maintenance of the County payroll (PeopleSoft), financial (SAP), criminal justice (CJIC), and Juvenile Records (JRS) computer systems, as well as many essential departmental systems that pertain to mandated public safety, health and welfare services, such as the 911 Dispatch system. CLARAnet provides County departments and employees all of their access to the Internet and also all inter-department and Internet email services. CLARAnet provides day-to-day management and administration of public access to County services through the County's Internet Portal and email systems. CLARAnet provides a centralized IT security system for the County and the notification and coordination of department operational responders to IT security incidents. Given that all of these applications are dependent upon CLARAnet it is designated as a mandated function.

CLARAnet also provides and maintains network connections to the State of California data centers, local law enforcement IT systems such as the Automated Fingerprint and Mug Shot Systems, and network connections to other non-County entities such as vendors that support the County infrastructure. Users include the operations of the Sheriff's Department, City Police Agencies, District Attorney, Public Defender, Probation Department, Public Health Department, Valley Medical Center, Environmental Health Department, County Communications, Facilities and Fleet, and many others.

09– Criminal Justice Information Control (CJIC) (MANDATED): \$1,459,206

The Criminal Justice Information Control function (CJIC) was originated by the County in the early 1980s and is the primary information resource for law enforcement in the County. The CJIC system contains criminal history information on hundreds of thousands of individuals and continuously provides the current status of all persons with open cases or who are currently serving sentences. The CJIC system is used by all city police, college and university police, State and federal agencies, the District Attorney, Public Defender, Department of Correction, Probation, Superior Court, and many other agencies. In FY 2001-02, approximately 52 million queries were made of the CJIC system by its users.

Although this function is mandated due to various legal requirements imposed on the County departments that work within the nation's criminal justice system, the County is not mandated to provide this service to outside law enforcement agencies without

charge. It has been County policy to provide all of the city police agencies within the County access and use of this system at no cost. For FY 2001-02, the General Fund paid \$618,255 of CJIC costs incurred as a result of usage by the 11 city police agencies in the County.

The costs represented in this item are incurred in support of administrative personnel only. The total actual costs for CJIC, which are funded in Fund 0074-DP Services, was over \$8 million in FY 2005-06. As of FY 2005-06, the six staff funded in this division now report to the Application Services division manager.

10-HIPAA Security Officer Function (MANDATED): \$139,042

Pursuant to the Federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), counties must designate a security official who is responsible for the development and implementation of policies and procedures related to workforce security. The County designated the County CIO as its "security official." According to County Counsel, the County could appoint a different person/entity to act as the requisite security official; however, since it must appoint a security officer, in this sense, ISD's function in this role may be considered a "mandate."

Under this federal requirement, the security official must implement policies and procedures to ensure that all members of its workforce have appropriate access to electronic protected health information (e-PHI) and prevent those workforce members who do not have access from obtaining access to electronic protected health information.

The HIPAA Security Officer is responsible for the coordination and oversight of the County's IT and HIPAA Security Program, that provides policy, procedures, best practices, and department plan development and mitigation process to ensure compliance with Board approved policies and HIPAA regulations. The HIPAA Security Officer also coordinates the annual IT Security Assessment and Disaster Recovery Planning for identified critical and essential applications and technology infrastructure.

Total Information Services Department FY 2006-07 Adopted Budget	\$41,560,056
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Attachment I
Fund 74 Costs Supporting DP Services to GF Mandated Functions:

The information below lists ISD's GF customer departments DP budgets/costs (GL Acct 5255650) to support mandated functions, based on a comparison to the 2003 Mandate Study, list of mandated functions.

Department	Budget Unit/Fund	Total Amount of DP Support
County Executive	107/0001	\$ 240,114
Controller-Treasurer	110/0001	\$ 3,873,231
Tax Collector	112/0001	\$ 1,976,427
Clerk-Recorder	114/0001	\$ 14,009
Assessor	115/0001	\$ 309,657
Special Programs - County Executive	119/0001	\$ 5,148,212
County Counsel	120/0001	\$ 322,472
Employee Services	130/0001	\$ 1,216,582
Risk Management	132/0001	\$ 81,243
Registrar Of Voters	140/0001	\$ 126,832
Information Services Department	145/0001	\$ 3,144,049
County Communications	190/0001	\$ 524,179
District Attorney	202/0001	\$ 73,392
District Attorney	203/0001	\$ 1,284
Public Defender	204/0001	\$ 111,141
Sheriff	230/0001	\$ 95,160
Dept. Of Correction	240/0001	\$ 136,147
Probation	246/0001	\$ 1,742,822
Planning	260/0001	\$ 2,325
Agriculture	262/0001	\$ 232,547
Facilities	263/0001	\$ 1,834
Sheriff/Coroner	293/0001	\$ 89,433
Public Health	410/0001	\$ 4,404
Custody Health	414/0001	\$ 261,875
SSA	501/0001	\$ 107,827
HHS	921/0060	\$ 359,858
Total		\$ 20,197,056

Attachment II
BU145 - FUND 0074
Fund 74 Costs Supporting DP Services Mandated Functions:

This table is a comprehensive list of current DP support provided to all DP customers, performing mandated functions based on the 2003 Mandate Study, list of mandated functions, for both Non-GF and GF.

Budget Unit/Fund	Department	Mandated Function – Related IT Services	Cost
107/0001	County Executive	<u>Office of Budget & Analysis - CC1220</u> ➤ Active Directory Support ➤ Lotus Notes – License Fee/Support ➤ LAN & Server Support	\$179,527
		<u>Office of Emergency Services – CC2530</u> ➤ Lotus Notes – License Fee/Support ➤ LAN & Server Support	\$60,587
110/0001	Controller-Treasurer	<u>County Internal Auditor - CC1115</u> ➤ Lotus Notes – License Fee/Support ➤ Mainframe Connection	\$1,098
		<u>Controller's Office - CC2113</u> ➤ HaRP Support (Payroll) ➤ TCS & Kronos Application Support ➤ Active Directory Support ➤ Teleprocessing Fees ➤ Electronic Report Distribution ➤ E-Forms Development (PAR's) ➤ Lotus Notes License Fee/Support ➤ Warrant Printing ➤ LAN & Server Support ➤ Mainframe Connection	\$1,843,855
		<u>ASAP - CC2116</u> ➤ SAP Application Support ➤ Active Directory Support ➤ Electronic Report Distribution ➤ Warrant Printing ➤ Lotus Notes License Fee/Support	\$2,028,278
112/0001	Tax Collector	<u>CC2212</u> ➤ Secured Tax Application Support ➤ Unsecured Tax Application Support ➤ Redemptions Application Support ➤ Bonded Assessment Application Support	\$1,948,443
		<u>CC2214</u> ➤ New Tax System Support	\$27,984
114/0001	Clerk-Recorder	<u>CC5656</u> ➤ Lotus Notes License Fee/Support ➤ Fictitious Business Index	\$14,009
114/0026		<u>CC5658</u> ➤ Indexing Application Support ➤ Mainframe Connection	\$19,915

Budget Unit/Fund	Department	Mandated Function – Related IT Services	Cost
115/0001	Assessor	<u>Administration - CC1150</u> ➤ Property Data Management Application Support ➤ Appraisal Data System Application Support ➤ Supplemental Tax Roll Application Support ➤ Mainframe Connection	\$277,691
		<u>Exemptions - CC1152</u> ➤ Assessors Misc. Lists Support	\$376
		<u>Assessment Services - CC1153</u> ➤ Secured Valuation Application Support	\$31,444
		<u>Real Property - CC1154</u> ➤ Mainframe Tape Services	\$146
119/0001	Special Programs - County Executive	<u>CC1001</u> ➤ CJIC Application Support ➤ Teleprocessing Fees ➤ Mainframe Connection ➤ LAN Support	\$5,148,212
120/0001	County Counsel	<u>CC1120</u> ➤ Lotus Notes – License Fee/Support ➤ Prolaw, Trackit, Summation, & Surf Control- DBA Support ➤ LAN & Server Support	\$322,472
130/0001	Employee Services	<u>Equal Opportunity Division Support - CC1126</u> ➤ Lotus Notes – License Fee/Support ➤ LAN & Server Support	\$1,616
		<u>Labor Relations Administration - CC1140</u> ➤ Lotus Notes – License Fee/Support ➤ LAN & Server Support ➤ Mainframe Connection	\$5,970
		<u>Agency Administration - CC1141</u> ➤ Lotus Notes – License Fee/Support ➤ LAN & Server Support ➤ Mainframe Connection	\$7,176
		<u>Personnel Operations (Payroll) - CC1148</u> ➤ HaRP Application Support (Payroll) ➤ Warrant Printing ➤ E-Forms Support & Development (PAR's) ➤ Active Directory Support ➤ Lotus Notes – License Fee/Support ➤ LAN & Server Support ➤ Mainframe Connection	\$1,201,820

Budget Unit/Fund	Department	Mandated Function – Related IT Services	Cost
132/0001	Risk Management	<u>Occupational Safety & Environmental Compliance - CC1143</u> ➤ Lotus Notes – License Fee/Support ➤ LAN & Server Support	\$1,993
		<u>Unemployment Insurance - CC1146</u> ➤ LAN & Server Support ➤ Mainframe Connection	\$574
		<u>Workers Compensation Insurance - CC1147</u> ➤ Lotus Notes License/Support ➤ Workers' Compensation management Support ➤ LAN Support ➤ Mainframe Connection	\$72,747
		<u>Risk Management Administration - CC1149</u> ➤ Lotus Notes – License Fee/Support ➤ LAN & Server Support ➤ Mainframe Connection	\$1,399
		<u>Insurance Risk Management - CC2310</u> ➤ Lotus Notes – License Fee/Support ➤ LAN & Server Support ➤ Mainframe Connection	\$4,530
		<u>CC5600</u> ➤ LAN & Server Support ➤ Mainframe Connection ➤ WEB Support (Voter Registration, etc.)	\$126,832
145/0001	Information Services Department	<u>CJIC Administration – CC1221</u> ➤ Mainframe Connection ➤ Impact Printers ➤ Electronic Report Distribution	\$26,885
		<u>Direct Appropriation – CC2612</u> ➤ Tech Link Center (TLC) Supports mandated functions such as OES, SAP, HaRP, etc) ➤ EGov – Supports online applications such as Voter Registration, Employment Recruitment, Online Visitor Registration, Environmental Resources information, and property and zoning info., as well as info related to all other County departments. ➤ Note: \$807,565 for Voice Communications – enterprise telecommunication support is provided in a separate table.	\$3,003,812
		<u>CLARANet – CC2645</u> ➤ LAN & Server Support ➤ Mainframe Connection	\$113,352
190/0001	County Communications	<u>CC2550</u> ➤ CAPSS Application Support ➤ Server Support ➤ Mainframe Connection	\$524,179
202/0001	District Attorney	<u>CC3832</u> ➤ Mainframe Connection	\$73,392
203/0001	District Attorney	<u>CC3820</u> ➤ Mainframe Connection	\$1,284

Budget Unit/Fund	Department	Mandated Function – Related IT Services	Cost
204/0001	Public Defender	<u>CC3500</u> ➤ Crimes Application Support ➤ Mainframe Connection ➤ Server Support	\$111,141
220/0021	Superior Court	<u>CC3652</u> ➤ CJIC Application Support ➤ Teleprocessing Fees ➤ Mainframe Connection	\$1,164,143
230/0001	Sheriff	<u>CC3913</u> ➤ Fingerprint Application Support ➤ Mainframe Connection ➤ Server Support	\$95,160
240/0001	Dept. Of Correction	<u>CC2413</u> ➤ Mainframe Connection ➤ Impact Printers	\$136,147
246/0001	Probation	<u>CC3720</u> ➤ JRSII Application Support ➤ Juvenile Traffic Application Support ➤ Teleprocessing Fees ➤ LAN & Server Support ➤ Mainframe Connection ➤ Electronic Report Distribution	\$1,742,822
260/0001	Planning	<u>Planning Office – CC1181</u> ➤ Mainframe Connection	\$121
		<u>Building Surveyor – CC1183</u> ➤ Mainframe Connection	\$428
		<u>ERA Administration – CC1189</u> ➤ Mainframe Connection	\$1,776
262/0001	Agriculture	<u>Fire Marshall – CC1185</u> ➤ Mainframe Connection	\$244
		<u>Administration – CC5665</u> ➤ Active Directory Support ➤ AG, WTS, ANIM CTRL Applications Support ➤ Lotus Notes License Fee/Support ➤ LAN & Server Support ➤ Mainframe Connection	\$232,303
263/0001	Facilities	<u>Custodial & Grounds – CC2461</u> ➤ Mainframe Connection	\$183
		<u>Mgmt Administration – CC2471</u> ➤ Mainframe Connection	\$1,468
		<u>Capital Programs Division – CC2515</u> ➤ Mainframe Connection	\$183
293/0001	Sheriff/Coroner	<u>Medical Examiner-Coroner – CC3750</u> ➤ Lotus Notes – License Fee/Support ➤ Coroner's Application Support ➤ Active Directory Support ➤ LAN & Server Support ➤ Mainframe Connection	\$89,433
410/0001	Public Health	<u>CC2916</u> ➤ Mainframe Connection	\$4,404

Budget Unit/Fund	Department	Mandated Function – Related IT Services	Cost
414/0001	Custody Health	<u>Adult Custody – CC4130</u> > Active Directory Support > Lotus Notes License Fee/Support > LAN & Server Support > Mainframe Connection	\$250,683
414/0001	Custody Health	<u>Elmwood Men’s Custody Health – CC4132</u> > Mainframe Connection	\$11,192
501/0001	SSA	<u>CC4903</u> > BAA – Application Support (Warrant Printing) > Electronic Report Distribution > Mainframe Connection	\$107,827
921/0060	HHS	<u>Therapy Service Division – CC6625</u> > Therapy Applications Support	\$23,359
		<u>VMC Info Services – CC6837</u> > Software Maintenance Fees > EGov online projects support > Medical Record Application Support > Patient Information File Application Support > Pediatric Referral Tracking Application Support > LAN & Server Support > Mainframe Connection	\$277,907
		<u>HHS Human Resources – CC6861</u> > PeopleSoft Support	\$16,108
		<u>Medical Records – CC6889</u> > Medilinks Application Support	\$24,581
		<u>CC6903</u> > ANSOS (VMC/Nursing Administration – Annex building) Application Support	\$17,903
		TOTAL	

Attachment III

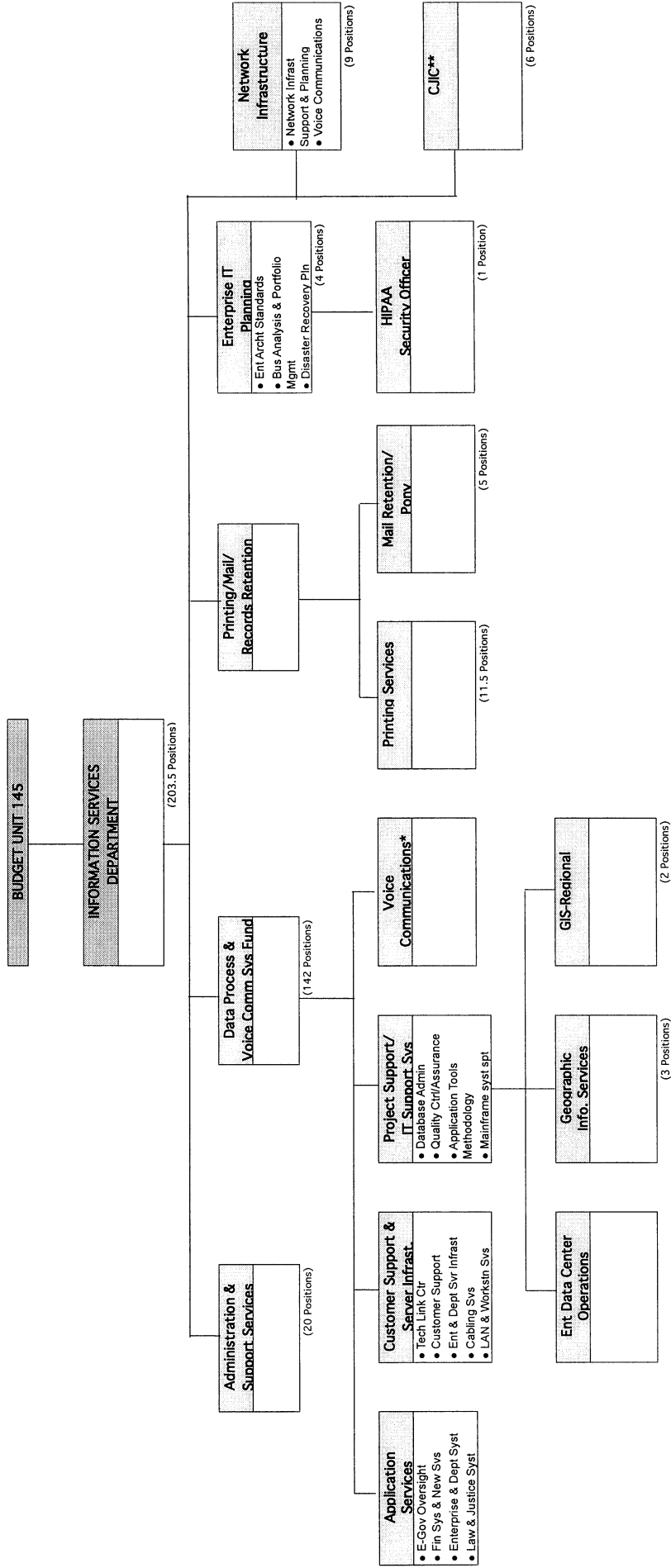
Fund 74 Costs Supporting Voice Communication Services to GF Mandated Functions:

This table is a list of all GF mandated departments/functions receiving Voice Communication services based on the 2003 Mandate Study list of mandated functions.

Department	Cost Center	Fund	Total Amount of Telephone Support
CLERK, B. OF SUPERVISORS	1106	0001	\$ 31,242
COUNTY E. ADMIN SRVS.	1107	0001	\$ 16,698
COUNTY COUNSEL	1120	0001	\$ 12,711
ESA-ADMIN,FISCAL & SYSTEMS	1141	0001	\$ 16,950
ESA-PERSONNEL OPERATIONS	1148	0001	\$ 4,389
ASSESSOR	1150	0001	\$ 51,047
ENV RES AGENCY-Office of Planning	1181	0001	\$ 8,365
ENV RES AGENCY-Office of County Surveyor	1183	0001	\$ 8,946
CJIC	1221	0001	\$ 5,900
CONTROLLER	2113	0001	\$ 17,041
ASAP/HARP	2116	0001	\$ 3,269
REVENUE COLLECTIONS	2148	0001	\$ 20,315
TAX COLLECTOR	2212	0001	\$ 20,926
FAF Procurement	2300	0001	\$ 12,224
INTRAGOVT SVCS-FAF Admin	2305	0001	\$ 17,395
FACILITIES DEPT-Capital Programs	2515	0001	\$ 51,159
CO EXEC/OFC OF EMER. SVCS	2530	0001	\$ 78,656
CO. COMMUNICATIONS-Disp and Admin	2550	0001	\$ 31,803
CO. COMMUNICATIONS- Eng and Tech	2555	0001	\$ 7,062
CIO Office- Voice Comm	2601	0001	\$ 6,250
ISD Voice Comm Direct Appropriation	2612	0001	\$807,565
ISD- Network Infrastructure	2645	0001	\$ 33,698
PUBLIC HEALTH DEPT	2908	0001	\$ 1,521
DEPT OF CORRECTION-Administration	3400	0001	\$ 6,887
DOC - FISCAL	3401	0001	\$ 5,511
DOC - PERSONNEL	3405	0001	\$ 7,695
DOC - INTERNAL AFFAIRS	3412	0001	\$ 6,949
DOC - DATA MANAGEMENT	3413	0001	\$ 3,687
DOC - Elmwood Training	3424	0001	\$ 1,475
DOC - MAIN JAIL NORTH	3426	0001	\$139,765
DOC - SUPPRT SVCS/FOOD SVCS	3428	0001	\$ 8,667
DOC - MAIN JAIL BOOKING	3432	0001	\$ 24,700
Elmwood	3436	0001	\$ 23,297
DOC - Main JAIL Operations	3440	0001	\$ 4,906
Elmwood CCW	3441	0001	\$ 3,539
D.O.C. Elmwood Mens-Voice Comm	3445	0001	\$ 36,679
PUBLIC DEFENDER	3500	0001	\$ 92,202

Department (Continued)	Cost Center	Fund	Total Amount of Telephone Support
PUB DEF/ ALTERNATE DEFENDER OFC	3501	0001	\$ 21,465
PROBATION/ADULT	3704	0001	\$131,209
PROBATION/ADULT North County	3712	0001	\$ 2,501
PROBATION DEP., JUVENILE	3720	0001	\$ 24,812
MEDICAL EXAMINER - CORONER	3750	0001	\$ 870
District Attorney-REACT-Voice Comm	3810	0001	\$ 1,645
D. A. ADMINISTRATION	3832	0001	\$109,514
SHERIFF SERVICES	3900	0001	\$ 11,725
SHERIFF PATROL	3904	0001	\$ 870
Sheriff-Patrol-Westside-Voice Comm	3907	0001	\$ 11,469
SHERIFF-Jail Contract Admin	3950	0001	\$ 5,566
ADLT/JUVE CSTDY FAC-MN JL MED	4130	0001	\$ 15,372
Elmwood VMC Medical	4132	0001	\$ 6,930
ADLT/JUVE CSTDY FAC-CCW MED	4134	0001	\$ 1,347
ADLT/JUVE CSTDY FAC-MN JL M.H.	4140	0001	\$ 8,117
ADLT/JUVE CSTDY FAC-JUVE MED	4150	0001	\$ 5,362
M HEALTH/CO PROG:PATIENT REP	4371	0001	\$ 9,043
SOCIAL SERVICES ADMIN.	4800	0001	\$ 80,547
REG. OF VOTERS	5600	0001	\$115,547
FINANCE AGENCY-Recorders	5655	0001	\$ 75,906
RECORDER/ MARR LIC & FICT BUS	5656	0001	\$ 1,522
ERA/ AG - Fire Marshal	5665	0001	\$ 10,248
ENV RES AGENCY-Coop Extension Services	5710	0001	\$ 2,818
Total Cost to Support Voice Communication Services for Mandated Functions			\$2,285,496

INFORMATION SERVICES DEPARTMENT



*Reports through Network Infrastructure
 **Although CJC is presented as a stand-alone system, additional staff and resources supporting this system are located in various functions throughout the Department.

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Ann Miller Ravel
COUNTY COUNSEL

Winifred Botha
Robert C. Campbell
Nancy J. Clark
Laurie F. Faulkner
ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Susan Swain, Lead Deputy County Counsel *Susan Swain*

RE: Information Services Department Mandate Analysis (BU 145)

DATE: August 3, 2006

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to Budget Unit 145 regarding the Information Services Department (ISD). Below please find our supplemental analyses about the mandates in the functional areas identified by ISD.

HIPAA Security Officer Function

1. Basis of Legal Mandate

The Federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), requires that the County, a covered entity, must designate a security official who is responsible for the development and implementation of policies and procedures related to workforce security. See 45 CFR section 164.308(a)(2). The County designated the County CIO as its "security official." While the County could appoint a different person/entity to act as the requisite security official, it must appoint a security officer and in this sense ISD's function in this role may be considered a "mandate."

The security official must implement policies and procedures to ensure that all members of its workforce have appropriate access to electronic protected health information (e-PHI) and prevent those workforce members who do not have access from obtaining access to electronic protected health information.

c: Joyce Wing, Interim CIO
Ann Ravel, County Counsel

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Ann Miller Ravel
COUNTY COUNSEL

Debra L. Cauble
Laurie F. Faulkner
Susan G. Levenberg
ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Jeff Bryson, Deputy County Counsel *JB*

RE: Information Services Department Mandates Analysis

DATE: September 29, 2003

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to the Information Services Department (ISD). Below are comments or supplemental analysis, as needed, about the mandates in the functional areas identified by ISD.

The list of mandates and their descriptions, as contained in your report, is comprehensive and accurate. We have 2 observations:

1. County Ordinance Code Division A16 (the "Information Practices and Individual Privacy Ordinance") imposes various requirements on ISD. Therefore this ordinance is a mandate that should be mentioned in your report.
2. As you have noted, ISD supports many mandated functions within the County. However, there is no specific legal mandate for ISD to provide that support in the particular manner that it does. Therefore your report does not categorize most of these support activities as mandated. Your approach in this report is consistent with the classifications and definition of "mandated" used in your analyses of other departments that, like ISD, are primarily supportive in nature.

Memo to Mr. Mialocq
Re: Information Services Department Mandates Report
September 29, 2003
Page 2

We note simply that there are several alternative definitions of the term "mandated" that could be utilized. For example, the County has no practical choice but to maintain information through electronic systems. Therefore, in a realistic operational sense of the term, ISD's services could be characterized as mandated to the extent they support mandated functions of other departments and agencies.

Within our limited qualifications to evaluate whether stated costs are necessary to accomplish mandates, it appears that your financial analysis is comprehensive and accurate.

c: Satish Ajmani, Chief Information Officer
Ann Ravel

148 Department of Revenue

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Non-Mandated	7	3,631,313	49%	(77,930)	-2%	38.5	50%
Mandated	7	3,440,344	46%	(73,160)	-2%	35.5	46%
Admin/Support	-	<u>340,098</u>	<u>5%</u>	<u>(7,952)</u>	<u>-2%</u>	<u>3.0</u>	<u>4%</u>
Total	<u>14</u>	<u>7,411,755</u>	<u>100%</u>	<u>(159,042)</u>	<u>-2%</u>	<u>77.0</u>	<u>100%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=percent of total staffing

Departmental Description

The Department of Revenue (DOR) is the County's central collections agency for both current and delinquent account collections and provides professional collection services using collection enforcement techniques comparable to those used in the private sector. Services include billing and collection pursuit, consolidation of bills for individual clients, explanation of client charges and legal obligations, negotiation of payment arrangements, determination of ability to pay, establishing payment plans, verifying eligibility for federal and State aid programs, and collection pursuit through skip tracing and client follow-up, which includes the determination of a debtor's whereabouts, employment, earnings, property, liabilities, assets and ability to pay. Collections also includes taking small-claims action and lawsuits, the attachment of wages and bank accounts, recordation of Reimbursement Agreements and return of delinquent accounts to the Court for issuance of bench warrants. DOR issues current and delinquent noticing, receives and posts payments, and conducts accounting and distribution of collected revenue to appropriate funds and entities.

DOR's mission is to "maximize revenue collection to support services for County residents." DOR collections impact the funding of many Santa Clara County

organizations such as the Health and Hospital System, Adult and Juvenile Probation Department, Employee Services Agency, Family Court Services, Public Defender, District Attorney Crime Lab, and Office of the Sheriff. In addition, DOR collections benefit the Superior Court, cities located within the County, and the State of California. The revenue collected by DOR is used principally to support the funding of services to County residents. To the extent that DOR is successful in collecting the accounts receivables assigned by client departments, taxpayers in Santa Clara County are not required to bear the burden of indebtedness that is the legal responsibility of a specific individual.

County Controller-Treasurer policy requires that delinquent debt accounts in departments across the County organization be referred to DOR unless exempted by the Controller-Treasurer (e.g., Tax Collector's Office and Social Services Agency). In FY 2005-06, DOR total collections exceeded \$58.8 million; of this amount, over \$8.3 million was applied to DOR revenue accounts and the remaining was pass-through revenue to other departments and governmental entities. The ratio of total revenue collected to total expense was 10.4 to 1 (i.e., DOR's cost of doing business in FY 2005-06 was 9.6 percent of what was collected). If the service were contracted out to a private collection service provider, it would cost the County 17-30 percent of revenues collected. In addition, outside collection agencies do not have available some of the information that is accessible to DOR through the courts.

Also, in accordance with Senate Bill (SB) 940, effective January 2004, all Counties must provide a comprehensive Enhanced Collection Program (ECP) for delinquent court-ordered debt. In February 2005, Santa Clara County and the Superior Court entered into a Memorandum of Understanding (MOU) to collaborate and jointly pursue the requirements of this mandate. Specifically, SB 940 requires the Judicial Council to establish a collaborative Court-County working group and adopt guidelines for a comprehensive program to collect delinquent monies imposed by court order. The bill requires each California Superior Court and County to develop a cooperative plan to implement these guidelines, and jointly submit an annual report to the Judicial Council on the effectiveness of the program. By imposing additional duties on the County, the bill creates a State-mandated local program. Under the auspices of SB 940 and by the Santa Clara County-Court MOU, DOR is the designated collector of delinquent court-ordered debt for Santa Clara County and functions as the identified collection service of the ECP. Penal Code Section 1463.007 allows costs for the collection of delinquent court-ordered debt under this program to be offset against collected fines, penalties and fees.

DOR has one fully-mandated function (Justice Collections – Traffic) and one partially-mandated function (Justice Collections – APD-Muni) based on the requirement of an ECP, via SB 940. In FY 2005-06, DOR expanded its already active collection activities for Court accounts by adding the collection of delinquent traffic cases. In addition, 83.65 percent of DOR Justice (APD-Muni) accounts qualify as delinquent and fall within the scope of the State's ECP mandate. These functions are fully cost recovered. Finally, because 44.2 percent of DOR collection functions fall under the mandated ECP, the same percentage was used to identify the mandated portion of the costs and staffing for the Accounting, Cashiering, Input/Support, Accounting Control, and Information Systems functions.

DOR falls under the direction of the County Tax Collector and is one of four Finance Agency departments of Santa Clara County. The other agency departments are the Tax Collector's Office, Controller-Treasurer Department, and the Clerk-Recorder's Office.

FY 2006-07 General Fund Budget by Program/Function

<u>Function</u>	<u>FY 2006-07 Adopted Budget</u>		<u>Departmental Revenue</u>	<u>General Fund Subsidy**</u>	<u>Percent</u>
	<u>Amount</u>	<u>Staffing</u>			
<u>Non-Mandated Activities</u>					
01 General Collections	1,582,702	16.0	1,616,101	(33,399)	-2%
02 Justice Collections (APD-Muni)	177,024	1.9	180,205	(3,181)	-2%
03 Accounting	199,636	1.8	204,407	(4,771)	-2%
04 Cashiering	496,013	6.3	507,146	(11,133)	-2%
05 Input/Support	524,519	6.3	535,652	(11,133)	-2%
06 Accounting Control	411,284	4.6	420,826	(9,542)	-2%
07 Information Systems	<u>240,135</u>	<u>1.7</u>	<u>244,906</u>	<u>(4,771)</u>	<u>-2%</u>
Subtotal	3,631,313	38.5	3,709,243	(77,930)	-2%
<u>Mandated Activities</u>					
08 Justice Collections (Traffic)	1,052,143	9.5	1,074,409	(22,266)	-2%
09 Justice Collections (APD-Muni) *	905,691	9.6	924,776	(19,085)	-2%
10 Accounting *	158,134	1.4	161,315	(3,181)	-2%
11 Cashiering *	392,899	5.0	400,851	(7,952)	-2%
12 Input/Support *	415,479	5.0	425,021	(9,542)	-2%
13 Accounting Control *	325,784	3.7	332,147	(6,363)	-2%
14 Information Systems *	<u>190,214</u>	<u>1.3</u>	<u>194,985</u>	<u>(4,771)</u>	<u>-3%</u>
Subtotal	3,440,344	35.5	3,513,504	(73,160)	-2%
<u>Required</u>					
Admin/Support	<u>340,098</u>	<u>3.0</u>	<u>348,050</u>	<u>(7,952)</u>	<u>-2%</u>
Total	<u>7,411,755</u>	<u>77.0</u>	<u>7,570,797</u>	<u>(159,042)</u>	<u>-2%</u>

* These Mandated functions were previously combined with functions 02, 03, 04, 05, 06 and 07, but have been separated based on the requirements of the Enhanced Collection Program.

** The amount of revenue collected by the Department of Revenue (DOR) and posted to its budget exceeds its expenses by \$159,042, excluding the entire amount of Franchise Fees and the portion of Transient Occupancy Tax that exceeds the cost of collection. Consequently, there is no General Fund cost to provide DOR collection functions. If the Department were eliminated, the County would have to spend the money to hire an outside firm to conduct collections or forego the revenues collected, including the additional fees they receive for collection services provided to the cities and Valley Medical Center.

Description of Programs and Functions

DOR has one main function: the collection of revenue to support County activities. As a result, the functions that are not directly defined to collections are necessary to support the activity of each collection unit. With the exception of General Collections, which is entirely non-mandated, each function has its costs split between the non-mandated and mandated categories, as their work is directly tied to both non-mandated and mandated activities.

Administration and Support (REQUIRED): **\$340,098**

The Administration and Support function includes 1.0 Collection Services Manager, 1.0 Executive Assistant and 1.0 Office Specialist for a total of 3.0 authorized positions. The unit is responsible for departmental management as well as administrative support to the functional divisions and for the Department. The following activities are carried out in this unit: budget development, monitoring, reporting and planning, policy development, program planning and implementation, contract management, facility management, travel coordination, procurement, personnel and labor relations tasks and issues, accounts payable, safety and training coordination, and performance of overall clerical tasks for the Department. The County is not mandated to have a specific Department of Revenue. However, as long as the Department is in place, adequate administrative oversight and support services are required. The amount of staff and other resources necessary to provide an "adequate" level of funding are subject to determination by the Board of Supervisors, pursuant to Government Code Sections 29063 and 29088.

NON-MANDATED PROGRAMS AND FUNCTIONS

01-General Collections (NON-MANDATED): **\$1,582,702**

The General Collections function includes 16.0 authorized positions and is responsible for revenue collections pertaining to the Valley Medical Center, Health Department, Retiree Health, Juvenile Courts, Family Court Services and miscellaneous collections for other County agencies.

02-Justice Collections (APD-Muni) (NON-MANDATED): **\$177,024**

The Justice Collections (APD-Muni) function includes 11.0 authorized positions plus 50 percent of 1.0 Supervising Revenue Collection Officer. This function is responsible for revenue collections pertaining to fines, penalties, fees and victim restitution initiated through the Adult Court system. Of the APD-Muni Justice accounts, 16.35 percent qualify as current and 83.65 percent qualify as delinquent. Collection of delinquent Court-referred accounts falls under the mandated ECP. Consequently, the same percentages were used to identify the non-mandated and mandated portion of the costs and staffing for this function.

03-Accounting (NON-MANDATED): **\$199,636**

The Accounting function includes 3.0 authorized positions plus 25 percent of 1.0 Fiscal Officer. This function is responsible for the accounting and reconciliation of all monies collected and for distributing monies collected to those agencies entitled to receive

them. Staff members collect from the State by intercepting State income tax refunds and using the funds to settle debts owed by individuals to the County. The State Franchise Tax Board also collects for County-referred cases to the Court Ordered Debt Program, which serves as a private collection agency for the County, and receiving a fee from the proceeds they collect. An additional collection effort is provided for recalcitrant and low dollar cases that are referred to our local outside collection agency, which is under contract with DOR (for fee from collected proceeds). Payments to victims of crime are processed and issued by this function, as well as the preparation of DOR's portion of the cost allocation plan. The Accounting staff is also responsible for collecting Franchise Fees from cable and water utilities and Pacific Gas and Electric, and the Transient Occupancy Tax (TOT) for the unincorporated areas. Additionally, accounting staff acts as "middle agents" between County and parking fine collectors. Because 44.2 percent of DOR collection functions fall under the mandated ECP, the same percentage was used to identify the mandated portion of the costs and staffing for this function, which is discussed in the section on mandated programs and functions, with the remaining portion being non-mandated.

04-Cashiering (NON-MANDATED): \$496,013

The Cashiering function includes 11.0 authorized positions plus 25 percent of 1.0 Fiscal Officer. This function is responsible for receiving and posting payments to the accounts receivable system (CUBS). The daily business fluctuates, based on the time of month. It is busiest about one week after bills are received (half are generated on the 1st of the month, half on the 21st). Staff members receive and post payments made in person (150-400 people per day), by mail (500-3000 pieces per day), and through our computerized telephone answering system (IVR). Because 44.2 percent of DOR collection functions fall under the mandated ECP, the same percentage was used to identify the mandated portion of the costs and staffing for this function, which is discussed in the section on mandated programs and functions, with the remaining portion being non-mandated.

05-Input/Support (NON-MANDATED): \$524,519

The Input/Support function includes 11.0 authorized positions plus 25 percent of 1.0 Fiscal Officer. This function is responsible for the manual input and set up of any new accounts not created through interfaces. The unit is also responsible for answering the phones and directing calls for those customers who do not want to utilize a computerized telephone answering system (IVR). All legal documents (e.g., for Small Claims Court, legal suits) that are initiated by the office are prepared by personnel within this unit, who are also responsible for obtaining the appropriate signatures before submission to the Courts. Because 44.2 percent of DOR collection functions fall under the mandated ECP, the same percentage was used to identify the mandated portion of the costs and staffing for this function, which is discussed in the section on mandated programs and functions, with the remaining portion being non-mandated.

06-Accounting Control (NON-MANDATED): \$411,284

The Accounting Control function includes 8.0 authorized positions plus 25 percent of 1.0 Fiscal Officer. This function is responsible for reviewing minute orders received from the Court. These documents identify the financial obligations for each case, and the staff within the unit are responsible for properly allocating the monies to facility codes that identify the recipient of those monies once collected. This unit is responsible for processing adjustments, payments and refunds to existing accounts, based on Court

action that modifies the original order from the Court. The unit is also responsible for researching lien and probate accounts and for the subsequent collection of money via these avenues. Because 44.2 percent of DOR collection functions fall under the mandated ECP, the same percentage was used to identify the mandated portion of the costs and staffing for this function, which is discussed in the section on mandated programs and functions, with the remaining portion being non-mandated.

07–Information Systems (NON-MANDATED): **\$240,135**

The Information Systems function includes 3.0 authorized positions and is responsible for maintaining the hardware and software of the department's data and communication systems, network, workstations, and web site. Employees from this unit oversee the accounts receivable system (CUBS), process automated payment interfaces, and serve as the contact point between DOR and other departments that interface data to CUBS. This function is also responsible for resolving processing problems, for the development of new system solutions to enhance production and efficiency capability, and for updating/revising the system to incorporate legislative changes regarding fines, penalties, fees, new mandates and programs. From this functional area, billing statements and delinquent notices are issued. The coordination and oversight of security and HIPAA compliance reside here. Because 44.2 percent of DOR collection functions fall under the mandated ECP, the same percentage was used to identify the mandated portion of the costs and staffing for this function, which is discussed in the section on mandated programs and functions, with the remaining portion being non-mandated.

MANDATED PROGRAMS AND FUNCTIONS

08–Justice Collections (Traffic) (MANDATED): **\$1,052,143**

The Justice Collections (Traffic) function includes 9.0 authorized positions plus 50 percent of 1.0 Supervising Revenue Collection Officer. This function is responsible for revenue collection pertaining to fines, penalties, and fees (including Civil Assessment fees) initiated through the Traffic Court system. In March 2005, the Board of Supervisors approved staffing and funding for this program as part of the new mandated ECP in Santa Clara County. At that time, 14.0 positions were approved, including 9.0 collectors (assigned to this function) and 5.0 support staff (assigned to functions above). This program is fully cost recovered from collected revenue per Penal Code Section 1463.007. This is new revenue, beginning in FY 2005-06, and the amount of revenue will increase over time.

09–Justice Collections (APD-Muni) (MANDATED): **\$905,691**

The Justice Collections (APD-Muni) function includes 11.0 authorized positions plus 50 percent of 1.0 Supervising Revenue Collection Officer. This function is responsible for revenue collections pertaining to fines, penalties, fees and victim restitution initiated through the Adult Court system. Of the APD-Muni Justice accounts, 16.35 percent qualify as current and 83.65 percent qualify as delinquent. Collection of delinquent Court-referred accounts falls under the mandated ECP. Consequently, the same percentages were used to identify the non-mandated and mandated portions of the costs and staffing for this function. The mandated portion of this function is fully cost recovered from collected revenue per Penal Code Section 1463.007. The recovered cost

is not new revenue in all cases, as some of it has always been posted to the General Fund.

10-Accounting (MANDATED): **\$158,134**

The Accounting function includes 3.0 authorized positions plus 25 percent of 1.0 Fiscal Officer. This function is responsible for the accounting and reconciliation of all monies collected and for distributing monies collected to those agencies entitled to receive them. Staff members collect from the State by intercepting State income tax refunds and using the funds to settle debts owed by individuals to the County. The State Franchise Tax Board also collects for County-referred cases to the Court Ordered Debt Program, which serves as a private collection agency for the County, and receiving a fee from the proceeds they collect. An additional collection effort is provided for recalcitrant and low dollar cases that are referred to our local outside collection agency, which is under contract with DOR (for fee from collected proceeds). Payments to victims of crime are processed and issued by this function, as well as the preparation of DOR's portion of the cost allocation plan. The Accounting staff is also responsible for collecting Franchise Fees from cable and water utilities and Pacific Gas and Electric, and the Transient Occupancy Tax (TOT) for the unincorporated areas. Additionally, accounting staff acts as "middle agents" between County and parking fine collectors. Because 44.2 percent of DOR collection functions fall under the mandated ECP, the same percentage was used to identify the mandated portion of the costs and staffing for this function. The mandated portion of this function is fully cost recovered from collected revenue per Penal Code Section 1463.007. The recovered cost is not new revenue in all cases, as some of it has always been posted to the General Fund.

11-Cashiering (MANDATED): **\$392,899**

The Cashiering function includes 11.0 authorized positions plus 25 percent of 1.0 Fiscal Officer. This function is responsible for receiving and posting payments to the accounts receivable system (CUBS). The daily business fluctuates, based on the time of month. It is busiest about one week after bills are received (half are generated on the 1st of the month, half on the 21st). Staff members receive and post payments made in person (150-400 people per day), by mail (500-3000 pieces per day), and through our computerized telephone answering system (IVR). Because 44.2 percent of DOR collection functions fall under the mandated ECP, the same percentage was used to identify the mandated portion of the costs and staffing for this function. The mandated portion of this function is fully cost recovered from collected revenue per Penal Code Section 1463.007. The recovered cost is not new revenue in all cases, as some of it has always been posted to the General Fund.

12-Input/Support (MANDATED): **\$415,479**

The Input/Support function includes 11.0 authorized positions plus 25 percent of 1.0 Fiscal Officer. This function is responsible for the manual input and set up of any new accounts not created through interfaces. The unit is also responsible for answering the phones and directing calls for those customers who do not want to utilize a computerized telephone answering system (IVR). All legal documents (e.g., for Small Claims Court, legal suits) that are initiated by the office are prepared by personnel within this unit, who are also responsible for obtaining the appropriate signatures before submission to the Courts. Because 44.2 percent of DOR collection functions fall under the mandated ECP, the same percentage was used to identify the mandated

portion of the costs and staffing for this function. The mandated portion of this function is fully cost recovered from collected revenue per Penal Code Section 1463.007. The recovered cost is not new revenue in all cases, as some of it has always been posted to the General Fund.

13–Accounting Control (MANDATED): **\$325,784**

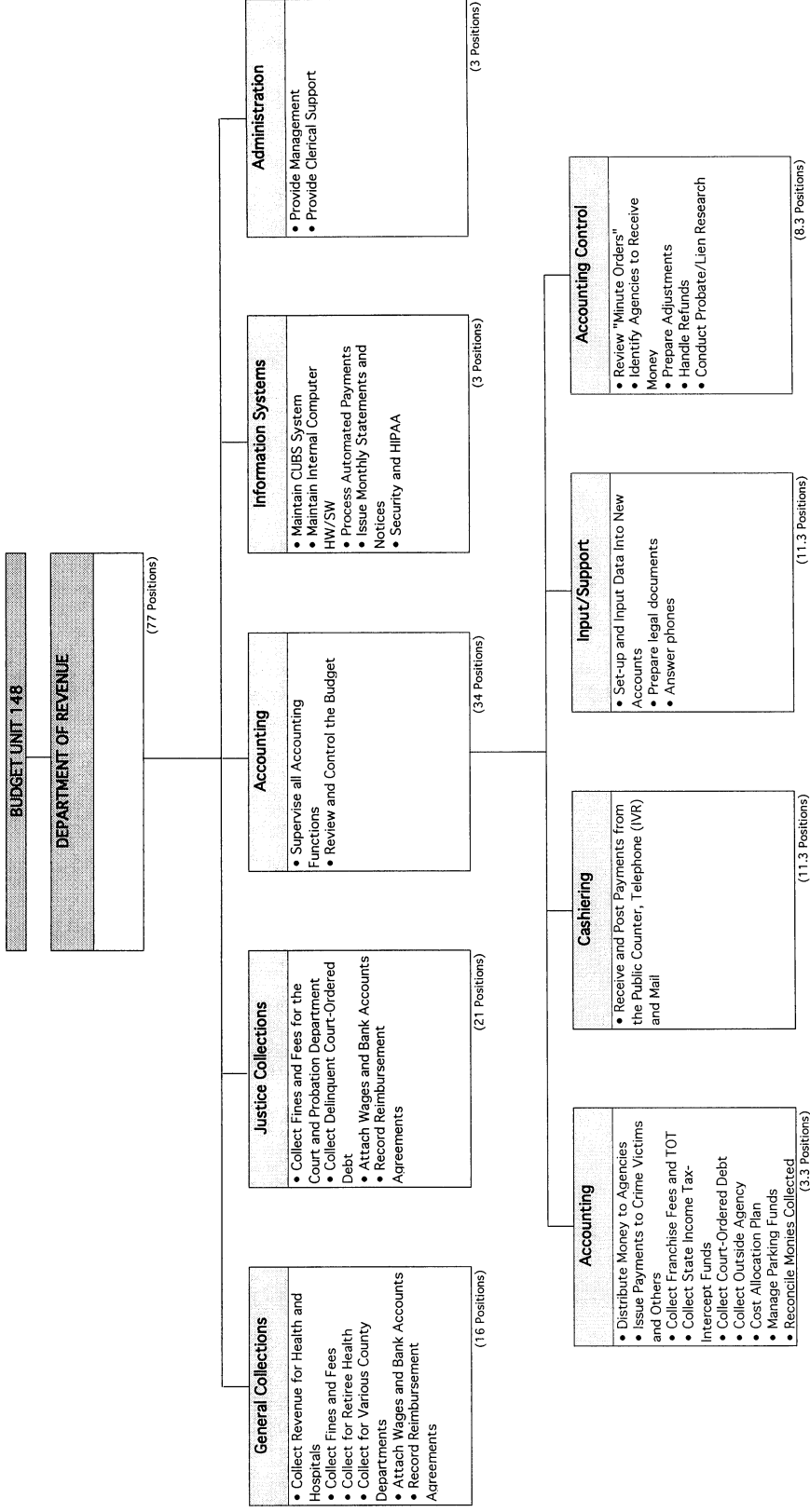
The Accounting Control function includes 8.0 authorized positions plus 25 percent of 1.0 Fiscal Officer. This function is responsible for reviewing minute orders received from the Court. These documents identify the financial obligations for each case, and the staff within the unit are responsible for properly allocating the monies to facility codes that identify the recipient of those monies once collected. This unit is responsible for processing adjustments, payments and refunds to existing accounts, based on Court action that modifies the original order from the Court. The unit is also responsible for researching lien and probate accounts and for the subsequent collection of money via these avenues. Because 44.2 percent of DOR collection functions fall under the mandated ECP, the same percentage was used to identify the mandated portion of the costs and staffing for this function. The mandated portion of this function is fully cost recovered from collected revenue per Penal Code Section 1463.007. The recovered cost is not new revenue in all cases, as some of it has always been posted to the General Fund.

14–Information Systems (MANDATED): **\$190,214**

The Information Systems function includes 3.0 authorized positions and is responsible for maintaining the hardware and software of the department's data and communication systems, network, workstations, and web site. Employees from this unit oversee the accounts receivable system (CUBS), process automated payment interfaces, and serve as the contact point between DOR and other departments that interface data to CUBS. This function is also responsible for resolving processing problems, for the development of new system solutions to enhance production and efficiency capability, and for updating/revising the system to incorporate legislative changes regarding fines, penalties, fees, new mandates and programs. From this functional area, billing statements and delinquent notices are issued. The coordination and oversight of security and HIPAA compliance reside here. Because 44.2 percent of DOR collection functions fall under the mandated ECP, the same percentage was used to identify the mandated portion of the costs and staffing for this function. The mandated portion of this function is fully cost recovered from collected revenue per Penal Code Section 1463.007. The recovered cost is not new revenue in all cases, as some of it has always been posted to the General Fund.

Total Department of Revenue FY 2006-07 Adopted Budget	\$7,411,755
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DEPARTMENT OF REVENUE



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Nancy J. Clark
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ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager
FROM: Michael L. Rossi, Deputy County Counsel 
RE: Department of Revenue, Budget Unit 148, Mandate Analysis
DATE: August 1, 2006

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of the legal mandates applicable to Budget Unit 148 regarding the Department of Revenue ("DOR") of Santa Clara County. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by DOR.

In past mandate analyses, County Counsel reported that none of the services or functions of the programs under DOR programs were legally mandated. Because of the enactment of SB940, effective January 2004, however, all counties were required to provide a comprehensive Enhanced Collection Program ("ECP") for delinquent court-ordered debt. In February 2005, the County and the Superior Court of Santa Clara County entered into a memorandum of understanding to jointly pursue the requirement of this mandate. Under this state-mandated local program, DOR now has one fully-mandated function for the collection of debt on behalf of traffic court and one partially-mandated function for the collection of juvenile court fines and fees. As a result, nearly half of DOR's budget is now mandated.

As to its non-mandated functions, DOR, as the County's central collection agency, is required to comply with all California and federal collections laws, all bankruptcy law, and all healthcare laws related to collections. To the extent that DOR is successful in collecting the accounts receivable assigned by client departments such as Valley Medical Center, the Social Services Agency, and the Employee Services Agency, County taxpayers are not required to bear the burden of this debt to the County.

c: Robert Anderson, Fiscal Officer, Department of Revenue
Ann Miller Ravel, County Counsel

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**Laurie F. Faulkner
Susan G. Levenberg
ASSISTANT COUNTY COUNSEL**

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager
FROM: Gita C. Suraj, Deputy County Counsel *GSJ*
RE: Department of Revenue Mandate Analysis
DATE: October 21, 2004

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to the Department of Revenue ("DOR") of Santa Clara County. Below are comments or supplemental analyses about the mandates in the functional areas identified by COS.

County Counsel agrees that none of the current services or functions of the programs under DOR programs are legally mandated. However, when program services are provided, certain legal requirements must be met. For example, DOR is legally required to comply with:

- 1) all California and federal collections laws,
- 2) all bankruptcy law, and
- 3) all healthcare laws related to collections.

The above legal requirements are only a partial list and DOR is required to comply with all legal and regulatory requirements that apply to the type of activity or service provided.

County Counsel also agrees that SB 940 creates a legal mandate for the County. SB 940, which was chaptered in September of last year, requires the Judicial Council to develop a comprehensive collections program for courts and counties. SB 940 establishes the framework to ensure fees, fines, penalties and assessments ordered by the court are collected. It requires each

Memorandum to Roger Mialocq
Re: Department of Revenue Mandate Analysis
October 21, 2004
Page 2

superior court and county to develop a cooperative plan to implement the guidelines established by the Judicial Council and to report to the Judicial Council annually and jointly on the effectiveness of the collections programs. The County and DOR must comply with the collections program, follow the guidelines, and report to the Judicial Council.

c: Robert Anderson, Fiscal Officer, Department of Revenue
Ann Miller Ravel, County Counsel

168 Affordable Housing

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Non-Mandated	7	8,564,117	89%	480,037	6%	8.7	73%
Mandated	0	0	0%	0	0%	0.0	0%
Admin/Support	-	<u>1,004,837</u>	<u>11%</u>	<u>301,503</u>	<u>30%</u>	<u>3.3</u>	<u>28%</u>
Total	<u>7</u>	<u>9,568,954</u>	<u>100%</u>	<u>781,540</u>	<u>8%</u>	<u>12.0</u>	<u>100%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=percent of total staffing

Departmental Description

The Office of Affordable Housing (OAH) was established on January 28, 2003, to administer the Housing and Community Development (HCD) Program, New Housing Development Programs (comprised of the Affordable Housing and HOME Investment Partnership functions), Homeownership Programs (comprised of the MCC/Housing Bond, Down Payment Assistance and Single-Family Rehabilitation functions), and Homeless Concerns. The HCD, New Housing Development Programs, and Homeownership Programs are funded with special revenue from outside the County of Santa Clara. The General Fund supports approximately 51 percent of the cost of Homeless Concerns and 30 percent of the cost of Administration and Support. All programs provided by the OAH are not mandated by local, State or federal law. The OAH is a component of the County Executive's Office, but operates within its own Budget Unit. In FY 2006-07, the OAH's Approved Budget amounts to approximately \$9.6 million, including General Fund support of \$781,540, and funds a total of 12.0 authorized positions.

FY 2006-07 General Fund Budget by Program/Function

<u>Function</u>	<u>FY 2006-07 Adopted Budget</u>		<u>Departmental Revenue</u>	<u>General Fund Subsidy</u>	<u>Percent</u>
	<u>Amount</u>	<u>Staffing</u>			
<i><u>Non-Mandated Activities</u></i>					
01 Homeless Concerns *	935,478	2.0	455,441	480,037	51%
02 Affordable Housing **	796,676	1.0	154,776	0	0%
03 HOME Invest Partner **	1,654,109	0.5	1,654,109	0	0%
04 MCC/Housing Bond **	142,230	0.6	142,291	0	0%
05 Down Payment Assist **	514,092	0.4	514,092	0	0%
06 Single-Family Rehab **	2,624,776	1.3	2,624,776	0	0%
07 Comm Development **	<u>1,896,756</u>	<u>2.9</u>	<u>1,999,501</u>	<u>0</u>	<u>0%</u>
Subtotal	8,564,117	8.7	7,544,986	480,037	6%
<i><u>Required</u></i>					
Admin/Support *	<u>1,004,837</u>	<u>3.3</u>	<u>703,334</u>	<u>301,503</u>	<u>30%</u>
Total	<u>9,568,954</u>	<u>12.0</u>	<u>8,248,320</u>	<u>781,540</u>	<u>8%</u>
* The costs of the Homeless Concerns function and Administration and Support function are partially offset by transfers or reimbursements from the other functions, which are funded by non-General Fund sources.					
** Since these functions are funded from non-General Fund sources, they have been excluded from the calculation of the General Fund Subsidy.					

Description of Programs and Functions

Administration and Support (REQUIRED):

\$1,004,837

The Administration and Support function includes 0.5 Director of Affordable Housing, 1.0 Office Specialist III, 1.0 Accountant Assistant and 0.8 Accountant III for a total of 3.3 full time equivalent (FTE) positions. These positions are responsible for departmental management, accounting, budget, procurement, and personnel support. Some of OAH programs are direct services, and the County must provide adequate administrative oversight. The amount of staff and other resources necessary to provide an "adequate" level of funding is subject to determination by the Board of Supervisors pursuant to Government Code Sections 29063 and 29088. The cost of the Administration and Support function is offset by \$703,334 in reimbursements from the other functions, which are funded by non-General Fund sources. The General Fund subsidy of \$301,503 for FY 2006-07 is the second year of a three-year County contribution to the Housing Trust of Santa Clara.

NON-MANDATED PROGRAMS AND FUNCTIONS

01-Homeless Concerns (NON-MANDATED): **\$935,478**

The Homeless Concerns Program administers homeless services (Cold Weather Shelter Program, Transit Pass Program, and Mortgage and Rental Assistance Program), coordinates preparation of the annual McKinney Grant application, and represents the County in regional efforts to address homeless issues. Activities to address the issue of homelessness have intensified recently with a federally directed 10-year Plan to End Chronic Homelessness, a biennial homeless count, and expanded Homeless Management Information System (HMIS) Program. The Homeless Concerns Program currently employs 2.0 FTE positions and is assisted by a consultant for the McKinney grant. The Director, Accountant and clerical staff assist as needed. In FY 2006-07, the cost of the Homeless Concerns Program is being offset by a total of \$455,411 in revenue and reimbursements.

The Mortgage and Rental Assistance Program is one-time grant assistance to County residents who have difficulty making a rental or mortgage payments due to a temporary job loss, illness and/or unusually high monthly bills. A typical grant is between \$500 and \$600 and is awarded only after a determination is made that the next month's rent or mortgage payment will be covered by other sources. The fund has no permanent revenue source. Funding is requested from the MCC/Housing Bond Fund when money is available.

02-Affordable Housing Fund (NON-MANDATED): **\$796,676**

The Affordable Housing Fund (AHF) was created to increase the supply of affordable housing for lower income and special needs populations in the County. The AHF has no permanent revenue source. The initial fund was a transfer from General Fund discretionary monies for a total of \$16.9 million. Since then, AHF has been increased by \$5.3 million in proceeds from the sale of excess County property at San Tomas Expressway and Monroe St. Future revenue into this fund is expected because of new policy by the Board to contribute 30 percent of the proceeds from sale or lease of County owned General Fund properties. Since 2004, the County has loaned or granted \$14.6 million to assist in the development of new housing units. The AHF currently employs 1.0 FTE position

The FY2006-07 Approved Budget for AHF includes the allowed \$300,000 administration costs and funding for contract costs of Cold Weather Shelter Program and Transit Pass Program, administered through the Homeless Concerns. AHF will continue to fund these programs for another year.

03-HOME Investment Partnership Program (NON-MANDATED): **\$1,654,109**

The HOME Investment Partnership Program is financed with federal Housing and Urban Development (HUD) monies allocated to local government to carry out multi-year housing strategies through acquisition, rehabilitation, and new construction of housing, and to provide tenant-based rental assistance. Eligible forms of assistance include: loans, advances, equity investment, interest subsidies, and other forms of investment approved by HUD. Program income generated from loan repayments is deposited in the fund for future program use. Since 1993, \$13.6 million in HOME funds

have been granted or loaned to finance new housing units. The HOME Investment Partnership Program currently employs 0.5 FTE position.

04-MCC/Housing Bond Program (NON-MANDATED): **\$142,230**

The Mortgage Credit Certificate Program is designed to assist first-time homebuyers through a reduction of their federal income tax liability up to 15 percent in each year the buyer keeps the same mortgage loan and lives in the same house. The Program generates revenue through homebuyer application and lender fees. The Housing Bond Program also receives on-going issuer fees and administrative fees from outstanding Multi-Family Revenue Bonds. The MCC/Housing Bond Program currently employs 0.6 FTE position.

05-Down Payment Assistance Program (NON-MANDATED): **\$514,092**

The American Dream Down Payment Initiative (ADDI) was signed into law by President Bush on December 16, 2003, under the ADD Act (Public Law 108-186). This is the first down payment assistance program offered by HUD to jurisdictions receiving HOME grant. Funds may only be used for down payment towards the purchase of single family housing by low-income families who are first-time homebuyers. Since 2005, OAH has already assisted 13 families and closed \$450K in deferred housing loans. The Down Payment Assistance Program currently employs 0.4 FTE position.

06-Single-Family Rehabilitation Program (NON-MANDATED): **\$2,624,776**

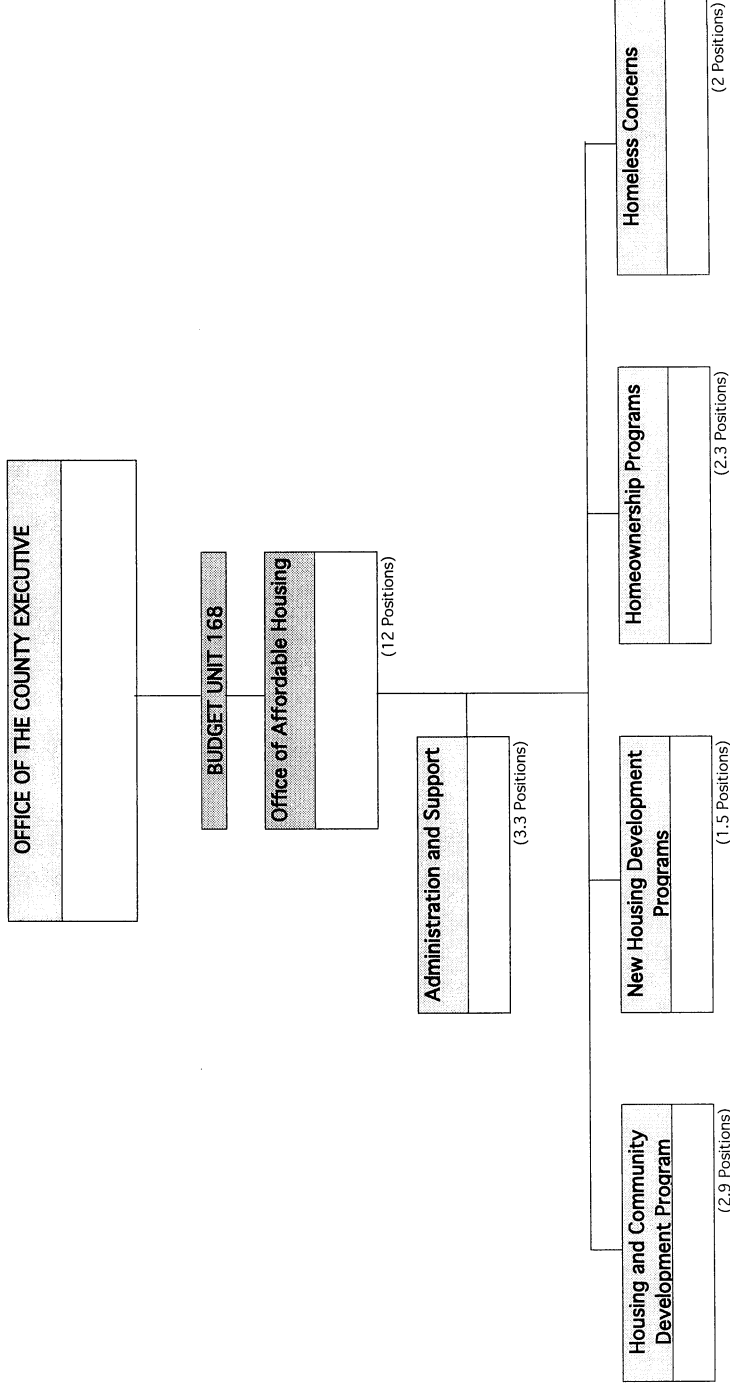
The Community Development Block Grant Rehabilitation Program awards loans to repair and rehabilitate single-family owner occupied homes. The County retains monies from loan repayments in a revolving loan fund that is used specifically for similar activity. The Program is entirely funded with federal and state funds, which currently support 1.3 FTE positions. Since 1997, \$2.6 million in long-term secured deferred loans have been made to eligible homeowners.

07-Community Development Block Grant (NON-MANDATED): **\$1,896,756**

The Community Development Block Grant (CDBG) is a formula-based federal grant with an objective of developing viable urban communities by preserving and enhancing affordable housing stock and improving neighborhoods. Grants and loans are made to cities and community-based organizations (CBO). Eligible projects include public services, development of new affordable housing, and upgrading local infrastructures. Since 1990, \$45.7 million in CDBG funds have been granted or loaned to finance eligible projects of cities and CBOs. The CDBG currently employs 2.9 FTE positions.

Total Affordable Housing FY 2006-07 Adopted Budget	\$9,568,954
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OFFICE OF AFFORDABLE HOUSING



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MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: *for* Leslie Orta, Deputy County Counsel *Bob Campbell*

RE: Office of Affordable Housing, Budget Unit #168
Mandate Analysis Update

DATE: August 1, 2006

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to Budget Unit 168 regarding the Office of Affordable Housing. I reviewed my Mandate Analysis memo dated September 30, 2003 and update in 2004 and find there are no changes in the mandated functions of this department.

c: Ann Ravel
Marjorie Matthews



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MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Leslie Orta, Deputy County Counsel *Leslie Orta*

RE: Mandate Analysis
Office of Affordable Housing (Office of the County Executive)

DATE: September 29, 2003

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of legal mandates, if any, applicable to the Office of Affordable Housing in the Office of the County Executive.

On July 1, 2002 the Board of Supervisors took action to create a new department in the Office of the County Executive; the Office of Affordable Housing. This new department combines several existing housing-related functions County staff administer including: Housing and Community Development; the Office of Homeless Concerns; and the Mortgage Credit Certificate/Housing Bond Program. At the Board's direction, each applies for, receives, and distributes funds to eligible recipients. Maintaining a distinct Office of Affordable Housing (as opposed to having another County department, such as Planning, oversee the programs) and directing its staff to administer certain programs are both discretionary acts for the Board.

The County's General Plan Must Have a Housing Element and Appropriate Efforts Must be Made to Achieve its Goals

1. Legal Basis for Mandate

Pursuant to GC § 65580 et. seq., the County's General Plan must include a Housing Element to address the needs of low and moderate income residents. On March 25, 2003 the Board of Supervisors approved the state certified update of the Housing Element (full document available on the

County's Planning Department web site, Housing Element Update). It contains information about the County's various programs and other efforts to provide affordable and special needs housing in Santa Clara County, and indicates how the County will meet its Regional Housing Needs Allocation (as established by the State Housing and Community Development Department and the Association of Bay Area Governments) within the framework of its existing General Plan policies and zoning ordinances.

2. County Compliance with Legal Mandate

Although the County is not mandated to provide, fund, nor develop any affordable housing, it must demonstrate efforts to achieve its Housing Element. This is accomplished in a myriad of ways including, establishing land use regulations that enable and encourage the development of affordable housing, and, continuing the discretionary programs administered by the new Office of Affordable Housing. Some of these longstanding programs are: CDBG, HOME, ESG, Shelter Plus Care, Density Bonus, Rent Rehabilitation, MCC Housing Bonds, the Housing Trust Fund, and the new Housing Set Aside funds allocated by the Board on January 28, 2003.

The County, in concert with local agencies, municipalities, the Housing Authority, and non-profit affordable housing sponsors, takes an active role in funding development of affordable housing, although it is not generally a developer itself. In this very meaningful way, the County is implementing its Housing Element as required by the General Plan. The current programs are discretionary, but if discontinued, the County would have to identify and carry out alternate methods of achieving its Housing Element in compliance with applicable state laws.

3. Other Comments

The source of funds for many of the programs listed above is the federal government through its Housing and Urban Development Department. The federal regulations directing how the funds may be allocated and spent authorize the payment of administrative fees to defray the County's staff costs to implement and carry out the programs (i.e. CDBG, HOME, ESG). Although the federally-funded programs are discretionary, they may be somewhat financially self-supporting in addition to evidencing the County's compliance with its Housing Element.

For twenty-plus years the Board has directed staff to apply for federal funds and administer certain programs. The money is allocated as grants and loans to eligible recipients. If the County were to disband the OAH and discontinue administering some of the enumerated programs, some ongoing contractual terms would continue both for the County and the recipients who are repaying loans, thereby necessitating some delegation of duties pending satisfaction of these outstanding obligations.

Page Three
Legal Mandates Memo
September 29, 2003

c: Marjorie Matthews, Acting Director
Office of Affordable Housing
1735 North First Street, 2nd Floor, Suite #265

Ann Ravel, County Counsel
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190 Communications

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Non-Mandated	2	659,116	4%	381,325	58%	4.5	4%
Mandated	12	13,834,798	88%	9,654,099	70%	93.5	87%
Admin/Support	-	<u>1,195,514</u>	<u>8%</u>	<u>1,195,600</u>	<u>100%</u>	<u>10.0</u>	<u>9%</u>
Total	<u>14</u>	<u>15,689,514</u>	<u>100%</u>	<u>11,231,024*</u>	<u>72%</u>	<u>108.0**</u>	<u>100%</u>

*Assumes that selected revenue and reimbursements are non-General Fund revenue sources.

**Excludes 5.0 FTE dispatcher trainee positions not funded with permanent salaries.

Departmental Description

The Communications Department performs 12 functions that are mandated by federal and State law and regulation and County ordinance. The primary State law governing the Department's emergency services call-handling function is Government Code Section 53109, which requires that every local public agency shall establish and operate a Basic 9-1-1 System, defined in Section 53107 as one that automatically connects a person dialing "911" to an established public safety answering point. The County's dispatch center is such an answering point, receiving calls for law enforcement services in areas served by the Sheriff's Department, for fire services in areas served by the County Fire Department and selected other fire agencies, and for ambulance services provided via contracts with American Medical Response-West, as required by State law.

The Department also provides dispatch services for other governmental agencies, as well as radio installation and repair for other agencies' vehicles and offices, maintenance of equipment that carries emergency radio signals around the County and coordination of the Countywide 9-1-1 system. These functions are generally authorized by County Ordinance Code A34-183, which states: "The emergency telephone answering and dispatching service, radio service, teletype service and associated

electronic services of the department shall be made available to any state or federal agency, municipal corporation or political subdivision in the county upon approval by the county executive." The department also receives reimbursements from services it provides to non-County agencies.

FY 2006-07 General Fund Budget by Program/Function

<u>Function</u>	<u>FY 2006-07</u>		<u>Departmental</u>	<u>General</u>	<u>Percent</u>
	<u>Adopted Budget</u>	<u>Staffing</u>			
	<u>Amount</u>			<u>Subsidy</u>	
<u>Non-Mandated Activities</u>					
01 Emergency Medical Disp.	598,843	4.0	240,791	358,052	60%
02 Countywide 9-1-1 Coord.	<u>60,273</u>	<u>0.5</u>	<u>37,000</u>	<u>23,273</u>	<u>39%</u>
Subtotal	677,132	4.5	277,791	381,325	58%
<u>Mandated Activities</u>					
03 9-1-1 & Non-Emerg. Calls	2,743,863	18.5	352,405	2,391,458	87%
04 Law Dispatching	3,836,440	26.0	878,220	2,958,220	77%
05 Medical Dispatching	2,674,498	18.0	822,684	1,851,814	69%
06 Fire Dispatching	1,730,420	11.5	1,394,589	335,831	19%
07 Local Govt. Dispatching	747,343	5.0	94,164	653,179	87%
08 Training & Staff. Dev.	180,819	1.5	180,819	0	0%
09 Data Management	277,813	2.0	277,813	0	0%
10 Comm. Syst. Engr. & Design	168,122	1.0	9,407	158,715	94%
11 Comm. Infrast. Inst. & Maint.	935,128	6.0	94,186	840,942	90%
12 Radio Install & Repair	275,262	2.0	49,289	225,973	82%
13 Information Systems Mgt.	109,811	1.0	18,434	91,377	83%
13 FCC Licensing	<u>155,279</u>	<u>1.0</u>	<u>8,689</u>	<u>146,590</u>	<u>94%</u>
Subtotal	13,834,798	93.5	4,180,699	9,654,099	70%
<u>Required</u>					
Admin/Support	<u>1,195,600</u>	<u>10.0</u>	<u>0</u>	<u>1,195,600</u>	<u>100.0%</u>
Total	<u>15,689,514</u>	<u>108.0</u>	<u>4,458,490*</u>	<u>11,231,024</u>	<u>72%</u>

*Includes 15 percent of reimbursements received from Sheriff's Department, which are assumed to be derived from city and Valley Transportation Authority sources.

Description of Programs and Functions

1 - Administration and Support (REQUIRED):

\$1,195,600

The Administration and Support function in the Communications Department includes 10.0 positions, including the Communications Director position, the Assistant Director, and other higher-level management staff and clerical staff that are assigned to multiple functions. These positions are responsible for departmental management, and fiscal, budget and information systems support. Because many of the direct services performed by the Communications Department are mandated, the County must also

provide adequate administrative oversight and support services to fulfill these mandates. The amount of staff and other resources necessary to provide an 'adequate' level of funding is subject to determination by the Board of Supervisors pursuant to Government Code Sections 29063 and 29088. No objective basis was identified to determine if the current budget for administrative and support staffing, and related resources, exceeds the minimum legal funding level.

NON-MANDATED PROGRAMS AND FUNCTIONS

01 – Emergency Medical Dispatch Program (NON-MANDATED): **\$598,843**

Under this program, specially trained dispatchers provide pre-arrival medical instructions to callers reporting medical emergencies, based on protocols developed in conjunction with the County's Emergency Medical Services Agency and other experts. Revenue for this function is included in the overall revenues received from American Medical Response-West and the Saratoga Fire District for ambulance and fire dispatching services. In addition, the Department has a separate agreement with the City of Gilroy to provide Emergency Medical Dispatch Services when needed, with a reimbursement of \$24,000 per year for the services. While this function is not mandated, medical research and health organizations strongly support providing accurate pre-arrival first aid instructions as a method of improving a victim's chances of surviving a medical emergency. For example, the American Heart Association has proposed the concept of a "chain of survival" for heart attack victims, whose links include early access to the emergency medical services system, and early cardiopulmonary resuscitation, which can be provided by the caller with instructions from the dispatcher.

02 – Countywide 9-1-1 Coordination (NON-MANDATED): **\$60,273**

As one of the largest dispatch organizations in the County, the Department has taken on the role of liaison between 9-1-1 agencies throughout Santa Clara County, State emergency communication officials, and other key participants, such as telephone service providers. In this role, the County oversees the maintenance of a master address and telephone number database used by all dispatch agencies within the County, and also is coordinating the creation of a separate 9-1-1 database for wireless phone numbers. This function requires approximately 0.5 FTE staffing, and is offset by reimbursement of \$37,000 from the State. The Department reports that elimination of this non-mandated function, if not assumed by some other local dispatching agency, could result in deterioration of the address/phone number database, impacting response times to emergencies throughout the County.

MANDATED PROGRAMS AND FUNCTIONS

03 – 9-1-1 & Non-Emergency Phone Answering (MANDATED): **\$2,743,863**

As previously described, State law requires the County, as a public agency, to provide a 9-1-1 emergency telephone answering system. State law also requires the County to provide a separate seven-digit number for non-emergency calls to agencies for whom dispatch services are provided. To answer these phone calls, the Department provides 18.5 FTE positions, organized into approximately three fixed posts. Therefore, the department reports that eliminating 6.0 FTE positions would require eliminating a fixed post. According to the department, because the volume of calls received is independent

of staffing for this function, eliminating staff would simply reduce how quickly calls can be answered. The Department's current performance standard is to answer all emergency calls within 10 seconds, which it achieved on 90.0 percent of the 303,771 emergency calls received in Fiscal year 2004-05. According to the Department, if a full 6.0 positions were eliminated, "the function would then be handled as a secondary activity at dispatch positions, extending call answer times to unacceptable levels and making it necessary at times to place 9-1-1 calls on hold when simultaneous emergencies occur." According to the Department, call answering costs are offset by reimbursements totaling \$352,405 from non-County or non-General Fund organizations to whom dispatching services are provided.

04 – Law Dispatching (MANDATED): **\$3,836,440**

The Department dispatches Sheriff's Department patrol cars in response to emergency calls in areas served by the Sheriff, including the unincorporated area of the County, Valley Transportation Authority (VTA) facilities, County parks and the cities of Cupertino, Los Altos Hills and Saratoga. In addition to dispatching patrol cars on specific calls, dispatchers maintain regular radio contact with patrol deputies regarding their status as a safety measure, and will retrieve information on outstanding warrants or other information from law enforcement databases when asked by patrol deputies to do so. By State law, a 9-1-1 emergency telephone and dispatch system must include police services. Law enforcement dispatch services also include dispatch services when needed for the District Attorney's Office, the Department of Correction, Stanford University police, Amtrak police and others. Services are provided with a staff of 26.0 FTE positions, arrayed in approximately four fixed posts. According to the Department, these are mandated under County ordinances requiring the Department to coordinate communications among public safety agencies in the County, and to provide services to any agency requesting them, with approval of the County Executive. According to the Department, law dispatch costs are offset by reimbursements totaling \$878,220, primarily monies received from VTA and the cities of Cupertino, Saratoga and Los Altos Hills via Sheriff's Department law enforcement contracts. According to the Department, reductions would cause delays in dispatching deputies to respond to emergency calls received from the public and in communications with deputies in the field, jeopardizing officer safety, delaying response to deputy requests for warrants checks and other information.

05 – Medical Dispatching (MANDATED): **\$2,674,498**

The Department dispatches Advanced Life Support ambulances staffed with paramedics in response to medical emergency calls for all jurisdictions in the County except the City of Palo Alto. The Department also dispatches basic life support ambulances, staffed with emergency medical technicians, for non-emergency situations where ambulance transport is needed. Emergency medical and ambulance services are one of the basic services for which dispatching must be provided under State law. The function is staffed with approximately 18.0 FTE positions, in approximately three post positions. In addition to the basic dispatch function, the Department provides statistical information on ambulance response and other support to the County's Emergency Medical Services Agency in the Public Health Department, as part of that agency's responsibility for development and enforcement of County and State emergency medical services procedures, policies and regulations, as required by Health and Safety

Code 1797 et. seq. According to the Department, costs of this function are offset by \$822,684 in revenues received from American Medical Response-West under its contract with the County to provide emergency ambulance services. According to the Department, staffing reductions in this function would reduce the ability to provide full staffing for post positions, delaying ambulance dispatching and response times.

06 – Fire Dispatching (MANDATED): \$1,730,420

The Department dispatches fire personnel and equipment from the Santa Clara County Fire Department and the Saratoga Fire District to fires, accidents and other emergencies in the unincorporated area and the cities of Campbell, Cupertino, Los Altos, Los Altos Hills, Los Gatos, Monte Sereno, Morgan Hill and Saratoga, which are served by the County or Saratoga districts. The Department also dispatches firefighter paramedics as first responder to medical emergencies in the County Fire Department areas and Saratoga Fire District. Staffing of approximately 11.5 positions in about two fixed posts provides this function, which is one of the basic functions for which the County's 9-1-1 system must provide telephone communications and dispatching by law. The Department receives reimbursement of \$1,394,589 from the County Fire Department and the Saratoga Fire District for providing dispatching services. These reimbursements are in turn part of the County Fire Department's agreements with the cities of Campbell, Cupertino, Los Altos Hills, Saratoga and Morgan Hill to provide fire protection services. The Department reports that staffing reductions in this function will reduce the ability to fully staff fire dispatching post, potentially delaying dispatching of firefighters and increasing response times to emergencies.

07 – Local Government Dispatching (MANDATED): \$747,343

The Communications Department provides dispatching services to more than 50 County, State and Federal organizations as needed, including the Department of Roads and Airports, the Santa Clara County Fair Association, the County Office of Emergency Services, the Santa Clara Valley Water District, San Jose Water Company, local sewer districts and others. It provides this function with 5.0 FTE positions, who provide this service in combination with a portion of the Department's firefighting dispatch duties.

Dispatch services to the agencies included in the local government dispatch community are not expressly mandated by State law, based on Government Code Section 53110, which identifies police, firefighting and emergency medical and ambulance services as services that must be included in the 9-1-1 and dispatch system. However, the Department correctly cites County Ordinance Codes that direct the Department to establish a communications system to all county departments, and to provide that service "to any state or federal agency, municipal corporation or political subdivision in the county upon approval by the county executive." We note that even this language would not mandate providing service to a private entity such as San Jose Water Company. Furthermore, the Department reports that its participation in the Emergency Alert System, along with the County Office of Emergency Services, is mandated by Government Code Section 8607, which requires the County to use a standardized emergency management system in order to be eligible for state financial relief in the event of a natural disaster or emergency. The Department's participation in this plan includes sending a representative to the County's Emergency Operations Center during emergencies.

According to the Department, costs of the local government dispatching function are offset by reimbursements of approximately \$94,164 received from various non-County or non-General Fund users of dispatch services. Given that reimbursement for these services is far less than their cost, the Board of Supervisors may want to review County Ordinance establishing this function. On the other hand, to the extent that this function primarily serves other County General Fund departments, it may be more efficient to provide dispatch services through the Department than to have other departments provide them individually. The Department reports that reductions in this function would delay services response for the agencies it serves, and also would eliminate staffing that serve as back-up for other dispatching functions during periods of heavy workloads.

08 – Training and Staff Development (MANDATED): **\$180,819**

The Training and Staff Development function includes approximately 1.5 FTE positions, and is responsible for recruitment and training of new dispatchers, via a dispatch academy that is assigned five unfunded dispatcher positions. This function also includes providing 12 hours annual training to maintain the skills of existing dispatch staff. This function is mandated by County Ordinance, which states that the County will adhere to dispatcher training standards established by the California Commission on Peace Officer Standards and Training. This function also includes four hours stress management training for all dispatchers annually, which is not legally mandated, but is required under the County's current contract with Service Employees International Union Local 715.

09 – Data Management (MANDATED): **\$277,813**

This function, staffed with approximately 2.0 FTE positions, provides management of the Department's computer-aided dispatch system, including maintenance of geographic and other databases used by the system, preparation of reports from the system, including reports on dispatcher performance and response time by emergency services agencies, and maintenance of recorded telephone and radio communications data, which is sometimes sought by subpoena during investigations or lawsuits regarding emergencies. According to the Department, this function is mandated under County ordinance requiring the establishment of a communications system to serve County departments. Practically, this function supports the other dispatching functions.

10 – Communications System Engineering & Design (MANDATED): **\$168,122**

In its role, mandated by County ordinance, of providing a radio communications and dispatch system for all County departments and non-County departments as approved by the County Executive, the Department conducts requirements analysis for new equipment needed for the communications system, designs changes to the system, prepares specifications for new equipment, and manages implementation of system improvements, as well as providing engineering consultation services for system users. This function requires a full-time Communications Engineer position, but is more than fully offset by annual charges to other County departments for engineering services. This function includes participating in a project where 18 different public safety agencies in Santa Clara are jointly designing and implementing an improved radio system permitting all agencies to more easily communicate with each other in

emergency situations. Communications difficulties have been cited as a key problem in mutual aid emergency response to major incidents such as the Santana Row in 2003.

11 – Communications Infrastructure

Installation and Maintenance (MANDATED): **\$935,128**

In its role, mandated by County ordinance, of providing a radio communications and dispatch system for all County departments and non-County departments as approved by the County Executive, the Department installs, maintains and upgrades complex communications infrastructure equipment and systems, including radio dispatching consoles, a countywide microwave system, countywide radio systems, and a wide-area radio network. This function is staffed by 6.0 FTE positions, and costs are offset by about \$94,000 in reimbursements received from non-County and non-General Fund customers for radio installation and maintenance services.

13 – Portable and Mobile Radio

Installation and Maintenance (MANDATED): **\$275,262**

In its role, mandated by County ordinance, of providing a radio communications and dispatch system for all County departments, and non-County departments as approved by the County Executive, the Department maintains hand-held and vehicle radios for County departments and other local government agencies, makes repairs, carries out preventive maintenance procedures, frequency and modulation checks and programming changes to ensure compliance with Federal Communications Commission regulations, and performs upgrades to reflect technological changes. This function is staffed by 2.0 FTE positions, and its costs are offset by reimbursements of about \$49,000 received from non-County and non-General Fund customers for its services. The Department reports that failure to continue this function would eliminate the ability to maintain radio equipment that is critical to safety and productivity of public safety personnel in the client departments.

14 – Information Systems Management (MANDATED): **\$109,811**

In its role, mandated by County ordinance, of providing a radio communications and dispatch system for all County departments, and non-County departments as approved by the County Executive, the Department employs a full-time Information Systems Technician to provide maintenance of the Department's local-area and wide-area computer networks, which support the computer-aided dispatch system and other functions. It provides similar services for departments that receive dispatch services. Costs of this function are offset by charges estimated at \$18,434 to non-County and non-General Fund users of this service.

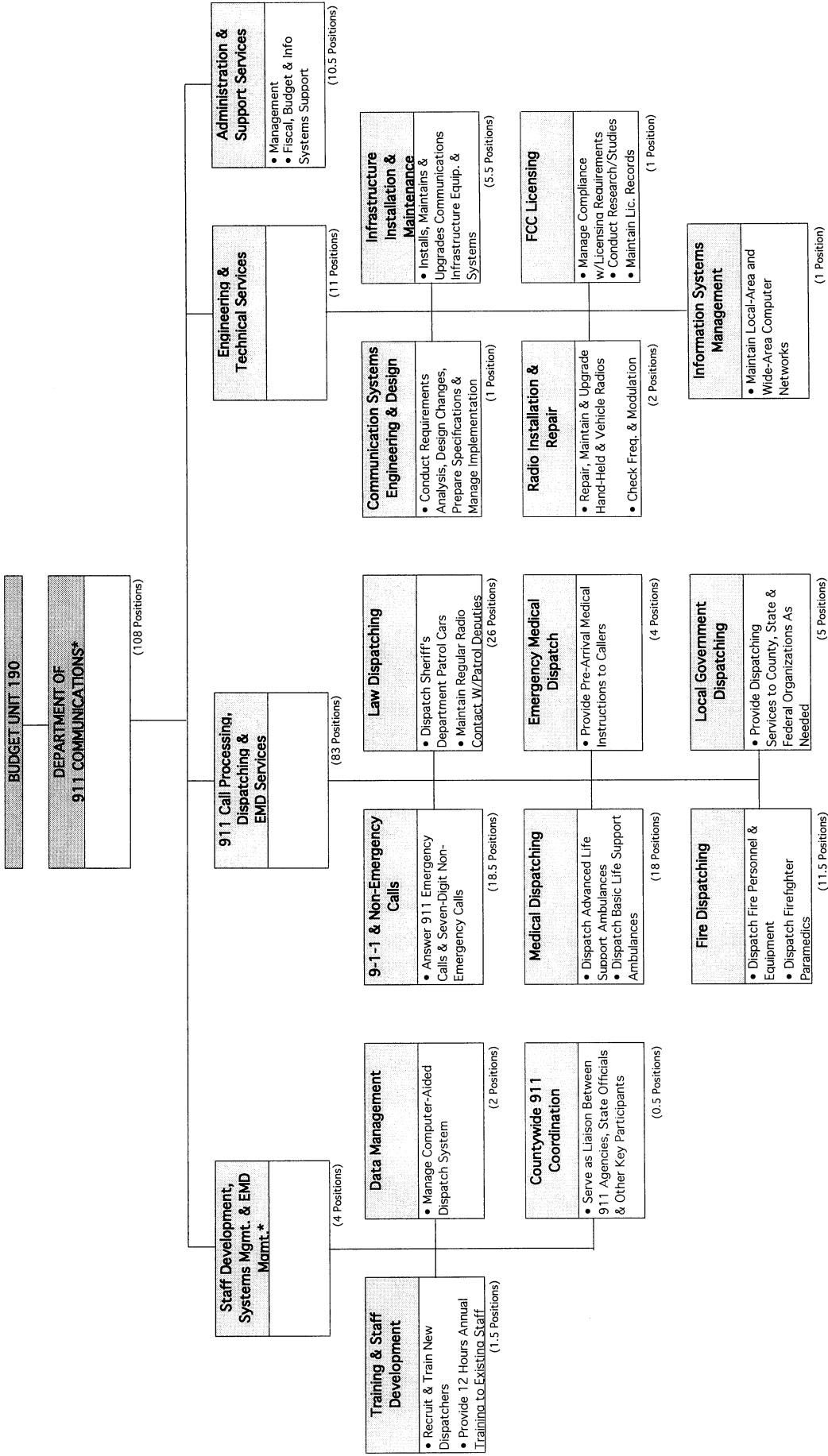
15 – Federal Communications Commission Licensing (MANDATED): **\$155,279**

Federal regulations require a valid license to operate a two-way radio. This function manages the County's compliance with licensing requirements, conducts research on availability of additional radio frequencies for expansion of emergency radio services, maintains licensing records, prepares licensing applications, performs studies of emergency radio coverage geographically throughout the County and consults on designs for radio system improvements. The function is staffed by a full-time Communications Engineer position. This function also assists other County departments and local government agencies regarding FCC licensing issues, and costs

of the function are offset by \$8,689 in reimbursements from non-County and non-General Fund customers.

Total Communications FY 2006-07 Adopted Budget	15,689,514
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DEPARTMENT OF 911 COMMUNICATIONS



* Five Unfunded Training Positions Not Included in Totals.

**OFFICE OF THE COUNTY COUNSEL
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COUNTY COUNSEL**

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ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager
FROM: Bob Campbell, Assistant County Counsel *Bob*
RE: Communications Department, Budget Unit 190
Mandate Analysis Update
DATE: August 3, 2006

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to Budget Unit 190 regarding the Communications Department. I have reviewed the prior analyses and information provided by the Department and find that there have been no changes that would affect the mandated status of the functions of the Department.

c: Bert Hildebrand, Communications Director
Ann Ravel, County Counsel

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MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Leslie Orta, Deputy County Counsel *Leslie Orta*

RE: Mandate Analysis
Communications Department, General Services Agency

DATE: September 30, 2003

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of the legal mandates applicable to the Communications Department in the General Services Agency related to the programs this department administers.

Department staff prepared an accurate and comprehensive report identifying and summarizing Government Code sections and County ordinances applicable to the programs and processes they administer. Most of their activities are mandated by statute but in some cases, the level of service exceeds that which is legally required. By County ordinance, the Board has exercised discretion in authorizing and directing the types and levels of service currently provided. Finally, the County currently contracts to provide certain emergency dispatch service to other local entities; certainly not a mandated function, but a revenue-generating activity the Board may choose to continue providing.

c: Dueane Williams, Director of Communications
County Communications Department, GSA
2700 Carol Drive, SJ 95125

Ann Ravel, County Counsel

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202 District Attorney

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Non-Mandated	2	4,485,916	5%	1,345,518	30%	28.0	6%
Mandated	41	72,073,762	88%	29,299,897	41%	394.0	88%
Admin/Support	-	<u>5,476,428</u>	<u>7%</u>	<u>5,476,428</u>	<u>100%</u>	<u>27.0</u>	<u>6%</u>
Total	<u>43</u>	<u>82,036,106</u>	<u>100%</u>	<u>36,722,843</u>	<u>45%</u>	<u>449.0</u>	<u>100%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=percent of total staffing

Departmental Description

Article XL, Section 1, of the California Constitution mandates that each County have an elected District Attorney. The Office of District Attorney is defined by Government Code 26500 as the public prosecutor whose responsibility it is to attend the courts and conduct all prosecutions for public offenses on behalf of the people. The purpose of the District Attorney's Office is to carry out those duties imposed by law.

The District Attorney is the chief law enforcement official of the county. The District Attorney is an elected official who serves a term of four years. The District Attorney acts both as a county officer and as a state officer in performing the duties of the office.

The District Attorney's office represents the people of Santa Clara County in all felony and misdemeanor criminal cases in the Santa Clara courts. The District Attorney prosecutes violations of state law and county ordinances, but not federal law or city ordinances. To assist the District Attorney in performing these functions, he has a staff of assistant and deputy district attorneys, investigators, clerical personnel, victim-witness advocates and other support staff. Within the office there are general

assignments and vertical assignments devoted to prosecution of specific crimes, such as homicides, sexual assaults, domestic violence, gang violence, child and elder abuse, high technology and computer crimes, major fraud, consumer fraud, real estate fraud, insurance fraud, environmental crimes, and narcotics offences.

The principal duties of the District Attorney's office as public prosecutor are; preparation and trial of criminal cases; advising the Grand Jury; trial and accusations against public officials; prosecute for false advertising and unlawful business practices; and abating public nuisances. Until 6/30/02 the District Attorney's Office was also responsible for conducting civil actions for non-support of children. That function, by law, was moved to the newly established Department of Child Support.

The District Attorney Office consists of 43 functional units.

FY 2006-07 General Fund Budget by Program/Function

<u>Function</u>	<u>FY 2006-07 Adopted Budget</u>		<u>Departmental Revenue*</u>	<u>General Fund Subsidy</u>	<u>Percent</u>
	<u>Amount</u>	<u>Staffing</u>			
<u>Non-Mandated Activities</u>					
01 Consumer Mediation	474,929	4.0	369,704	105,225	22%
02 Juvenile Dependency Rep	<u>4,010,987</u>	<u>24.0</u>	<u>2,770,694</u>	<u>1,240,293</u>	<u>31%</u>
Subtotal	4,485,916	28.0	3,140,398	1,345,518	30%
<u>Mandated Activities</u>					
03 AIDS Litigation	401,881	2.5	231,065	170,816	43%
04 Anti-Drug Abuse Enforce	473,104	2.0	473,104	0	0%
05 Asset Forfeiture	435,567	2.5	435,567	0	0%
06 Burglary, Assault, Theft	3,572,734	21.0	1,940,946	1,631,788	46%
07 Career Criminal	2,922,304	16.5	1,525,029	1,397,275	48%
08 Child Sexual Assault	180,925	3.0	180,925	0	0%
09 Cold Case Invest & Pros	632,923	4.0	369,704	263,219	42%
10 Community Prosecution	1,180,037	6.5	600,769	579,268	49%
11 Complaints	1,845,735	11.0	1,016,686	829,048	45%
12 Consumer Protection	1,236,006	7.0	646,982	589,024	48%
13 DNA Collection Compl	141,388	1.0	92,426	48,962	35%
14 Drug Treatment Court Svc	941,827	5.5	508,343	433,484	46%
15 Elder Fraud	871,133	5.0	462,130	409,003	47%
16 Environment Crimes	800,439	4.5	415,917	384,522	48%
17 Family Violence	3,435,347	21.0	1,940,946	1,494,401	44%
18 Forensic Mental Issues	1,180,037	6.5	600,769	579,268	49%
19 Gangs	2,486,737	14.0	1,293,964	1,192,773	48%
20 Government Integrity	722,577	4.5	265,917	456,660	63%
21 High Tech Crimes	3,203,889	6.5	2,563,111	640,778	20%
22 Innocence Project	547,503	3.5	323,491	224,012	41%
23 Insurance Fraud	3,573,798	18.0	3,573,798	0	0%
24 Juvenile Wards	3,089,820	17.0	1,571,242	1,518,578	49%

25 Lifer Hearings	576,955	3.5	323,491	253,464	44%
26 Major Cases	3,452,535	21.5	1,987,159	1,465,376	42%
27 Major Fraud	2,044,002	12.0	1,109,112	934,890	46%
28 Misdemeanor Pros	4,200,413	24.0	1,918,224	2,282,189	54%
29 Motions, Writs, & Appeals	2,136,202	11.0	516,686	1,619,516	76%
30 Narcotics	3,967,214	25.0	2,276,527	1,690,687	43%
31 North County Pros	3,536,789	19.0	1,607,864	1,928,925	55%
32 Preliminary Hearings	2,277,590	12.0	1,109,112	1,168,478	51%
33 Public Assistance Fraud**	4,553,825	28.0	3,507,715	1,046,110	23%
34 Probation Viol Calendar	662,374	4.0	369,704	292,670	44%
35 Real Estate Fraud	1,467,047	8.5	785,621	681,426	46%
36 Regional Auto-Theft	491,535	3.0	277,278	214,257	44%
37 Restitution Services	165,710	2.0	165,710	0	0%
38 Safe Neighborhoods Proj	238,210	1.0	238,210	0	0%
39 Sex Offender Regis	379,598	2.0	184,852	194,746	51%
40 Sexual Assault Team	3,968,122	21.5	1,841,375	2,126,747	54%
41 South County Prosecutn	1,980,477	11.0	1,016,686	963,791	49%
42 Truancy Abatement	379,598	2.0	184,852	194,746	51%
43 Victim Witness Services	<u>1,719,855</u>	<u>0.0</u>	<u>1,719,855</u>	<u>0</u>	<u>0%</u>
Subtotal	72,073,762	394.0	42,172,864	29,900,898	41%
<i>Required</i>					
Admin/Support	<u>5,476,428</u>	<u>27.0</u>	<u>0</u>	<u>5,476,428</u>	<u>100.0%</u>
Total	<u>82,036,106</u>	<u>449.0</u>	<u>45,313,262</u>	<u>36,722,843</u>	<u>45%</u>

Note: * Revenues include \$645,013 of SB 90 revenues and \$27,084,071 of Public Safety Sales Tax revenue, both of which are budgeted in other Departments.

**Revenues reflect 78% of the funds received from Social Services Agency.

The Office of the District Attorney has two new mandated functions: DNA Collection Compliance and Safe Neighborhoods Project. DNA Collection Compliance is the result of California Proposition 69 requiring all felons and adults and juveniles arrested for or charged with certain crimes to submit a DNA sample to the State DNA Database. This function is responsible for ensuring that DNA samples are submitted to the State DNA Database. The Safe Neighborhoods Project is a nationwide commitment to reduce gun crime in America by networking existing local programs that target gun crime and providing these programs with additional tools to be successful. This project requires one deputy district attorney to collaborate with the U.S. Attorney's Office on violations of gun laws and prosecute criminal violations that are more appropriate under California state law than under federal law.

The Office of the District Attorney has reclassified the function of Community Prosecution from non-mandated to mandated based on a change in focus. Previously, the focus was on neighborhood outreach but due to budget reductions, the current community prosecutors are involved in the prosecution of a variety of criminal and code enforcement action. These actions include but are not limited to civil and criminal abatement, prostitution, drug sales and city and county ordinance violations. According to the County Counsel, this function is now mandated through the same

statutes that would make investigation and prosecution of these crimes mandated if performed through another non-community based function.

In addition to these three new mandated functions, the Office of the District Attorney has eliminated the non-mandated functions for Treatment Certification and the Bad Check Program. According to the Office of the District Attorney, recent staffing reductions have reduced the focus on treatment certification to the level of an additional duty, which the Drug Treatment Court function now performs. Additionally, they advise that initially there was a requirement for higher staffing levels to get the program started and bring all residential facilities into compliance. However, now that the activity is well established it requires much less effort to maintain. The Bad Check Program is no longer included as a non-mandated function because it is now performed through an agreement with an outside provider who performs this function with its own resources (at no cost to the County except partial time of an Investigator and Administrative Manager) and receives a portion of the proceeds from settlement.

Because of a shift in focus on certain criminal activities by the Office of the District Attorney, the FY 2006-07 Mandate Report reflects the restructuring of some of the mandated functions. A total of nine functions, previously included in other functions have been singled out and are now distinct functions in the Mandate Report. These include AIDS Litigation, Anti-Drug Abuse Enforcement, Child Sexual Assault, Drug Treatment Court Services, Innocence Project, Restitution Services, Sex Offender Registration, and Truancy Abatement. Several functions have also been renamed including, asset forfeiture previously called economic crimes, environment crimes previously environmental and workplace safety, lifer hearings, previously parole hearings and public assistance fraud previously called welfare fraud. Additionally, two distinct functions have been eliminated and are now included in other functions. These includes PACE which is now included in Elder Fraud and Homicides which is now included in Major Cases. The function, Public Information, is no longer a distinct function but considered an additional duty.

Non-general fund funding for the Office of the District Attorney is from a variety of sources including grants, fees, revenues from Superior Court for Juvenile Dependency, SB90 revenues and Public Safety Sales Tax revenues. In FY 2006-07 Public Sales Tax revenues to the County is estimated to total \$161,000,000, of which an estimated \$27,084,071 will be allocated to the Office of the District Attorney, and the remainder distributed to the other Public Safety Departments. In order to receive this revenue the County is required to provide General Fund support at least equal to the FY 1992-93 maintenance of effort level. Since the FY 2006-07 budget exceeds the maintenance of effort level by more than \$100 million, any reduction in this budget would reduce the General Fund subsidy on a dollar-for-dollar basis.

Description of Programs and Functions

Administration and Support (REQUIRED):

\$5,476,428

This function has 27 FTE's assigned in support of the activity. This includes executive management attorneys (7 positions), confidential secretaries (4 positions), information systems management (2 positions), and the Business Services Unit (14 positions).

The District Attorney sets policy and directs the operation of the Office at the highest level. The policies are implemented by the chief assistant district attorney who manages the day-to-day affairs of the law office. Business Services is responsible for general department infrastructure, including auditing, accounting, budgeting, personnel, purchasing, grants, travel, maintenance and intergovernmental liaison. Because the direct services performed by the District Attorney are mandated, the County must also provide adequate administrative oversight and support services to fulfill these mandates. The number of staff and amount of other resources necessary to provide an 'adequate' level of funding is subject to determination by the Board of Supervisors pursuant to Government Code Sections 29063 and 29088.

NON-MANDATED PROGRAMS AND FUNCTIONS

01 – Consumer Mediation Services (NON-MANDATED):

\$474,929

This function has 4 FTE's mediation specialist positions directly assigned to this activity. The efforts of this unit account for approximately \$369,704 in department-wide revenue. The mediation function is responsible for assisting consumers in resolving their disputes with businesses, by offering to mediate those disputes. The mediation staff, together with nearly twenty volunteers, provides the consumer and the business with the opportunity to present and review both sides of the dispute. The mediation process ends when an agreement is reached, or when the consumer or the business chooses not to participate in the mediation.

02 – Juvenile Dependency (NON-MANDATED):

\$4,010,987

This function has 24 FTE's assigned directly to this activity. Staffing is contractually determined and includes 11 attorneys, and 13 administrative personnel. Through a contract with the Superior Court \$2,770,694 is reimbursed to the District Attorney annually. The Juvenile Dependency function is responsible for representing children who are harmed or neglected by their parents or caretakers. The Office, through an agreement with the Superior Court, is appointed to represent a child who is brought to the attention of the Juvenile Dependency Court. It is the job of the child's lawyer to represent the child and apprise the Court of what the child wants in the context of the best interest of the child. The attorneys are involved in seeing that the children they represent have appropriate placements, that they are in the right schools, and that they are receiving appropriate services from their social workers. To help keep in contact with the children they represent, each attorney works with a team comprised of two investigators and a social worker. This investigator visits children at the Children's Shelter, at their schools, and in their homes and placements.

While the core function of courtroom representation is a Court mandate (for which the District Attorney is compensated) and therefore not a County mandate; however, the related services performed by this function are properly considered County functions that would likely have to be performed by a County agency if the function were to be discontinued.

MANDATED PROGRAMS AND FUNCTIONS

03 – AIDS Litigation (MANDATED): \$401,881

This function has 2.5 FTE's assigned directly or in support of the activity. Staffing shifts based upon caseloads; however, on average this includes a half-time attorney, and 2 administrative personnel. The efforts of this unit account for approximately \$231,065 in department-wide revenue. Victims of sexual assault are guaranteed anonymity throughout the court process and victim's address is protected by state law from disclosure. Penal Code sections 293 and 293.5. The Sexual Assault Team reviews cases where the victim has been exposed to blood or other bodily fluids that could contain HIV or AIDS. The law requires the crime victim be notified of their right to testing. If they would like to have the criminal tested for those viruses, the deputy district attorney prepares search warrants for court orders to have the testing done in a sensitive and timely manner. The local health department will inform the victim of the result in a medically confidential manner and provide professional counseling if desired. Penal Code section 1524.1.

04 – Anti-Drug Abuse Enforcement (MANDATED): \$473,104

Anti-Drug Abuse Grant team consists of 2.0 attorney positions and targets street level dealers and users, which if left alone cause serious deterioration to community neighborhoods. The team is fully funded by a grant from the California Office of Emergency Services. Government Code sections 26500 and 26501.

05 – Asset Forfeiture (MANDATED): \$435,567

This function has 2.5 FTE's assigned directly or in support of the activity. Staffing shifts based upon caseloads; however, on average this includes 1 attorney, 1 administrative position, and one half-time investigator support. The efforts of this unit are fully reimbursed by equitable sharing agreements from forfeited assets, and routinely provide large settlement payments whose proceeds primarily flow to the County general fund, not the District Attorney's budget. The unit is responsible for ensuring that those who profited from the criminal activities have the related property seized and returned to victims and or to reimburse the criminal justice system. Health and Safety Code section 11470; Government Code section 26000, 26201.

06 – Burglary, Assault, Theft (MANDATED): \$3,572,734

This function has 21 FTE's assigned directly or in support of the activity. Staffing shifts based upon caseloads; however, on average this includes 10 attorneys, 7 administrative personnel, and 4 investigator support. The efforts of this unit account for approximately \$1,940,946 in department-wide revenue. The Burglary, Assault, Theft function is responsible for prosecuting general felony crimes of burglary, theft and

assault that are set for trial. The team handles all pretrial hearings with the court and defense counsel. Government Code sections 26500 and 26501.

07 – Career Criminal (MANDATED): **\$2,922,304**

This function has 16.5 FTE's assigned directly or in support of the activity. Staffing shifts based upon caseloads; however, on average this includes 7 attorneys, 6.5 administrative personnel, and 3 investigator support. The efforts of this unit account for approximately \$1,525,029 in department-wide revenue. The Career Criminal function is responsible for prosecuting felonies committed by serious repeat offenders the majority of whom are "Three-Strike defendants. The unit specializes in prosecution of Arson/Bomb cases. Penal Code sections 999b, 999d and 999f.

08 – Child Sexual Assault Vertical Pros (MANDATED): **\$180,925**

This function has 3 FTE's assigned directly to the activity. The staffing is consistent at 2 attorneys and 1 administrative person over time due to the constraints of the grant funding; however, the assigned personnel work on this function only up to the reimbursement level of \$180,925. This function is responsible for prosecuting sexual assaults on victims under the age of 14. The cases handled by this unit normally involve instances of the use of force, violence, menace, or fear. Government Codes 26500 and 26501; Penal Code section 1382.

09 – Cold Case Investigation and Prosecution (MANDATED): **\$632,923**

This function has 4 FTE's assigned directly or in support of the activity. Staffing shifts based upon caseloads; however, on average this includes 1 attorney, 2 administrative personnel, and 1 investigator support. The efforts of this unit account for approximately \$369,704 in department-wide revenue. This function is responsible for reviewing old cases for which there is the potential that advances in technology can be used to analyze evidence and solve crimes. These cases would only be investigated where the statute of limitations has not expired, and the underlying criminal statutes would apply depending on the crime. Government Code sections 26500 and 26501.

10 – Community Prosecution (MANDATED): **\$1,180,037**

This function has 6.5 FTE's assigned directly or in support of the activity. Staffing shifts based upon caseloads; however, on average this includes 3 attorneys, 2.5 administrative personnel, and 1 investigator support. The efforts of this unit account for approximately \$600,769 in department-wide revenue. The Community Prosecution function, at its inception, was primarily responsible for crime prevention in collaboration with other agencies to deter crime. Through the community prosecution program, deputy district attorneys were assigned to certain designated areas of the County to work with neighborhoods, and other agencies to provide services on projects that improve the quality of life for residents in direct abatement activities. Community prosecutors, due in large part to budget reductions and the resulting shifting of priorities, have begun to directly target crime prone areas and bring resources to bear to reduce or eliminate crime and create safer communities. The current community prosecutors are involved in the prosecution of a variety of criminal and code enforcement actions. Those actions include but are not limited to civil and criminal abatement, prostitution, drug sales and city and county ordinance violations. This function is mandated through the same statutes that would make investigation and

prosecution of these crimes mandated if performed through another non-community based function. It is performed in accordance with Government Code sections 26500, and 26528.

11 – Complaint Unit (MANDATED): **\$1,845,735**

This function has 11 FTE's assigned directly or in support of the activity. Staffing shifts based upon caseloads; however, on average this includes 3 attorneys, 8 administrative personnel, and no investigator support. The efforts of this unit account for approximately \$1,016,686 in department-wide revenue. The Complaints function is responsible for issuing complaints for felony crimes not prosecuted by vertical units. Government Code sections 26500 and 26501.

12 – Consumer Protection (MANDATED): **\$1,236,006**

This function has 7 FTE's assigned directly or in support of the activity. Staffing shifts based upon caseloads; however, on average this includes 3 attorneys, 2.5 administrative personnel, and 1.5 investigator support. The efforts of this unit account for approximately \$646,982 in department-wide revenue. The Consumer Protection function is responsible for prosecuting either civil or criminally, unfair business practices, false advertising or other violations where consumers have been victimized. It also provides the public with information about consumer transactions and educates consumers and businesses as to their rights and responsibilities. Government Code sections 26500 and 26501; Business and Professions Code sections 17200-17205; 17500-17536.1

13 – DNA Collection Compliance (MANDATED): **\$141,388**

This function has 1 FTE assigned directly or in support of the activity. Staffing shifts based upon caseloads; however, on average this includes 1 administrative position. The efforts of this unit account for approximately \$92,962 in department-wide revenue. This function is responsible for ensuring that individuals convicted of serious crimes submit samples to the State DNA Database in accordance with the requirements of Proposition 69.

14 –Drug Treatment Court Services (MANDATED): **\$941,827**

This function has 5.5 FTE's assigned directly or in support of the activity. Staffing shifts based upon caseloads; however, on average this includes 2 attorneys, 2.5 administrative personnel, and 1 investigator position. The efforts of this unit account for approximately \$508,343 in department-wide revenue. The Drug Treatment Court focuses on treatment for drug offenders. The Drug Treatment Court team deals with the most addicted defendants with felony charges. These defendants are provided with the most extensive treatment services available to the court with a goal of promoting drug dependency recovery to reduce future violations. Government Code sections 26500 and 26501.

15 – Elder Fraud (MANDATED): **\$871,133**

This function has 5 FTE's assigned directly or in support of the activity. Staffing shifts based upon caseloads; however, on average this includes 2 attorneys, 2 administrative personnel, and 1 investigator position. The efforts of this unit account for approximately \$462,130 in department-wide revenue. The Elder Fraud function is

responsible for prosecuting financial crimes against the elderly. This includes forged checks, unauthorized use of credit cards and embezzlement. The unit is an integral part of the Financial Abuse Specialist Team (FAST) which combats elder fraud in collaboration with the Public Guardian and other agencies. FAST targets incidents where senior citizens are victims of fraud. FAST investigates and the unit prosecutes these cases. Government Code sections 26500 and 26501.

16 – Environmental Crimes (MANDATED):

\$800,439

This function has 4.5 FTE's assigned directly or in support of the activity. Staffing shifts based upon caseloads; however, on average this includes 2 attorneys, 1.5 administrative personnel, and 1 investigator position. The efforts of this unit account for approximately \$415,917 in department-wide revenue. The Environmental & Workplace Safety function is responsible for enforcing laws intended to protect human health and the environment, and to ensure workplace safety. These responsibilities encompass laws governing such diverse areas as air pollution, asbestos, hazardous waste, hazardous materials, hazardous substances, illegal land development, illegal pesticide use, exposure warnings, timber protection, underground storage tanks, water pollution, unlawful streambed alterations, wildlife protection and workplace safety where fatalities or serious injuries are involved. The staff also works with agencies that investigate alleged violations of this type. Enforcement of these laws includes civil as well as criminal proceedings, which can result in substantial monetary penalties and recovery of damages to natural resources, as well as incarceration. Health and Safety Code sections 25181, 25182, 25190, 25249.5, 25249.7, 25299.01 and 25299.02; Food and Agriculture Code section 12996; Government Code sections 26500 and 26501; inter alia.

17 – Family Violence (MANDATED):

\$3,435,347

This function has 21 FTE's assigned directly or in support of the activity. Staffing shifts based upon caseloads; however, on average this includes 11.5 attorneys, 4.5 administrative personnel, and 5 investigator support. The efforts of this unit account for approximately \$1,940,946 in department-wide revenue. The Family Violence Unit is responsible for the prosecution of all criminal cases involving physical abuse or neglect of children, elders, and dependent adults including cases that occur in nursing homes, schools, and hospitals. The staff has developed protocols with County law enforcement agencies whereby they commit to conduct prompt and thorough investigations of cases; reduce trauma to victimized children, elder and dependent adults and train employees to recognize and investigate child, elder and dependent adult abuse. Government Code sections 26500 and 26501; Penal Code section 999q.

This team is also responsible for reviewing all domestic violence cases referred, determining which charges, if any, will be filed, and assigning those cases to team members to litigate them. The District Attorney believes that domestic violence is a crime against society and should be prosecuted. In appropriate cases, lawyers seek protective orders on behalf of the victim. Government Code sections 26500 and 26501; Penal Code section 136.2.

Additionally the Child Abduction function is part of this function and is responsible for investigating and prosecuting cases of children abducted by non-custodial parents. The

staff also enforces custody and visitation orders. This unit performs a state-mandated function. Family Code sections 3130-3132. Government Code sections 26500 and 26501.

18 – Forensic Mental Issues (MANDATED): **\$1,180,037**

This function has 6.5 FTE's assigned directly or in support of the activity. Staffing shifts based upon caseloads; however, on average this includes 3 attorneys, 2.5 administrative personnel, and 1 investigator position. The efforts of this unit account for approximately \$600,769 in department-wide revenue. The Forensic Mental Issues function is responsible for handling civil commitments and re-commitment proceedings involving sexually violent predators (P.C. 6600 et seq.); mentally disordered sex offenders (W&I 63162.2); mentally disordered offenders (P.C. 2970 et seq.) and the criminally insane (P.C. 1026.2 and 1026.5).

19 – Gangs Team (MANDATED): **\$2,486,737**

This function has 14 FTE's assigned directly or in support of the activity. Staffing shifts based upon caseloads; however, on average this includes 6 attorneys, 5.5 administrative personnel, and 2.5 investigator support. The efforts of this unit account for approximately \$1,293,964 in department-wide revenue. The Gang function prosecutes gang-related felony offenses, including homicides. The Legislature has enacted numerous laws specifically targeting gang-related crime. Gang members and their associates often engage in violent crime, narcotics trafficking and other criminal offenses. Their victims are not always rival gang members. Because of difficulties attendant to prosecuting these cases, the District Attorney has designated this team to handle these cases vertically. Government Code sections 26500, 26501 and 26502; Penal Code sections 186.21, 186.22, 999i and 12022.53.

20 – Governmental Integrity (MANDATED): **\$722,577**

This function has 4.5 FTE's assigned directly or in support of the activity. Staffing shifts based upon caseloads; however, on average this includes 1.5 attorneys, 1 administrative position, and 2 investigator support. The efforts of this unit account for approximately \$265,917 in department-wide revenue. The Governmental Integrity function is responsible for enforcing proper collection and reporting of campaign contributions; prosecuting crimes committed by public officials and employees while acting in their official capacity. This function is performed in accordance with Government Code sections 26500, 26501, and 26502.

21 – High Tech Crimes (MANDATED): **\$3,203,889**

This function has 6.5 FTE's assigned directly or in support of the activity. Staffing shifts based upon caseloads; however, on average this includes 4 attorneys, 1 administrative position, and 1.5 investigator support. The efforts of this function are supported by \$2,563,111 in revenue from the California Office of Emergency Services. There is a 25% match of County general funds for this function. The High Tech Fraud function is responsible for investigation and prosecution of criminality that affects high technology.

The High-Technology Crime function was formed to cope with the unique law enforcement problems posed by the emerging high technology environment, generally: (1) theft and sale of computers, computer hardware and software, (2) theft of trade secrets, and (3) hacking, illicit intrusions into computer systems, auction fraud, identity

theft, and other Internet crimes. The High-Technology Crime function works hand in hand with this and other regional high technology task forces. The District Attorney and local municipal law enforcement agencies formed the south bay regional task force, the Rapid Enforcement Allied Computer Team (REACT), in 1997, to better cope with criminality that affects high-technology crime. Government Code sections 26500 and 26501.

22 – Innocence Project (MANDATED): **\$547,503**

This function has 3.5 FTE's assigned directly or in support of the activity. Staffing shifts based upon caseloads; however, on average this includes 1 attorney, 1 administrative position, and 1.5 investigator support. The efforts of this unit account for approximately \$323,491 in department-wide revenue. This function is responsible for investigating whether persons previously convicted should have their cases reviewed in light of new evidence or other circumstances. Government Code sections 26500 and 26501; Business and Professions Code sections 26500 and 26501.

23 – Insurance Fraud (MANDATED): **\$3,573,798**

This function has 18 FTE's assigned directly or in support of the activity. Staffing shifts based upon caseloads; however, on average this includes 3 attorneys, 1 administrative position, and 14 investigator support. The efforts of this function are fully supported by grants from the California Department of Insurance. The Insurance Fraud function is responsible for prosecuting and investigating automobile insurance fraud and workers' compensation fraud. These cases are frequently quite complex as they can involve auto insurance fraud and Workers Compensation Fraud. Grants from the California Department of Insurance fully support this function. Government Code sections 26500 and 26501.

24 – Juvenile Wards (MANDATED): **\$3,089,820**

This function has 17 FTE's assigned directly or in support of the activity. Staffing shifts based upon caseloads; however, on average this includes 8 attorneys, 6 administrative personnel, and 3 investigator support. The efforts of this unit account for approximately \$1,571,242 in department-wide revenue. The Juvenile Wards function is responsible for reviewing and prosecuting juvenile delinquents for criminal violations of the law. Welfare and Institutions Code sections 601, 602, and generally Division 2, Part 1, Chapter 2, Articles 14-18; Education Code sections 48260-48264.5 and 48290-48293.

25 – Lifer Hearings (MANDATED): **\$576,955**

This function has 3.5 FTE's assigned directly or in support of the activity. Staffing shifts based upon caseloads; however, on average this includes 1 attorney, 2 administrative personnel, and 0.5 investigator support. The efforts of this unit account for approximately \$323,491 in department-wide revenue. Personnel assigned to the Lifer Hearings function attend either personally, or when possible via video conferencing, the parole hearings of persons sentenced to life in prison or life with the possibility of parole, generally murder or certain kidnapping or robbery cases. Penal Code sections 3041, 3041.7, 3043, 3043.2 and 3043.25.

26 – Major Cases (MANDATED): **\$3,452,535**

This function has 21.5 FTE's assigned directly or in support of the activity. Staffing shifts based upon caseloads; however, on average this includes 7 attorneys, 5.5 administrative personnel, and 9 investigator support. The efforts of this unit account for approximately \$1,987,159 in department-wide revenue. The Major Cases function vertically handles the most sensitive and difficult to prove felony cases. Often this unit is involved in ongoing investigations of unsolved homicides. Government Code sections 26500, 26501 and 26502.

27 – Major Fraud (MANDATED): **\$2,044,002**

This function has 12 FTE's assigned directly or in support of the activity. Staffing shifts based upon caseloads; however, on average this includes 4.5 attorneys, 4.5 administrative personnel, and 3 investigator support. The efforts of this unit account for approximately \$1,109,112 in department-wide revenue. The Major Fraud function is responsible for prosecuting cases involving serious and complex fraud, or white collar crime, where the loss exceeds \$100,000. The Unit emphasizes theft cases that are accomplished by lying or the breach of a trusted or fiduciary relationship with the victim as opposed to the taking of property covertly, or by force or fear. Major fraud theft involves obtaining property through false pretenses, trickery, fraud, or embezzlement. The unit also prosecutes investment and tax fraud cases regardless of the dollar loss. The unit has expanded its outreach to include the Internet, which has become a major source for significant fraud. Government Code sections 26500 and 26501.

28 – Misdemeanor Prosecution (MANDATED): **\$4,200,413**

This function has 24 FTE's assigned directly or in support of the activity. Staffing shifts based upon caseloads; however, on average this includes 13.5 attorneys and 10.5 administrative personnel. The efforts of this unit account for approximately \$1,918,224 in department-wide revenue. Misdemeanors constitute the majority of cases prosecuted by the District Attorney and countywide. Typical offenses seen by the unit include driving under the influence, domestic violence, driving without a valid license, petty theft, battery, misdemeanor child sexual abuse, trespass, disturbing the peace, and misdemeanor drug offenses. The Central Misdemeanor Unit is comprised of twelve attorneys who prosecute these non-felony (non-prison) cases in the San Jose facility of the Superior Court. The unit prosecutes misdemeanor crimes that occur in the central portion of the county, including the cities of San Jose, Santa Clara, Campbell, Milpitas, and Los Gatos. Misdemeanors committed outside those areas are prosecuted by deputies assigned to either the Palo Alto Branch Office or the San Martin Branch Offices respectively. Government Code sections 26500 and 26501; Penal Code sections 825, 849, 1382 and 1466.

29 – Motions, Writs & Appeals (MANDATED): **\$2,136,202**

This function has 11 FTE's assigned directly or in support of the activity. Staffing shifts based upon caseloads; however, on average this includes 6 attorneys and 5 administrative personnel. The efforts of this unit account for approximately \$516,686 in department-wide revenue. This function is responsible for responding to legal challenges filed before trial for non-vertical prosecution teams; in some cases handling People's appeals; researching petitioner's history for findings of factual innocence;

responding to writs of Habeas Corpus; and appearing in appeals to the Superior Court Appellate Department. Government Code sections 26500 and 26501; Penal Code sections 995, 1466, 1475, 1538.5, 1540, 4803 and 4851.21.

30 –Narcotics (MANDATED):

\$3,967,214

This function has 25 FTE's assigned directly or in support of the activity. Staffing shifts based upon caseloads; however, on average this includes 11 attorneys, 9.5 administrative personnel, and 4.5 investigator support. The efforts of this unit account for approximately \$2,276,527 in department-wide revenue. The Drugs/Narcotics function is responsible for handling narcotics cases at all levels; from the high level sellers and traffickers to street level dealers, to manufacturers, and possessors, whether for sale or personal use. Treatment is a large part of dealing with personal possessors. Within the Narcotics team, specialized units focus on various problems or challenges. The Major Vendor Unit focuses on large scale operators; the Asset Forfeiture Unit specializes in removing the financial incentive to dealing drugs by seeking to identify and forfeit assets derived from the illegal sales of narcotics. Government Code sections 26500 and 26501.

31 – North County Prosecution (MANDATED):

\$3,536,789

This function has 19 FTE's assigned directly or in support of the activity. Staffing shifts based upon caseloads; however, on average this includes 10 attorneys, 5 administrative personnel, and 4 investigator support. The efforts of this unit account for approximately \$1,607,864 in department-wide revenue. North County is located at the courthouse in Palo Alto. This office performs the same mandated functions as does the main office. Some of these are: filing cases; arraigning defendants; advocating at bail motions; providing discovery; conducting follow-up investigations; subpoenaing necessary documents; notifying victims and witness of status of the case; subpoenaing witnesses for hearings and trial; conducting preliminary hearing; filing charging documents; litigating pre-trial motions; starting trial within statute of limitations; and sentencing the convicted within the statutory time. Government Code sections 26500 and 26501; Penal Code sections 679.02, 825, 849, 859, 861, 1050, 1130, 1381, 1382, 1466 and 1543.

32 – Preliminary Hearings (MANDATED):

\$2,277,590

This function has 12 FTE's assigned directly or in support of the activity. Staffing shifts based upon caseloads; however, on average this includes 6 attorneys and 6 administrative personnel. The efforts of this unit account for approximately \$1,109,112 in department-wide revenue. The Preliminary Hearing function is responsible for handling prosecution of general felony matters to determine if there is probable cause for the defendant to stand trial. Government Code sections 26500 and 26501; Penal Code sections 859b and 995.

33 – Public Assistance Fraud (MANDATED):

\$4,553,825

This function has 28 FTE Criminal Investigators assigned directly in support of this activity. The District Attorney receives reimbursement in the amount of \$4,497,071 from the Social Services Agency for this function comprised of approximately 78 percent federal and State Block Grants and 22 percent General Fund. This reimbursement makes the true cost of the function only \$56,754. The reimbursement is

reflected in this analysis at 78 percent because this is the amount of the funds received from the Social Services Agency that come from non-General Fund monies. The Welfare Fraud function is responsible for investigating and prosecuting criminal cases involving theft of public assistance money. Government Code sections 26500 and 26501.

34 – Probation Violation Calendar (MANDATED): **\$662,374**

This function has 4 FTE's assigned directly or in support of the activity. Staffing shifts based upon caseloads; however, on average this includes 1 attorney and 3 administrative personnel. The efforts of this unit account for approximately \$369,704 in department-wide revenue. This function is responsible for seeking the appropriate resolution of matters where a person convicted of a felony and placed on probation later violates the terms of probation. The appropriate resolution could be commitment to prison, additional jail time, time in a treatment facility, further fine, restitution, or a combination of the foregoing. Penal Code sections 1203.2 and 1203.3.

35 – Real Estate Fraud (MANDATED): **\$1,467,047**

This function has 8.5 FTE's assigned directly or in support of the activity. Staffing shifts based upon caseloads; however, on average this includes 3.5 attorneys, and 2.5 administrative personnel, and 2.5 investigator support. The efforts of this unit account for approximately \$785,621 in department-wide revenue. The Real Estate Fraud function is responsible for prosecuting crimes involving real estate documents and transactions. Frequently there is overlap with cases of Elder Fraud where the criminal is targeting elders' valuable real assets. Government Code sections 26500 and 26501.

36 – Regional Automobile Theft Task Force (RATTF) (MANDATED): **\$491,535**

This function has 3 FTE's assigned directly or in support of the activity. Staffing shifts based upon caseloads; however, on average this includes 1 attorney, 1 administrative position, and 1 investigator position. The efforts of this unit account for approximately \$277,278 in department-wide revenue. The RATTF has a contract agreement with the District Attorney whereby the task force pays from its trust fund for the services of positions dedicated to prosecution of task force cases. This function then is to vertically prosecute automobile theft rings and, in some cases, dishonest auto body repair shops, known as chop shops. Government Code sections 26500 and 26501.

37 – Restitution Services (MANDATED): **\$165,710**

This function has 2 FTE's assigned part-time in support of the activity. Staffing shifts based upon caseloads; however, on average this includes 1 attorney and 1 administrative position. The efforts of this unit are fully supported by revenue from the California Victim Compensation and Government Claims Board. This function is responsible for assisting crime victims who suffers an economic loss, and are entitled to a restitution order. These losses can include, medical expenses, funeral expenses, mental health counseling, lost wages or profits, or even relocation expenses. The process of obtaining restitution can be complex and time consuming. Process specialists work with individuals to insure proper compensation. Penal Code 1202.4, 1214, and 1202.6; Welfare and Institutions Code section 730.6, 730.7; Government Code section 26500, 26501.

38 – Safe Neighborhoods Project (MANDATED): **\$238,210**

This function has 1 attorney position assigned directly in support of the activity. The efforts of this function are fully reimbursed by the federal government. This individual is detailed to the US Attorney's Office and works inter-governmentally to prosecute local cases involving guns and gun violence impacting communities. Working collaboratively with federal authorities allows our prosecutor to bring cases in local Superior Court for violations of state law while federal authorities prosecute violations of federal law. Government Code section 26500, 26501.

39 – Sex Offender Registration (MANDATED): **\$379,598**

This function has 2 FTE's assigned directly or in support of the activity. Staffing shifts based upon caseloads; however, on average this includes 1 attorney and 1 administrative position. The efforts of this unit account for approximately \$184,852 in department-wide revenue. This function ensures that convicted sex offenders required to register there whereabouts do so in accordance with applicable statutes. Penal Code section 295 et seq.

40 – Sexual Assault (MANDATED): **\$3,968,122**

This function has 21.5 FTE's assigned directly or in support of the activity. Staffing shifts based upon caseloads; however, on average this includes 10.5 attorneys, 8 administrative personnel, and 3 investigator support. The efforts of this unit account for approximately \$1,841,375 in department-wide revenue. This vertical prosecution function handles sexual assaults on adult and child victims. Each year the sexual assault team handles over five hundred felony sexual assault cases and about one hundred and fifty felony violations of the sex registration laws. Many of the cases prosecuted by the Sexual Assault Team carry potential life sentences mandated by the "One Strike" laws that apply to aggravated circumstances such as multiple victims, kidnapping and burglary. Government Codes 26500 and 26501; Penal Code section 1382.

41 – South County Prosecution (MANDATED): **\$1,980,477**

This function has 11 FTE's assigned directly or in support of the activity. Staffing shifts based upon caseloads; however, on average this includes 5 attorneys, 4 administrative personnel, and 2 investigator support. The efforts of this unit account for approximately \$1,016,686 in department-wide revenue. The San Martin Branch Office is responsible for prosecuting misdemeanors and most felony crimes committed in the communities of Gilroy, Morgan Hill, San Martin and the unincorporated areas of South County. As with North County, the vertical prosecution units in the Main Office handle the specialized cases in South County. Government Code sections 26500 and 26501; Penal Code sections 679.02, 825, 849, 859, 861, 1050, 1130, 1381, 1382, 1466 and 1543.

42 –Truancy Abatement (MANDATED): **\$379,598**

This function has 2 FTE's assigned directly or in support of the activity. Staffing shifts based upon caseloads; however, on average this includes 1 attorney and 1 administrative position. The efforts of this unit account for approximately \$184,852 in department-wide revenue. The Truancy Abatement function works to reduce the number of youths who are truant. Additionally, this team is responsible for prosecuting

habitual truants, and in some cases, their parents. Government Code section 26500 and 26520; Education Code section 48293; Welfare and Institutions Code section 601 et seq.

43 – Victim Witness Services (MANDATED):

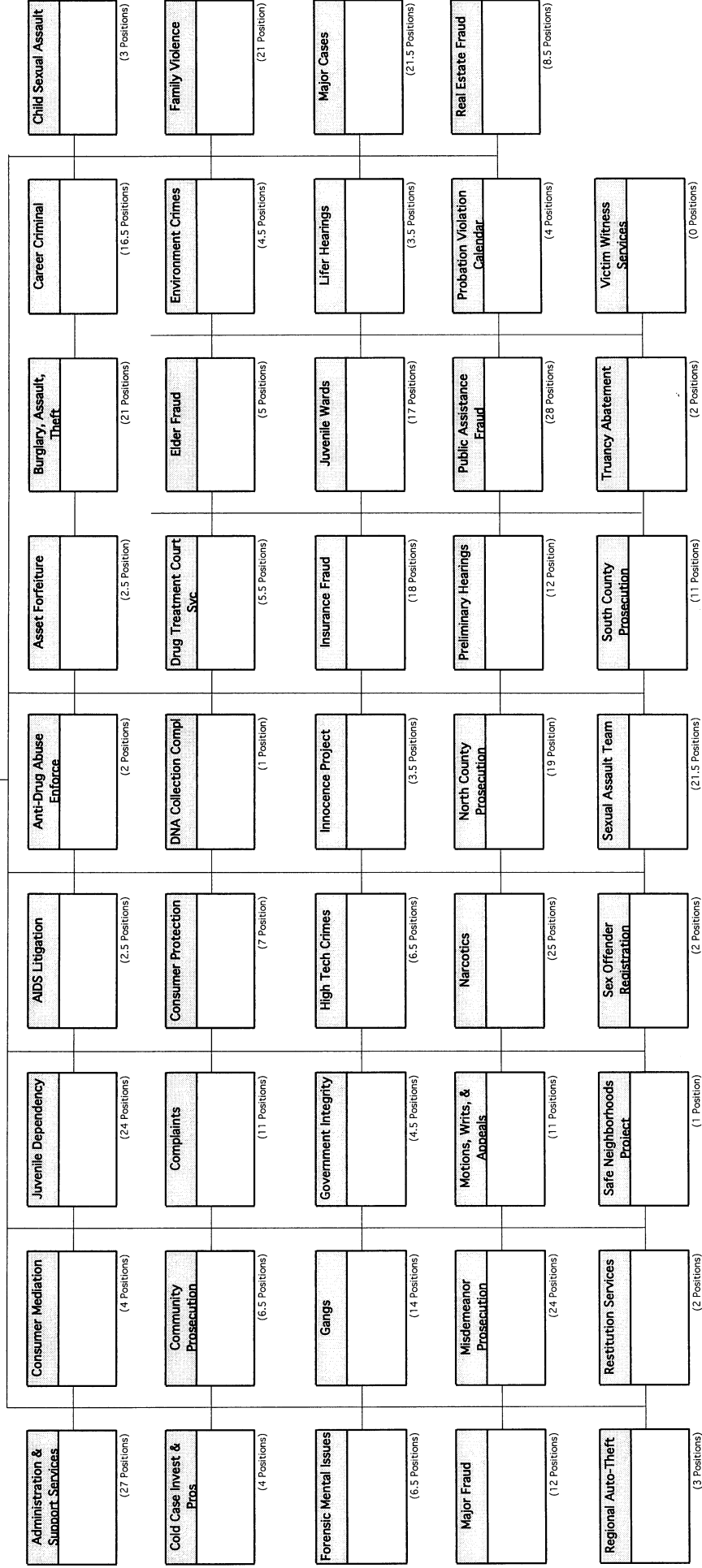
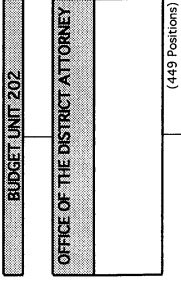
\$1,719,855

This function has no County positions assigned directly or in support of the activity. The District Attorney manages a contract with the Silicon Valley Conference for Community and Justice to perform this function. Their victim advocates are responsible for helping victims negotiate the criminal justice processes and inform them of their rights. This function is fully supported by grant funds from the California Victim Compensation and Government Claims Board. Penal Code 1202.4, 1214, and 1202.6; Welfare and Institutions Code section 730.6, 730.7; Government Code section 26500, 26501.

Total District Attorney FY 2006-07 Adopted Budget
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\$82,036,105

OFFICE OF THE DISTRICT ATTORNEY



* Investigations and Operations Staff are included in the various functions.

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MEMORANDUM

TO: Roger Mialocq, Management Audit Manager
FROM: Katie Zoglin, Deputy County Counsel
RE: District Attorney's Office & Budget Unit Number 202 Mandate Analysis
DATE: August 9, 2006

On September 12, 2003, County Counsel's Office provided you with a Mandate Analysis applicable to Budget Unit 202 regarding the District Attorney's Office. Below are comments or supplemental analyses, as needed, relating to any changes in the mandates that have taken place since County Counsel's last memorandum.

According to the mandates analysis by the District Attorney's Office, there are two new sets of mandated responsibilities: DNA Collection Compliance and Safe Neighborhoods Project. In addition, the District Attorney's Office has explained that the functions of the Community Prosecution Unit have changed since the last analysis was made and are now mandated functions. Our Office agrees that these three functions are mandated to the same extent that the prosecution of crimes under state law comprise mandated functions.

More specifically, in 2004, the voters approved Proposition 69. That Proposition requires that DNA samples be collected from all felons and adults and juveniles arrested for or charged with certain crimes. These samples are to be submitted to the State DNA Database. This function is responsible for ensuring that DNA samples of those covered by Proposition 69 are submitted to the State DNA Database.

Under the Safe Neighborhoods Project, one deputy district attorney is detailed to the U.S. Attorney's Office to collaborate on violations of gun laws. The deputy district attorney is responsible for prosecuting criminal violations that are more appropriate under California state law than under federal law.

Roger Mialocq, Management Audit Manager
Re: Registrar of Voters Mandate Analysis
August 9, 2006
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The District Attorney's Office explains that responsibilities of the Community Prosecution Unit have evolved since the mandate analysis in 2003. Whereas it previously focused on crime prevention and community outreach, it now concentrates on the prosecution of criminal and county ordinance violations, including drug sales, prostitution, and nuisance abatement.

c: George Kennedy
Ann Ravel

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MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Susan Swain, Deputy County Counsel *Susan Swain*

RE: Office of the District Attorney Mandate Analysis

DATE: September 12, 2003

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to the Office of the District Attorney (District Attorney). Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the District Attorney.

1. Legal Basis for Mandate

The District Attorney provided a 10-page memo to the Harvey Rose Management Audit Firm, dated September 8, 2003, delineating several different mandated duties the District Attorney must perform. The citations have been reviewed thoroughly and with the exception of the few clarifications noted below, we concur with the District Attorney's analysis.

The District Attorney's memo to the Harvey Rose Management Audit Firm is captioned as "The District Attorney and DA Mandates." A couple of the references in the memo are what may be called "conditional" mandates, i.e. there is no absolute requirement that the District Attorney perform the tasks in question in all cases, but once the District Attorney is requested to do so, the task becomes a mandate; additionally, some of the items mentioned in the memo are permissive. These instances are pointed out by the District Attorney in his memo, but will be noted briefly here.

For instance, as the District Attorney notes, the District Attorney must assist the Governor or the Board of Prison Terms by providing a report on the propriety of granting a defendant a pardon – but only after either the Governor or the Board of Prison Terms requests such a report. Pen. Code

Memorandum to Roger Mialocq
Re: Office of the District Attorney Mandate Analysis
Date: September 12, 2003
Page 2

§ 4803. Similarly, the District Attorney must investigate the conduct of those applying for rehabilitation and pardons and provide the court with a full and complete investigation – but only following a request to do so. See Pen. Code § 4852.12(a); See also Pen. Code § 1555.2 [DA shall litigate the identity of a person who refuses to waive extradition – if the DA first applies to do so]; Pen. Code § 1192.7 [DA is prohibited from plea bargaining serious felony and driving under the influence cases – unless the evidence is insufficient, testimony of a material witness cannot be obtained, or reduction would not result in a substantial reduction of charges].

In terms of permissive duties, there are several mentioned in the area of environmental crimes. See Health and Safety Code §§ 25100 et seq., [Under the Hazardous Control Waste Act, when requested by the local CUPA (Certified Unified Program Agency), the statutory scheme operates permissively and the DA may prosecute a variety of environmental crimes, but per the DA, the DA is typically selected to do so in this County as the City Attorneys and Attorney General decline to do so, and the DA is in the best position to undertake such prosecutions]; Health and Safety Code §§ 25249.5 et seq. [Similarly, prosecution by DA is permissive under this statute, but per DA, the DA often prosecutes Safe Drinking Water Act violations by default, e.g. the City Attorney has limited jurisdiction and the Attorney General by policy usually only provides oversight, absent DA prosecution, these crimes might go unpunished]; Health and Safety Code §§ 25280 et seq. [Prosecution of violations of the Underground Storage of Hazardous Substances Act are, by statute, permissive on the DA, but per the DA, by default the DA performs this function in this County]; Food and Agricultural Code section 12996 et seq. [Pesticide violations are both criminal and civil in nature under the Code, as to civil violations, the statutory scheme is permissive as to the DA prosecuting such violations, but per the DA in this County enforcement typically falls on the DA, though as with the other environmental crimes, either the AG, City Attorneys, or DA may take the lead].¹

Other discretionary tasks listed in the memo consist of the District Attorney's participation on the interagency child death team (Pen. Code § 11166.7(c), and the interagency elder death review team.

In addition to the discretionary functions, you may want to discuss with the District Attorney whether its participation on the County's FAST (Financial Abuse Specialist Team, operated pursuant to Welf. and Inst. Code §§ 15600 et seq.), representation on Developmentally Disabled ("DD" or Welf. and Inst. Code § 6500 et seq.) matters, conduct of the County's SARB (Student Attendance Review Board, operated under Education Code §§ 48260 et seq.), and participation on various task

¹It should be noted that with respect to prosecution of environmental crimes, the Legislature enacted Pen. Code §§ 14300 et seq., declaring the Legislature's intent regarding the importance of local and state law enforcement involvement in "the enforcement of California's hazardous materials laws," and further setting up a program to fund training of local and state law enforcement in the detection and prosecution of such crimes.

Memorandum to Roger Mialocq
Re: Office of the District Attorney Mandate Analysis
Date: September 12, 2003
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forces, as well as the District Attorney's Community Prosecution program, are discretionary or performed pursuant to an unidentified mandate. As to the duties just listed, at least one of the programs generate revenue, such as the Community Prosecutor program.

2. *Level or Requirement of Mandate, If Applicable*

There are no local ordinances, state statutes, case law, or professional organization standards setting the mandated level of services.

c: George Kennedy, District Attorney
Michael Gaffey, Supervising Deputy District Attorney, Administration
Ann Miller Ravel, County Counsel

203 Crime Laboratory

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Non-Mandated	10	6,286,159	88%	805,177	13%	48.0	87%
Mandated	0	0	0%	0	0%	0.0	0%
Admin/Support	-	<u>843,360</u>	<u>12%</u>	<u>0</u>	<u>0%</u>	<u>7.0</u>	<u>13%</u>
Total	<u>10</u>	<u>7,129,519</u>	<u>100%</u>	<u>805,177</u>	<u>11%</u>	<u>55.0</u>	<u>100%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=percent of total staffing

Departmental Description

The Crime Laboratory is a nationally accredited forensic laboratory providing criminalistics services to all law enforcement agencies in Santa Clara County. Criminalistics is a sub-field of the discipline of Forensic Sciences which deals with the collection, preservation, examination, and interpretation of physical evidence.

Crime Laboratory scientists (criminalists) analyze, test, and report on results of examinations of physical evidence collected at crime scenes or in the course of an investigation conducted by the police law enforcement or the Coroner/Medical Examiner. Additionally, criminalists from the Santa Clara County Crime Laboratory offer technical assistance, including actually collecting evidence at some major crime scenes, and training of personnel from user agencies in accepted collection techniques.

The major disciplines at the Crime Laboratory are analysis of controlled substances, firearms and tool marks, forensic biology (DNA), forensic toxicology, latent print processing, questioned documents, trace evidence, and computer crimes. At any given time, the Crime Laboratory may have 750 cases (mostly homicides, assaults, sexual assaults, and property crimes) and 300 controlled substances/toxicology cases awaiting

analysis and testing. The laboratory employs 55 people and analyzes over 43,000 pieces of evidence each year. During calendar year 2005, a total of 24,367 cases resulting in 55,814 requests were submitted to the laboratory.

The County is not mandated¹ by any law to provide the forensic services of a crime laboratory. However, the criminalistic services the Lab provides enable the Santa Clara County District Attorney, Public Defender, Medical Examiner/Coroner, and other law enforcement agencies in the County to carry out their legal mandates.

Including the Santa Clara County Crime Laboratory, there are 19 forensic laboratories located in 13 California counties providing criminalistics services. At the State level, crime laboratories are mandated to be administered and operated by the Department of Justice (DOJ) under the direction of the Attorney General (Penal Code Section 11060). The DOJ operates full-service laboratories at 11 sites that provide services to the remaining counties in the State, in accordance with Penal Code Section 11050.5. The State is allowed to charge a fee for laboratory services (but currently they do not do so). The State is vested with and has the discretion to provide criminalistics services to the counties but is not required to provide them.

The Crime Laboratory is partially self-supporting. In FY 06-07, total revenues generated by the Crime Laboratory will offset approximately 89 percent of the Crime Laboratory's expenses. More specifically, the Crime Laboratory provides services to cities within the County in return for negotiated annual fees. In FY 06-07, the Crime Laboratory will receive revenues of \$2,051,894 from the fee agreements with local cities and also from fees for services charged to law enforcement agencies outside Santa Clara County. If fees were assessed to the Santa Clara County Office of the Sheriff and the Santa Clara County Medical Examiner/Coroner's Office, revenues for Crime Laboratory services would increase \$472,654 to \$2,524,548 (Sheriff Office - \$333,006 and Medical Examiner/Coroner's Office - \$139,648). Additionally, the Crime Laboratory receives income from the Court, which by law allocates a portion of certain fees assessed persons convicted of driving under the influence of alcohol or drugs, (DUI's) and violations of the other Health and Safety Code violations. (Penal Code Section 1463.14; Health and Safety Code Section 11372.5.). In FY 06-07, the Department expects that its portion of the fees will total \$995,375. The Crime Laboratory also pursues grant opportunities whenever they arise. During FY 05-06, the Laboratory received \$208,941 from three grants. Public Safety Sales Tax revenue allocated to the Crime Laboratory totals \$2,224,772. Revenues from all sources including the Public Safety Sales Tax revenue are expected to total \$6,324,342 in FY 06-07, which, as noted above, will fund 89 percent of the Crime Laboratory's expenditures.

On October 22, 2002, the Board of Supervisors accepted construction of the new Crime Laboratory as one of the County's Capital Projects selected for bond funding. The scope of the work for this \$75,721,000 project includes construction of a new Crime Laboratory

¹ According to the County Counsel Department, no state, Federal, or County legal code mandates the County to have a Crime Laboratory. However, the County Counsel concludes that because "the analysis of evidence by a crime laboratory is intertwined with the District Attorney's mandatory duties, the Crime Laboratory's functions are indirectly mandated."

building with four floors and a penthouse totaling approximately 90,072 square feet, approximately 1.5 acres of on-site improvements, and approximately 20,000 square feet of off-site improvements. Construction began on April 27, 2006. The new building is projected to be completed by April 26, 2008.

FY 2006-07 General Fund Budget by Program/Function

<u>Function</u>	FY 2006-07		Departmental <u>Revenue*</u>	General Fund <u>Subsidy</u>	<u>Percent</u>
	<u>Adopted Budget Amount</u>	<u>Staffing</u>			
<u>Non-Mandated Activities</u>					
01 Forensic Biology	2,045,016	15.0	1,914,799	130,217	6%
02 Toxicology	1,382,110	10.0	1,192,386	189,724	14%
03 Chemistry	765,403	6.0	703,890	61,513	8%
04 Latent Prints & Trace	550,941	4.4	494,792	56,149	10%
05 Evidence & Property	258,133	3.0	221,371	36,762	14%
06 Firearms	446,605	3.3	376,656	69,949	16%
07 Quality Assurance	132,397	1.0	44,495	87,902	66%
08 Question Documents	178,812	1.3	153,773	25,039	14%
09 Computer Forensics Lab	337,979	2.0	245,131	92,848	27%
10 Video & Audio Photo	<u>188,763</u>	<u>2.0</u>	<u>133,689</u>	<u>55,074</u>	<u>29%</u>
Subtotal	6,286,159	48.0	5,480,982	805,177	13%
<u>Mandated Activities</u>					
None	<u>0</u>	<u>00.0</u>	<u>0</u>	<u>0</u>	<u>0%</u>
Subtotal	0	00.0	0	0	0%
<u>Required</u>					
Admin/Support	<u>843,360</u>	<u>7.0</u>	<u>843,360</u>	<u>0</u>	<u>0%</u>
Total	<u>7,129,519</u>	<u>55.0</u>	<u>6,324,342</u>	<u>805,177</u>	<u>11%</u>
* Departmental Revenue includes \$2,224,772 of Public Safety Sales Tax revenues. This Public Safety Sales Tax revenue will fund approximately 31 percent of the Crime Laboratory's FY 2006-07 expenditures.					

Description of Programs and Functions

Administration and Support (REQUIRED):

\$843,360

The Crime Laboratory's administrative team consists of the Crime Laboratory Director, who reports to the District Attorney, the Assistant Laboratory Director, and 5.0 administrative support staff. These positions are responsible for Department management, and auditing, accounting, budgeting, personnel, purchasing, grants, travel, maintenance, and user agencies liaison.

NON-MANDATED PROGRAMS AND FUNCTIONS**01–Forensic Biology (NON-MANDATED):** **\$2,045,016**

The Forensic Biology function includes 15.0 authorized positions and is responsible for screening evidence for the presence of body fluids such as blood, semen, and saliva. Positive samples identified are then retained for DNA testing.

The Laboratory DNA testing involves extracting DNA from evidentiary samples of the victim(s) and suspect(s), and comparing these samples to profiles of known individuals. These analyses are primarily conducted for the purposes of criminal investigations but are also used in cases of remains identification. The staff members also help solve crimes by comparing the DNA profile of evidence samples collected from crime scenes to those of known individuals. The DNA information generated is also used for body identification and for establishing criminal paternity through STR analysis.

02–Toxicology (NON-MANDATED): **\$1,382,110**

The Toxicology function includes 10.0 authorized positions and is responsible for analyzing and interpreting the effects of drugs found in forensic specimens. Analysts determine the presence and amounts of alcohol, drugs, and other potential poisons in postmortem samples provided by the Medical Examiners/Coroner’s Office. These analyses assist the Medical Examiners to determine the cause and manner of deaths under investigation and assist law enforcement agencies in the investigation of drug or alcohol related crimes. Toxicologists Analysts also analyze blood, breath (in instrument maintenance/calibration), or urine specimens, that are submitted after DUI or DUID arrests, in order to determine alcohol and/or drug content. These analyses assist prosecutors in evaluating and proving their cases. Crime Laboratory analysts may provide court testimony on the effect of alcohol on an individual’s ability to drive. Additionally, blood and urine specimens are tested for drugs of abuse such as alcohol, amphetamines, cocaine, opiates, and PCP. The ultimate goal of staff performing this function is to prompt reporting of accurate results promptly to all submitting agencies to insure that they can proceed with their cases.

03–Chemistry (NON-MANDATED): **\$765,403**

The Chemistry function includes 6.0 authorized positions and is responsible for the controlled substances analysis and fire debris analysis. The Laboratory uses microscopic, chemical, and instrumental procedures to analyze suspected narcotics and drug evidence seized in violation of laws regulating the sale, use, manufacture and distribution of drugs utilizing microscopic, chemical and instrumental procedures. Chemical and instrumental analysis of fire debris are conducted to determine the type of material (gasoline, paint thinner, etc.) used to start a fire.

04–Latent Prints & Trace (NON-MANDATED): **\$550,941**

The Latent Print and Trace function includes 4.4 authorized positions. This function is responsible for examining or processing physical evidence submitted by law enforcement agencies for the presence or absence of latent fingerprints. When latent prints are found, they are compared with known inked prints in an attempt to determine the identify of the individual to whom the prints belong. The results of

examinations are submitted to the requesting law enforcement agency. Upon request crime laboratory staff are also available to testify as an expert witness in courts of law and to provide crime scene support to local law enforcement agencies.

This function also is responsible for performing examinations on trace evidence in order to help establish a link between the suspect and the victim, between the suspect and a crime scene, or between the victim and a crime scene. Trace evidence is usually seen in the form of small particles and includes such items as hair, paint, glass, and fibers. Examinations for the presence of gunshot residue are performed on samples collected from suspects' hands. The staff also perform examinations of automobile headlamps, taillights and speedometers.

05–Evidence & Property (NON-MANDATED): **\$258,133**

The Evidence & Property function includes 3.0 authorized positions and is responsible for the receipt, storage, safekeeping, and return of all evidence that comes under the control of the Crime Laboratory. The Evidence and Property unit is an integral part of the chain-of-custody of evidence, and must be able to determine the location of evidence within the Laboratory at all times. The unit is also responsible for the Laboratory's firearms reference collection.

06–Firearms (NON-MANDATED): **\$446,605**

The Firearm function includes 3.3 authorized positions. This function is responsible for the examination of firearms and fire ammunition components that have been involved in shooting incidents. Examinations include: comparisons of test and evidential bullets and casings through comparison microscopes; serial number restoration from a weapon where the serial numbers have been obliterated or filed off; analysis of clothing for the presence of gunshot residue and distance determination. This section also performs tool mark comparisons using visual and comparison microscopy of suspect tools that make toolmark impressions. This unit also maintains a computerized bullet and cartridge case imaging database used to aid in the linking of crimes or of firearms to crimes in multiple jurisdictions.

07–Quality Assurance (NON-MANDATED): **\$132,397**

The Quality Assurance function includes 1.0 authorized position. A laboratory, such as the Crime Laboratory, which is defined as a facility in which forensic testing is performed, must follow certain quality assurance requirements to ensure quality and integrity of the data as well as the competency of the Laboratory. Accordingly, the Crime Laboratory has established and maintains a documented quality system that is appropriate to the testing activities.

There are a host of actions taken by the Laboratory to ensure that quality assurance standards are met. Examples of these quality assurance measures include, but are not limited to: using proficiency testing to monitor performance and to identify areas in the Laboratory in which improvement may be needed; taking systematic actions to demonstrate that the products and services the Laboratory provides meet the specified requirements for quality; reviewing documentation for consistency, accuracy, and completeness; and conducting technical reviews to ensure that reports, notes, data, and other documents are appropriate and that there is sufficient basis for the scientific

conclusions; validating procedures to determine the efficacy and reliability for forensic casework analysis; and using test data to determine conditions and limitations of a new or novel methodology for use on forensic samples. The Laboratory Test data is also accumulated test data within the Laboratory to demonstrate that established methods and procedures perform as expected in the Laboratory. The Laboratory also has and follows a documented evidence control system to ensure the integrity of physical evidence.

08-Question Documents (NON-MANDATED): **\$178,812**

The Question Documents function includes 1.3 authorized positions and is responsible for examining any documents about which a questions has been raised concerning its authenticity. These examinations can take many forms. For example, staff will examine handwriting, typewriting, mechanical printing, papers, and inks, indented writing, obliterated writing, and known and unknown writing samples. They include the examination of handwriting to determine its writer, the examination of photocopies to determine their source, and or photocopies to determine if two or more photocopies have a common source. They include the examination of typewriting and typewriter ribbons, the examination of altered documents, the examination of indentations on paper, the restoration of burned paper, and the examination of links. They may analyze the restoration of burned paper. They also examine and analyze evidence such as footwear impressions, and tire track impressions, and "fracture matches".

09-Computer Forensics Lab (NON-MANDATED): **\$337,979**

The Computer Forensics Laboratory includes 2.0 authorized positions from budget unit 203. This section performs forensic analysis on computer storage media including hard drives, floppy drives, compact discs, and related peripheral equipment submitted in association with criminal cases. Its work involves the disassembly of computers and the recovery of information stored in hard drives discs, and other storage devices. This information might include deleted information, directories, and email from seized computer systems.

10-Video & Audio Photo (NON-MANDATED): **\$188,763**

The Video/Audio & Photography function includes 2.0 authorized positions and is responsible for printing photographic material depicting evidence and crime scenes for law and justice agencies. In-house evidence photography as well as that of County functions and portraits of County staff is also conducted. The unit performs forensic video/audio analysis of analog and digital video and sound media.

Total Office of the Crime Laboratory FY 2006-07 Adopted Budget	\$7,129,519
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Costs and Benefits

The County is not mandated to have its own Crime Laboratory. It could rely upon the State Crime Laboratories or the Federal Bureau of Investigation (FBI) at no cost to the County. If the County did not have its own laboratory, they would not receive the revenues that the Crime Laboratory generates nor would it incur the expenses. The Crime Laboratory's net impact to the General Fund is approximately \$805,177.

Having a dedicated Crime Laboratory has many benefits for the County. Staff members are dedicated to working on County cases and take pride in their work. This results in quicker turn around times than if the cases were referred to State or FBI Crime Laboratories. When timeliness of laboratory services are impeded, there can be serious consequences. Delays can have serious public safety consequences. For example, delays may result in the release of criminal offenders who may re-offend while waiting for trial or whose case has been dismissed because evidence was not analyzed in time for preliminary hearing or trial. In other cases, if evidence cannot be examined within legal or court-imposed deadlines, cases will be delayed and, the suspects will remain in custody a longer time lengthening the time suspects are incarcerated before trial. These delays in turn are inconveniencing for law enforcement officers, attorneys, victims, and the courts. The quick turn around time will reduce the crowding in the jails since cases may be processed in a more expeditious manner. This in turn will decrease costs of housing the people in the jails for longer periods of time.

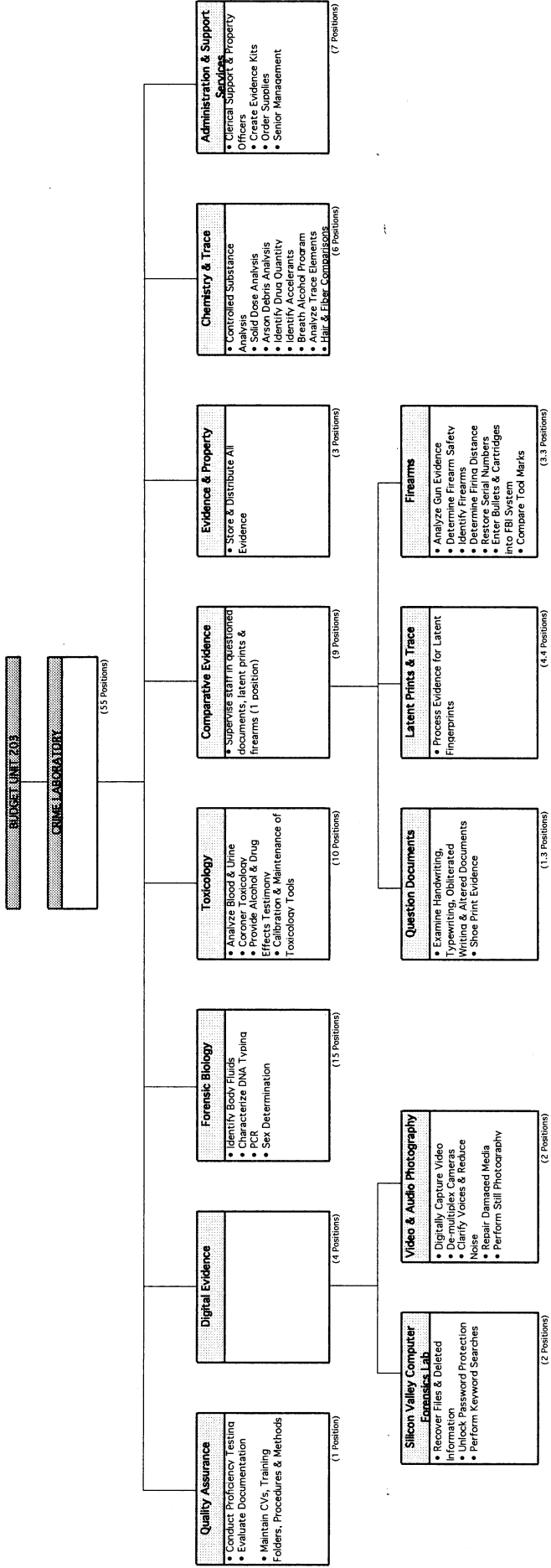
Having a dedicated Crime Laboratory enables the County to identify individuals under the influence of drugs and alcohol and place them into treatment or otherwise keep them off the streets before they have the chance to commit serious crimes. The Laboratory analyzes these cases within 24-48 hours of receipt.

Although crime laboratories are expensive to operate, they can also make cost effective contributions to law enforcement. Our Crime Laboratory's ability to process drug and alcohol tests expeditiously enables the District Attorney's Office to dispose of a high number of cases at arraignment, thus avoiding additional costs that would otherwise be incurred by incarceration, further investigation, and additional court hearings. DNA analysis has assisted local law enforcement agencies in providing leads in cases where law enforcement has not yet identified a known suspect. For example, from October 2005 to June 2006 the County Laboratory compared DNA profiles to search against the State DNA database resulting in 99 "cold-hits". Additionally, the Laboratory reports with DNA analysis at the County Laboratory has resulted in the elimination of 25% to 30% of the suspects. Timely elimination of suspects improves the quality of justice and saves countless hours of investigative time that would otherwise be spent following false leads.

Without the Crime Laboratory, the County law enforcement agencies would obtain their forensic services from the DOJ or FBI. Currently, the DOJ does not charge for their forensic services, although legally they can. In fact, the Legislative Analysts's Office has recommended for many years that the DOJ charge for its services. If Santa Clara County did not have its own lab, the additional burden of cases from Santa Clara County would require the DOJ to hire additional staffing. Given the State's financial

situation, it is possible that this would then trigger the State's need to start charging counties and cities for their forensic services, something that the Legislative Analysts Office has been recommending for years.

OFFICE OF THE DISTRICT ATTORNEY CRIME LABORATORY



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MEMORANDUM

TO: Roger Mialocq, Management Audit Manager
FROM: Katie Zoglin, Deputy County Counsel
RE: Crime Laboratory & Budget Unit Number 203 Mandate Analysis
DATE: August 1, 2006

On September 12, 2003, County Counsel's Office provided you with a Mandate Analysis applicable to Budget Unit 203 regarding the Crime Laboratory.

As set forth in the Crime Laboratory's analysis and the memo from our office in 2003, the County is not mandated to have a crime laboratory per se. However, further analysis of California statutes and case law demonstrates that the District Attorney would not be able to fulfill its mandated prosecutorial duties without the supporting work of the Crime Laboratory. The District Attorney's Office is required to investigate and to gather evidence for the prosecution of criminal matters. The prosecution must provide the defense with all evidence, including scientific reports, that it intends to use to use at trial. The analysis of evidence by a crime laboratory thus is intertwined with the District Attorney's mandatory duties. As a result, our Office concludes that the Crime Laboratory's functions are indirectly mandated.

More specifically, the District Attorney is charged with the mandatory responsibility of serving as the public prosecutor. Gov. Code §26500. The District Attorney "shall initiate and conduct on behalf of the people all prosecutions for public offenses." Id. The expenses of the District Attorney or Sheriff incurred in the "detection of crime" and in the "prosecution of criminal cases" are county charges. Gov. Code §29601.

In addition, the District Attorney's Office is required to disclose to the defense all relevant evidence, exculpatory evidence, and all statements and reports that the prosecutor intends to use at trial. Penal Code §1054.1. The prosecutor is required to disclose "the results of

Roger Mialocq, Management Audit Manager

Re: Crime Lab Mandate Analysis

August 1, 2006

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. . .scientific test[s]” that he or she intends to use at trial. Id. Courts further confirm that “Investigation and gathering of evidence relating to criminal offenses is a responsibility which is inseparable from the district attorney’s prosecutorial function.” Hicks v. Board of Supervisors of Orange County, 69 Cal.App.3d 228, 241 (1977).

An alternative way of providing this mandatory function is through a State crime laboratory. The Penal Code provides that a district attorney, sheriff and other local law enforcement, public defender, and private defense attorney may ask that the state Attorney General make the state crime laboratory facilities and personnel available to conduct analyses. Penal Code §11050.5(a), (b). The County would have to enter into a contract with the Attorney General’s Office in order to make these services available to public defenders and private defense counsel. Penal Code §11050.5(b). The State Department of Justice is authorized to charge for its services. Penal Code §11050.5(d).

c: Benny Del Re
Ann Ravel

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MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Susan Swain, Deputy County Counsel *Susan Swain*

RE: Crime Lab

DATE: September 12, 2003

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we intended to provide a written assessment of analysis of the legal mandates applicable to the Crime Laboratory.

However, the Director of the Crime Lab did not submit any written analysis to this Office identifying the Crime Labs' functions, any associated legal authority for the services it provides, or any other information regarding requirements associated with processing evidence, etc. Per a telephone conversation, Director Del Re stated that the functions provided by the Crime Lab are discretionary and that there is no mandate to provide the Crime Lab services; he further stated that theoretically, the County could use the services of the crime lab operated by the State Department of Justice.

In light of the absence of any Crime Lab analysis of its functions, and in light of the Director's verbal statement that the Crime Lab is a discretionary function, any analysis of the legal mandates by this Office is rendered unnecessary and problematic. While there may be many policy reasons to fund the Crime Lab, that is outside the scope of this memo and better addressed with the Crime Lab directly.

c: Benny Del Re, Director, Crime Lab
Ann Miller Ravel, County Counsel

204 Public Defender

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Non-Mandated	1	243,156	00%	0	0%	2.0	1%
Mandated	23	30,315,373	80%	20,687,147	68%	139.5	68%
Admin/Support	-	7,525,508	20%	3,669,060	49%	65.0	31%
Total	<u>24</u>	<u>38,084,037</u>	<u>100%</u>	<u>24,356,207</u>	<u>64%</u>	<u>206.5</u>	<u>100%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=percent of total staffing

Departmental Description

Services provided by the Office of the Public Defender are mandated by the Sixth Amendment to the Federal Constitution and Article 1, Section 15 of the California Constitution, which declares that a criminal defendant is entitled to counsel at all critical stages of the proceedings against him. The United States Supreme Court case of *Gideon v. Wainwright* (1963) 372 U.S. 335 further holds that an indigent criminal defendant who is facing a penalty of incarceration is entitled to that representation at public expense. The Office of the Public Defender performs the duties prescribed by the law of the State of California and provides this legal representation. The quality of service which the Public Defender is required to provide is defined by the California Supreme Court in *People v. Pope* (1979) 23 Cal.3d412, and other cases, as that of a reasonably competent attorney acting as a "diligent and conscientious advocate" for his client.

The County Ordinance Code sections A22-46 – A22-51 establishes the County Public Defender’s Office, and mandates that the Public Defender perform the duties prescribed by the law of the State of California and provide legal representation to indigents. It also recognizes the position of the Public Defender as an appointed position. California Government Code section 27706 delineates specific areas where the Public Defender shall provide representation.

In accordance with the mandates described above, the County Public Defender provides legal representation to indigent clients who are charged with the commission of a criminal offense alleged to have been committed in Santa Clara County. The Office also represents minors against whom delinquency petitions have been filed in the Juvenile Courts of Santa Clara County. The Office represents clients who are subject of LPS or probate conservatorship proceedings in the Mental Health departments of the Superior Court. The Office also represents Sexually Violent Predators in civil commitment proceedings pursuant to *Garcetti v. Superior Court* (1998) 68 Cal.App.4th 1105 and California Welfare & Institutions Code section 6602.

Most felony cases that cannot be handled by the Public Defender are referred to the Alternate Defender Office (ADO). The ADO, an arm of the Office of the Public Defender, is distinct and separate from the Public Defender Office (PDO) and performs the duties of the Public Defender when the Public Defender is unable because of a conflict of interest or other lawful unavailability to represent accused persons who are otherwise eligible for such representation. An “ethical wall” separates the two offices pursuant to the mandate of *People v. Christian* (1996) 41 Cal.App.4th 986. When a conflict of interest precludes representation by either the Public Defender or the Alternate Defender, the County seeks the assistance of the Legal Aid Society of Santa Clara County to provide indigent defense under a \$6,216,570 million contract.

The Public Defender is mandated to represent clients who cannot afford to hire their own attorney. The Public Defender must also accept appointments from the Superior Court to represent clients whose financial assets are in excess of the qualification for indigent status. Pursuant to statutory requirements, when the Public Defender represents clients they have historically charged clients who are deemed by the courts to be eligible to pay for the indigent defense services provided by the office, receiving an estimated \$461,000 in annual revenue in FY 2006-07. Since the fees charged do not represent full-cost recovery the County subsidizes some expenses for this service out of the General Fund. State reimbursement in the amount of over \$480,000 for certain PDO services is provided to the County General Fund pursuant to SB90. Additional revenues from the Public Safety Sales Tax are provided to the County General Fund for Public Defender services as well. These revenues, which are estimated to total \$11,884,605 in FY 2006-07, have been allocated to the various functions in this Mandate Report.

FY 2006-07 General Fund Budget by Program/Function

<u>Function</u>	<u>FY 2006-07 Adopted Budget</u>		<u>Departmental Revenue**</u>	<u>General Fund Subsidy</u>	<u>Percent</u>
	<u>Amount</u>	<u>Staffing</u>			
<u>Non-Mandated Activities</u>					
01 Record Expungement *	<u>243,156</u>	<u>2.0</u>	<u>243,156</u>	<u>0</u>	<u>0%</u>
Subtotal	<u>243,156</u>	<u>2.0</u>	<u>243,156</u>	<u>0</u>	<u>0%</u>
<u>Mandated Activities</u>					
02 PDO Drug Court Cases	1,829,245	7.0	515,273	1,313,972	72%
03 PDO Outlying Courts	1,575,050	6.0	441,663	1,133,388	72%
04 PDO Mental Health Cases	523,113	2.0	240,818	282,295	54%
05 PDO Special Trials	1,861,743	7.0	515,273	1,346,471	72%
06 PDO Felony Trials	5,720,566	23.0	1,759,348	3,961,218	69%
07 PDO SJPX/ERC/859	3,041,328	12.0	705,548	2,335,780	77%
08 PDO Probation Violations	261,432	1.0	58,796	202,636	78%
09 PDO Sex Violent Predators	507,709	2.0	534,524	(26,815)	-5%
10 PDO Research	719,140	3.0	176,387	542,753	75%
11 PDO Investigation	3,286,920	25.5	1,467,590	1,819,330	55%
12 PDO SJ Misdemeanors	1,488,279	8.0	588,884	899,395	60%
13 PDO Juvenile Cases	2,287,729	9.0	619,161	1,668,568	73%
14 PDO Domestic Violence	663,145	3.0	220,831	442,314	67%
15 ADO SJ Homicide	878,346	3.0	172,658	705,688	80%
16 ADO SJ Felonies	1,332,957	5.0	287,763	1,045,194	78%
17 ADO SJ Terraine/	1,917,556	7.0	402,868	1,514,688	79%
18 ADO SJ Paralegal	279,844	2.0	115,105	164,739	59%
19 ADO SJ Investigation	507,544	3.0	172,658	334,886	66%
20 ADO Clerical	335,546	3.0	172,658	162,888	49%
21 ADO Palo Alto Le	792,291	3.0	172,658	619,633	78%
22 ADO Palo Alto In	137,660	1.0	57,552	80,107	58%
23 ADO Palo Alto Pa	108,583	1.0	57,552	51,030	47%
24 ADO Palo Alto Cl	<u>259,647</u>	<u>3.0</u>	<u>172,658</u>	<u>86,989</u>	<u>34%</u>
Subtotal	<u>30,315,373</u>	<u>139.5</u>	<u>9,628,226</u>	<u>20,687,147</u>	<u>68%</u>
<u>Required</u>					
Admin/Support					
Pub Defender	1,279,939	6.0	345,372	934,567	73%
Legal-Clerical Supt	3,023,580	33.0	1,899,546	1,124,034	37%
Information Systems	584,856	4.0	230,248	354,608	61%
Paralegal	2,360,805	21.0	1,323,709	1,037,096	44%
Alternate Defender	<u>276,328</u>	<u>1.0</u>	<u>57,573</u>	<u>218,755</u>	<u>79%</u>
Subtotal	<u>7,525,508</u>	<u>65.0</u>	<u>3,856,448</u>	<u>3,669,060</u>	<u>49%</u>
Total	<u>38,084,037</u>	<u>206.5</u>	<u>13,727,830</u>	<u>24,356,207</u>	<u>64%</u>
* The Adopted Budget for Record Expungement includes an additional \$88,366 and 0.5 FTE to reflect an increase to the Inter-Agency Agreement with Social Services Agency. A transmittal for approval has been submitted to the Board of Supervisors.					
**Revenues include \$11,884,605 of Public Safety Sales Tax revenue and \$483,240 of SB 90 revenue.					

Description of Programs and Functions

Administration and Support (REQUIRED):

\$7,525,508

The Office of the Public Defender includes a Public Defender, three Assistant Public Defenders, an Assistant Alternate Public Defender, a Chief Investigator and an Administrative Services Manager. These positions are responsible for the oversight and management of the Public Defender and Alternative Defender Offices. Additionally, the Information Systems Unit includes 4.0 authorized positions and is responsible for case tracking, in-house software and hardware support and maintaining the network, including outlying offices. The Clerical Support Unit includes 33.0 authorized positions and is responsible for opening, updating and closing all cases. This Unit provides Record Retention services and transcriptions of relevant evidentiary recordings necessary for case preparation. Clerical services also include reception services and handling of reimbursements. The Paralegal Staff includes 21.0 authorized positions and is responsible for screening all cases to determine client financial eligibility as well as performing intake interviews. Paralegals also investigate and prepare client social histories in complex felony and homicide cases which require mitigation presentations in court to comply with the mandates of effective assistance of counsel under relevant United States and California Supreme Court caselaw. The paralegals also work with the attorneys assigned to handle our civil conservatorship calendars. Paralegals also assist attorneys by frontloading the case preparation process in order to expedite early resolution and to meet timely trial preparation deadlines established by the law and the practices of the Superior Court.

The direct services performed by the Public Defender are mandated. Consequently, the County must also provide adequate administrative oversight and support services to fulfill these mandates. The amount of staff and other resources necessary to provide an 'adequate' level of funding is subject to determination by the Board of Supervisors pursuant to Government Code Sections 29063 and 29088. Because the Public Defender's Office services are mandated, administrative support is critical to providing constitutionally protected due process rights to indigents and to comply with County policies and procedures.

Please note – for purposes of the Mandate Study, the Office of the Public Defender has chosen to separate out all of the Administrative and Support staff while other County Departments, such as the Office of the District Attorney, have instead allocated a portion of their Administration and Support Staff to each function or program. Consequently, comparisons between the Administrative and Support staff of the Public Defender's Office and other County Departments may not be comparable. Therefore, a more detailed analysis of Administrative and Support staffing would be necessary before valid inter-county comparisons could be made.

NON-MANDATED PROGRAMS AND FUNCTIONS

01 – PDO Record Expungement Program (NON-MANDATED): **\$243,156**

The Record Expungement Program includes 2.0 authorized paralegal positions responsible for assisting clients to clear their records. Penal Code Section 1203.4 permits clients to withdraw their plea of guilty or “no contest” and set aside the verdict of guilty if conditions of probation have been met or the courts otherwise deem record clearance appropriate in the interests of justice.

The Public Defender Office has an agreement with the Social Services Agency to assist CalWORKs clients to clear their records of misdemeanors and eligible felonies. The Public Defender is reimbursed through an intra-county payment voucher from Social Services Agency for this program. In FY 2006-07 the MOU with Social Services Agency has been increased to reflect an additional 0.5 FTE Paralegal and an increase of \$88,366.

MANDATED PROGRAMS AND FUNCTIONS

02 – PDO Drug Cases (MANDATED): **\$1,829,245**

The Drug Case Unit includes 7.0 authorized attorney positions who represent indigent clients charged with felony or misdemeanor drug related crimes at the Terraine Street Courthouse. One dedicated attorney is assigned to each of the five Terraine Street Drug Courtrooms to represent clients. Two attorneys are assigned to Drug Treatment Court. Attorneys provide all pretrial and pre-preliminary hearing representation by counseling clients and assisting with early resolution of cases whenever appropriate. The attorneys conduct sentencing hearings, including ones that require formal written Statements in Mitigation and social histories. Attorneys represent these clients at all court proceedings through the treatment process and arrange for the client to meet with the judge every 45 days.

03 – PDO Outlying Courts (MANDATED): **\$1,575,050**

The Outlying Courts include 2.0 authorized attorney positions assigned to the Sunnyvale Superior Court facility and 4.0 assigned to the San Martin Superior Court facility. Lawyers in Sunnyvale are responsible for providing legal representation to indigent clients who are charged with a crime in the Sunnyvale area except for misdemeanor cases and juvenile cases. Lawyers in the San Martin office are responsible for providing legal representation to indigent clients who are charged with a crime in South County excluding juvenile cases. These lawyers provide the same services as the Felony Team, the SJC/ERC/PX Team, and the Misdemeanor Teams described below, but in a direct calendared system. The attorneys appear in court, provide legal advice to clients, litigate motions, participate in early settlement discussions, and represent clients in court and jury trials, as well as sentencing hearings.

04 – PDO Mental Health Cases (MANDATED): **\$523,113**

The Mental Health Unit includes 2.0 authorized attorney positions and is responsible for representing indigent clients alleged to have a mental illness or disorder which has resulted in the confinement of the client in a locked mental health facility or other loss of freedom. Attorneys provide legal assistance to clients who are subject to involuntary treatment due to mental retardation, mental illness or disorder, chronic alcoholism, or suicidal tendencies, and persons otherwise classified as gravely disabled. Lawyers also provide probate conservatorship services which the County is mandated to provide under Probate Code section 1471. These attorneys visit the clients in mental facilities and nursing homes, as well as state hospitals, to provide them with advice regarding their legal rights. They represent them at all court proceedings, including evidentiary hearings and jury trials.

FELONY REPRESENTATION

The Public Defender is the first and mandated provider of defense services to indigents accused of felony offenses. Representation includes attorney appearances to obtain early release through bail or Supervised Own Recognizance Program (SORP), pretrial adjudication, preliminary hearings, early resolution calendars, settlement conferences, motions litigation, and court and jury trials, as well as sentencing hearings. The majority of felony representation occurs within Special Trials, Felony Trials, Early Settlement, and Probation Violation functions which are described immediately below. However, due to the Superior Court's organizational system, the lawyers at the Drug Courts at Terraine Street, the Research Unit, the Sunnyvale and San Martin Outlying Courts and Domestic Violence Units also represent indigent clients charged with a felony crime.

05 – PDO Special Trials (MANDATED): **\$1,861,743**

The Special Trials Unit (STU) provides felony case representation in San Jose to indigent clients charged with serious and complex cases, homicides, and capital death penalty cases. Seven (7.0) authorized attorney positions are dedicated to this function. Most cases in this Unit are comprised of homicides which are time consuming and expensive to prepare and try to a court or jury. The attorneys on Special Trials perform many of the same functions as the Felony Team described below. In capital death penalty cases, the attorneys will also prepare for and conduct a second trial known as a penalty phase at which a jury determines whether the client will be sentenced to death or life without possibility of parole. Because of stringent requirements established by the California and United States Supreme Court for effective assistance of counsel and competency in these matters, preparation is time consuming. Each trial requires months of courtroom litigation.

06 – PDO Felony Trials (MANDATED): **\$5,720,566**

The Felony Trial Unit includes 23.0 authorized attorney positions and is responsible for representing indigent clients charged with non-homicide serious and complex felony crimes. Absent a waiver of speedy trial rights, attorneys must prepare cases for preliminary hearing within 10 days of the plea and prepare cases for Superior Court arraignment within 15 days of the preliminary hearing. Attorneys must prepare cases

for trial within 60 days of arraignment and conduct court and jury trials on those cases. Preparation for the cases includes pretrial motions that are required by law or due process, meetings with clients, witnesses, experts, paralegals and investigators, and others. Attorneys discuss the cases with the court and the prosecution to determine sentencing options and counsel the client on the different plea terms available. Clients, who are convicted, either by trial or plea, also have a sentencing hearing. The attorneys must do formal written Statements in Mitigation and present social histories at many of these hearings. Representation of felony clients is difficult and time consuming due to significant changes in state law affecting juveniles who can be tried as adults, immigrants and sex offenders, and the aggressive application of the Three Strikes law in Santa Clara County. Cases that are litigated to completion are subject to intense appellate scrutiny.

07 – PDO SJPX/ERC/859 (MANDATED): **\$3,041,328**

This Early Settlement function includes 12.0 authorized attorney positions and is responsible for handling all non-drug felony cases in the early stages of court proceedings. Attorneys and the District Attorney conduct an Early Resolution Calendar (ERC) hearing or a dispositional hearing to determine if a mutually agreeable solution can be reached without a trial in cases that have a high probability of settling without a lengthy trial. If the client agrees to settle the case under the terms proposed, the case is placed on one of several early settlement calendars for disposition. The attorneys conduct sentencing hearings, which often require formal written Statements in Mitigation and social histories. Additionally, these attorneys represent clients at arraignments, pleas and preliminary hearings in felony cases.

08 – PDO Probation Violations (MANDATED): **\$261,432**

The Probation Violations function includes 1.0 authorized attorney who is responsible for representing indigent clients charged with violation of their felony probation. The attorney counsels the client regarding the truth of alleged circumstances of violation, and options available to the client, including hearing or disposition. There is no right to a jury trial for probation violations, but a formal hearing may be conducted to present the full circumstances of the defendant's compliance on probation. Aggressive prosecution of probation violations results in a high volume of clients in this court.

09-PDO Sexually Violent Predators (MANDATED): **\$507,709**

The Sexually Violent Predators (SVP) team consists of 2.0 attorney positions. The attorneys represent individuals previously committed to state prison from Santa Clara County who the State of California seek to be committed as a Sexually Violent Predator prior to their release from prison on parole. The attorneys represent these clients at probable cause hearings and jury trials. Preparation for these cases includes consultation with expert witnesses, clients and other relevant percipient witnesses. The attorneys conduct civil discovery hearings and depositions. The SVP petitions are civil in nature with some applicable criminal provisions. Currently, these commitments are for a period of two years for people convicted of specified sex offenses. Each person is entitled to a new probable cause hearing and a new jury trial every two years.

10 – PDO Research (MANDATED): **\$719,140**

The Research Unit includes 3.0 authorized positions and is responsible for providing research assistance to attorneys who request it for trial, pretrial adjudication and sentencing. The Research Unit writes pretrial motions in felony cases, represents clients in pre-judgment writs and appeals, provides training to the staff, attends case staffings for members of all teams, provides legal research for administration, analyzes new legislation that affects clients and is available for consultation with members of the office. Indigent criminal defendants pursuing a writ of habeas corpus are entitled to the appointment of a Public Defender (at least after the issuance of an order to show cause by the court. *Charlton v. Superior Court of San Francisco* (1979) 93 CA3d 858) and these cases are handled by this Unit.

11 – PDO Legal Support-Investigation (MANDATED): **\$3,286,920**

The Investigation Unit includes 25.5 authorized positions and is responsible for conducting the defense investigation of cases. Preparation of a constitutionally adequate defense includes not only lawyers in the courtroom, but an independent investigation of the facts of the case. Thus investigators and sentencing mitigation specialists (paralegals) prepare vital aspects of the case for the accused. The duty to investigate exists regardless of the accused's admissions or statements to the lawyer of facts constituting guilt or the accused's stated desire to plead guilty. See the ABA Standards for Criminal Justice 4-4.1 (2d ed. 1980) approved in *Strickland v. Washington* (1984) 466 U.S. 688. Because investigation is a critical part of providing an adequate defense, failure to properly investigate may create liability for the county, the Office and the individual attorney. The Investigation Unit interviews material witnesses and character witnesses. They take crime scene photographs and measurements and create exhibits for the attorneys to use in the courtroom. They subpoena witnesses to attend court hearings.

12 – PDO San Jose Misdemeanors (MANDATED): **\$1,488,279**

The Misdemeanor Team includes 8.0 authorized positions and is responsible for providing legal representation to indigent clients charged with a misdemeanor. As with felonies, misdemeanor attorneys provide the full array of effective and competent representation required by law. Attorneys negotiate the case with the District Attorney to try to arrive at a mutually agreeable resolution. Attorneys also discuss sentencing options with the court and counsel their clients on any options available to them. Attorneys handle pretrial motions on their cases. Attorneys litigate court trials and jury trials on the cases that do not settle. Attorneys handle the sentencings on cases where there are convictions. Attorneys appear at further hearings with their clients for reviews and proof of compliance with court orders.

13 – PDO Juvenile Cases (MANDATED): **\$2,287,729**

The Juvenile Unit of the Public Defenders Office includes 9.0 authorized attorney positions and is responsible for providing legal assistance to youth who have been charged with committing a crime. Attorneys appear with the clients at detention hearings where the court determines whether the minor will remain in custody. Attorneys review charging documents and discuss options with their clients. Cases are investigated and legal issues researched. Many cases settle when the attorneys conduct informal jurisdictional hearings. Attorneys also conduct formal jurisdictional hearings

which are court trials, as youth are not permitted jury trials. The attorneys represent the youth at dispositional hearings which are often formal court hearings where witnesses are called and the court makes a decision about the youth's future. The attorneys also have a new obligation to monitor the Juveniles after the completion of the court case to ensure that youth are receiving the services that they were supposed to receive. The Probation Department has significant jurisdiction over Juvenile Court cases at all stages and therefore attorneys assigned to this team work closely with this department.

14 – PDO Domestic Violence (MANDATED): \$663,145

The Domestic Violence Unit includes 3.0 authorized attorney positions and is responsible for providing legal representation to indigent clients charged with a domestic violence crime. These lawyers are located in specialty departments at the Hall of Justice and provide their clients with vertical representation (i.e., stay with the case from start to finish and don't pass it on to other lawyers at particular stages) in misdemeanor cases or felonies that resolve before the preliminary hearing. The misdemeanor attorneys have the same responsibilities as the Misdemeanor Team and the felony attorney has the same responsibilities as an attorney on the SJPX/ERC/859 Team.

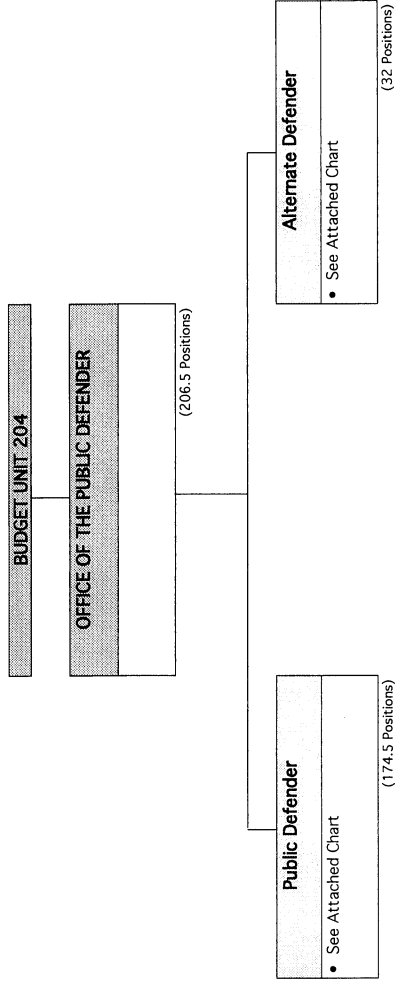
15-24 – Alternate Defender's Office (MANDATED): \$6,549,974

The Alternate Defender's Office (ADO) is in a separate division of the Office of the Public Defender and includes 31.0 authorized staff plus the Alternate Defender who oversees the Office. These individuals are responsible for representing indigent defendants whose interests are in conflict with the Public Defender. This may occur, for example, when the Public Defender's Office already represents another defendant accused in the same case, or the defendant happens to be a witness against another Public Defender client in a separate case. Additionally, the ADO provides primary indigent defense representation in the Palo Alto facility of the Santa Clara County Superior Court. The ADO staff includes attorneys, investigators, paralegals and clerical support staff and provides the same services to their clients as the PDO does to theirs.

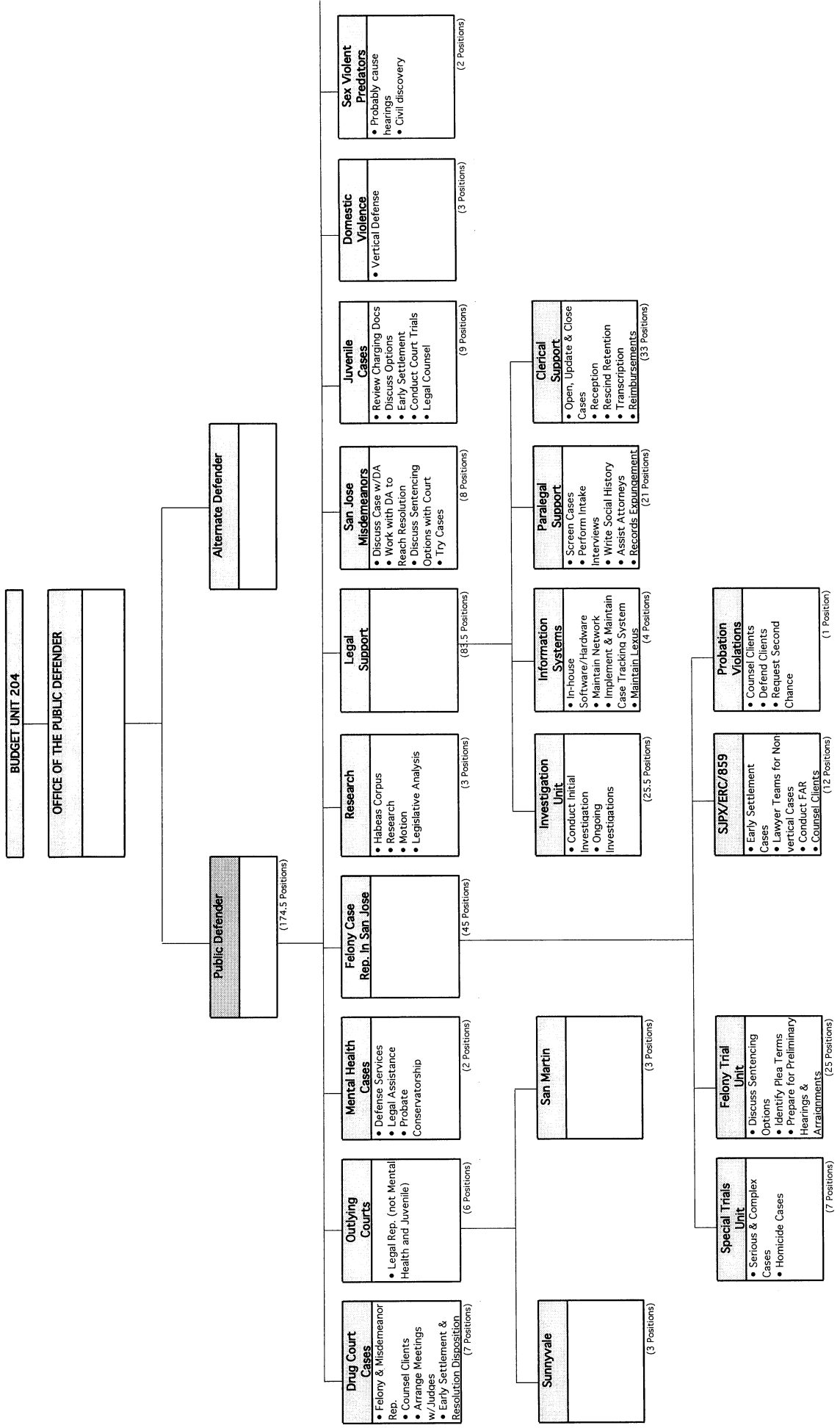
In addition to the ADO offices in Palo Alto and San Jose, Santa Clara County also contracts with the Legal Aid Society of Santa Clara County to provide indigent defense for those cases when a conflict of interest precludes representation by either the Public Defender or the Alternate Defender. The FY 2006-07 Budget includes \$6,216,570 for contract with Legal Aid Society of Santa Clara County to provide indigent defense services when it is required due to conflict of interest.

Total Public Defender FY 2006-07 Adopted Budget	\$38,084,037
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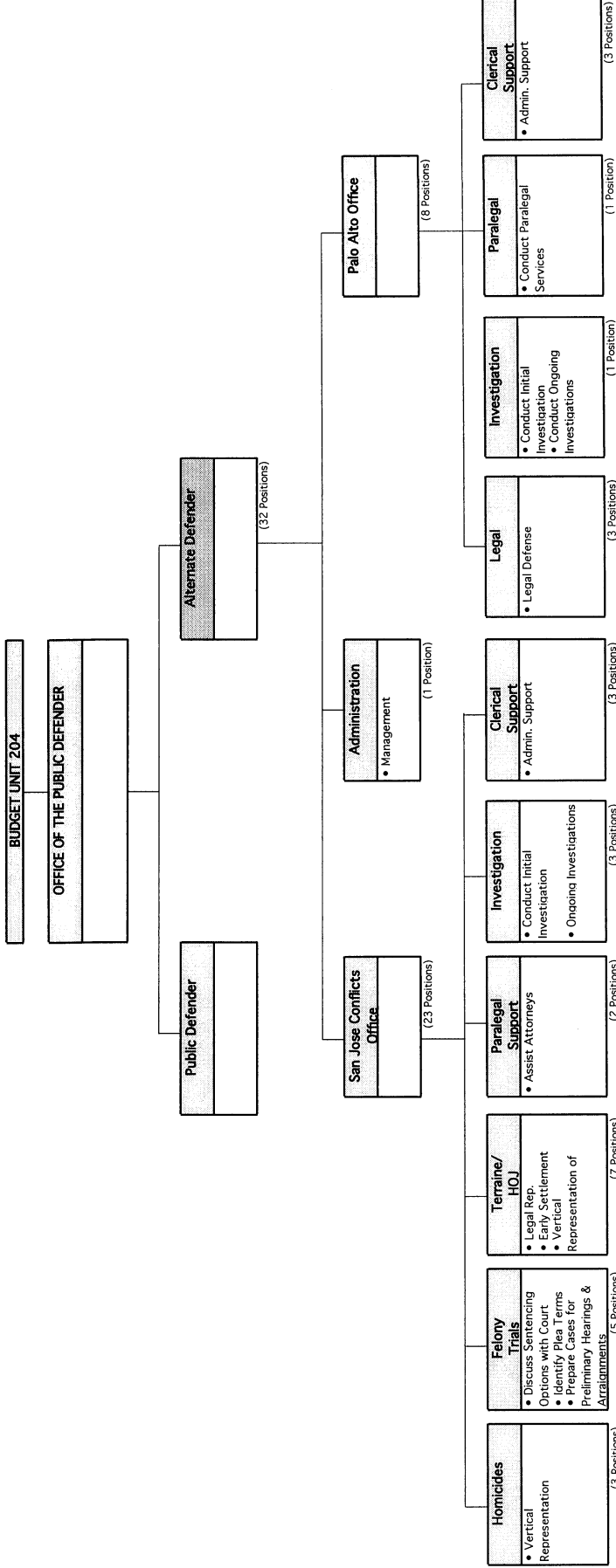
OFFICE OF THE PUBLIC DEFENDER



OFFICE OF THE PUBLIC DEFENDER PUBLIC DEFENDER

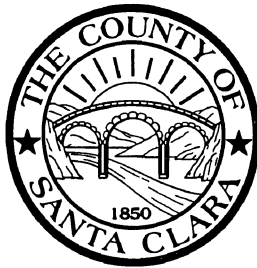


OFFICE OF THE PUBLIC DEFENDER ALTERNATE DEFENDER



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COUNTY COUNSEL

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Laurie F. Faulkner
ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: My-Le Jacqueline Duong, Lead Deputy County Counsel 

RE: Office of the Public Defender 204 Mandate Analysis

DATE: August 15, 2006

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to Budget Unit 204 regarding the Office of the Public Defender. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the PDO.

In a previous mandate study conducted in 2003, the delivery of services through the PDO was considered discretionary, including certain support services. At the same time, the 2003 mandate study recognized that the services of legal representation of the indigent as prescribed by law are mandated. This memo sets forth the delivery of services by the PDO as mandates and provides information on the Sexually Violent Predator Program which was not discussed in previous mandate studies. Based on our review of the current Mandate Report, we have the following changes to the prior mandate report.

Delivery of Services through the Public Defender's Office – Mandated

1. *Legal Basis for Mandate*

Services provided by the Office of the Public Defender are mandated by the Sixth Amendment to the Federal Constitution and Article 1, Section 15 of the California Constitution, which provides that a criminal defendant is entitled to counsel at all critical stages of the proceedings against him. The PDO performs the duties prescribed by the law of the State of California and provides this legal representation.

Roger Mialocq, Management Audit Manager
Re: Office of the Public Defender 204 Mandate Analysis
August 15, 2006
Page 2

The County Ordinance Code sections A22-46 – A22-51 establishes the County Public Defender's Office and mandates that the Public Defender provide legal representation to indigents. Under the County Charter section 301©), the Public Defender is appointed by the Board of Supervisors. California Government Code section 27706 delineates specific areas where the Public Defender shall provide representation.

In accordance with the mandates described above, the PDO provides legal representation to indigent clients who are charged with the commission of a criminal offense alleged to have been committed in Santa Clara County. The PDO represents minors against whom delinquency petitions have been filed in the Juvenile Courts of Santa Clara County, as well as clients who are the subject of LPS or probate conservatorship proceedings.

The PDO also represents individuals charged as sexually violent predators in civil commitment proceedings. (*Garcetti v. Superior Court* (1998) 68 Cal.App.4th 1105; California Welfare & Institutions Code section 6602) Enacted in 1996, the California Sexually Violent Predator Act (SVP) provides that the Director of the California Department of Mental Health can request a petition for commitment of an individual, in the custody of the Department of Correction, to be filed by either the District Attorney or County Counsel of the county where the individual was convicted. (Welfare & Institutions Code sections 6600 *et seq.*)

The SVP mandates that individuals subject to commitment petitions receive certain procedural safeguards, including the right to trial by jury, the assistance of counsel, and the right to retain experts. (*Garcetti v. Superior Court* (1998) 68 Cal.App.4th 1105; *see also* Welfare & Institutions Code section 6602.) Similar to the criminal proceedings, the standard of proof in SVP commitment proceedings is beyond a reasonable doubt and if the individual requests a jury, the verdict must be unanimous. (Welfare & Institutions Code sections 6603, 6604.)

The PDO has been providing legal representation for persons subject to a commitment petition filed by the Santa Clara County District Attorney. While the SVP clients are entitled to appointed counsel, there are no local ordinances, state statutes or case law mandating the PDO to provide that representation.

The County is entitled to SP 90 reimbursement from the state for SVP cases under the SB 90 funds. However, this reimbursement is not returned to the PDO.

2. *Level or Requirement of Mandate, if applicable*

There is no statutory authority setting the mandated level of these services.

c: Mary Greenwood, Public Defender
Ann M. Ravel, County Counsel

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**Ann Miller Ravel
COUNTY COUNSEL**

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ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager
FROM: My-Le Jacqueline Duong, Lead Deputy County Counsel
RE: Office of the Public Defender 204 Mandate Analysis
DATE: August 4, 2006

A handwritten signature in black ink, appearing to be "MLJ", is written over the "FROM" line of the memorandum.

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to Budget Unit 204 regarding the Office of the Public Defender (PDO). Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the PDO.

Based on our review of the current Mandate Report, we have one change to the prior mandate report of September 23, 2003. The new mandate is as follows:

Sexually Violent Predator

1. *Legal Basis for Mandate*

California Government Code section 27706 mandates services from the PDO to accept appointment in a variety of cases. These mandated services include representation of the indigent in criminal and juvenile proceedings, and LPS conservatorship and probate conservatorship. However, it does not include Sexually Violent Predator cases.

In 1996, California's Sexually Violent Predator (SVP) Act was enacted. The SVP laws provide that if the State Department of Mental Health (MHD) determines that the a person in the custody of the State Department of Correction may be a sexually violent predator, the Director of MHD shall forward a request for a petition to be filed for commitment by either the district attorney or county counsel of that county in the superior court of the county the individual was convicted. Currently, these commitments are for a period of two years for people convicted of

Roger Mialocq, Management Audit Manager
Re: Office of the Public Defender 204 Mandate Analysis
August 4, 2006
Page 2

specified sex offenses. (Welfare and Institutions Code sections 6600 *et seq.*)

The SVP Act mandates that individuals petitioned for commitment certain procedural safeguards, including the right to trial by jury, the assistance of counsel, and the right to retain experts. (*Garcetti v. Superior Court* (1998) 68 Cal.App.4th 1105; *see also* Welf. & Inst. Code section 6602.) Similar to the criminal proceedings, the standard of proof in these SVP commitment proceedings is beyond a reasonable doubt and the if the individual requests a jury, the verdict must be unanimous. (Welf. & Inst. Code sections 6603, 6604.)

Since the first filing of a petition for commitment by the Santa Clara County District Attorney, the PDO has been providing the legal representation for the person being committed in Santa Clara County. While the SVP clients are entitled to appointed counsel, there is no local ordinances, state statutes or case law mandating the PDO to provide that assistance.

The county is entitled to SP 90 reimbursement from the state for SVP cases under the SB 90 funds. However, this reimbursement is not returned to the PDO even though costs/fees of the expert witnesses in representing these cases come from the PDO special department expenses.

2. *Level or Requirement of Mandate, if applicable*

There are no statutory authority setting the mandated level of services.

c: Mary Greenwood, Public Defender
Ann M. Ravel, County Counsel

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Laurie F. Faulkner
Susan G. Levenberg
ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Nancy J. Clark, Lead Deputy County Counsel *N. Clark*

RE: Public Defenders' Office - Mandate Analysis

DATE: September 23, 2003

This written assessment of the legal mandates applicable to the Public Defenders Office provided earlier has been revised to incorporate Sec. A22-46 et seq. of the County Ordinance Code which establishes the Santa Clara County Office of the Public Defender.

Below are comments or supplemental analysis, as needed, about the mandates in the functional areas identified by the Public Defenders Office and Robin Courtney, Management Auditor. The description of programs and mandated vs. discretionary functions appears to be correct. However, the following points are worth noting:

1. Delivery of Services through Public Defender's Office - Discretionary

California Government Code section 27700 provides that the Board of Supervisors of any county "may" establish the office of public defender. The County has established this office under Ordinance Code section Sec. A22-46 et seq. Because this office is established, the public defender's office is required to provide certain criminal defense services. (Govt. Code section 27706.) However, the Board could provide these services through alternative means if the Ordinance Code was so amended. So, under the current Ordinance Code, the delivery of certain criminal defense services are mandated at present but the Board retains discretion to determine how these services may be delivered.

2. Certain Support Services: Discretionary

Legal Support Information Systems Unit, paralegals, and clerical support are not "mandates" in that there is no specific legal requirement that the Public Defender's Office utilize these systems or these specified employees. Ordinance Code section A22-49 provides that the Public Defender's office has the power to appoint, suspend or remove clerks and other employees necessary to conduct the work of the department. Thus, the Ordinance Code

Memorandum to Roger Mialocq
Re: Public Defenders' Office - Mandate Analysis
September 12, 2003
Page 2

provides that support employees be included in the office. However, the Board retains the ability to determine which positions shall exist in the first instance.

3. Alternative Defender's Office - Discretionary

There is no legal mandate that this office be made responsible for the representation of indigent defendants whose interests are in conflict with the Public Defender for the same reasons set forth under No. 1 above. The services themselves are mandated, but they can be provided through other avenues. Penal Code section 987.2 provides methods by which counsel may be appointed and paid for by the County if a conflict of interest exists or there are other reasons why the public defender has properly refused to represent the defendant.

The other designations of mandated v. discretionary services appear to be correct.

c: Jose Villarreal
David Mann
Ann Miller Ravel

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JOSÉ R. VILLARREAL
PUBLIC DEFENDER

MEMORANDUM

To: Roger Mialocq, Management Audit Manager

From: José R. Villarreal, Public Defender

Subject: Minimum Legal Funding Update

Date: October 27, 2004

A handwritten signature in black ink, reading "José R. Villarreal", is written over the "From:" line of the memorandum.

Pursuant to your request and the County Executive's memo of August 17, 2004, the Office of the Public Defender has submitted its update of the Minimum Legal Funding analysis prepared in 2003.

We continue to disagree strenuously, however, with suggestions in the report that our Office is mandated to supply legal services only at levels consistent with the highest felony, misdemeanor and juvenile caseloads found in any public defender office surveyed statewide.

The updated report continues to compare the caseload of our felony attorneys to the only responding public defender office with a higher reported felony caseload than we have -- San Bernardino County -- and the suggestion is made, without further analysis, that Santa Clara County could save money if we handled felonies the way San Bernardino does. A similar comparison is made between our misdemeanor and juvenile caseloads and the caseloads of other county public defender offices in each practice area.

We understand that the present Minimum Legal Funding Analysis does not consider the quality of representation provided in the counties studied, nor does it contrast the criminal justice system culture nor the prosecution policies which exist in each county. However, the risks of ignoring local prosecutorial policies, and ignoring quality of service issues could, in our opinion, be drastic.

As recently as August 22, 2004, the San Francisco Chronicle published an article highly critical of the uneven application of the 3-Strike law among California counties, citing Santa Clara County as far and away the most aggressive Bay Area county in its use of 3-Strikes sentencing. Reducing the size of our attorney staff in the area of felony representation, in the face of the

aggressive prosecution policies advanced by our D.A.'s office will have significant negative impacts on the balance, and ultimately the quality, of Santa Clara County's criminal justice system.

Furthermore, the updated report fails to analyze how San Bernardino County arrived at their figure of 223 felony cases per attorney or how such a dramatic increase in caseload (22% over the reported 183 cases/attorney a year ago) has been managed by that office. We can only envision disastrous consequences for a criminal justice system where the public defender is expected to handle such enormous caseloads. The number of ineffective assistance of counsel claims and subsequent reversals of conviction may ultimately cost San Bernardino County far more than providing adequate resources for indigent defense up front.

Conclusion

We believe that it would be bad public policy to model an indigent defense system on the cheapest alternative to be found, without considering the quality of representation, prosecutorial policies in the jurisdiction and other aspects of the local system culture.

We urge the Board of Supervisors and the County Executive to recognize the importance of these more subjective factors and not simply embrace a policy of reducing the quality of indigent representation in this county to the lowest common denominator.

210 Office of Pretrial Services

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Non-Mandated	2	580,843	10%	0	0%	6.5	15%
Mandated	3	4,612,756	80%	4,518,756	98%	34.0	76%
Admin/Support	-	565,198	10%	565,198	100%	4.0	9%
Total	<u>13</u>	<u>5,758,797</u>	<u>100%</u>	<u>5,083,954</u>	<u>88%</u>	<u>44.5</u>	<u>100%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=percent of total staffing

Departmental Description

The Office of Pretrial Services (PTS) performs five functions, three of which are mandated by County ordinance, according to the department and County Counsel. This department is unique in that its three mandated functions are mandated by a County ordinance approved by the Board of Supervisors in recognition of State law that permits, but does not require, the County to provide an Office of Pretrial Services. Specifically, this function is mandated under County Ordinance Code Section A28-5, which establishes the Office of Pretrial Services, and states that:

“The director shall effect the pretrial release of criminal defendants, as authorized by state law or the judges’ joint committee, and shall do whatever is necessary to improve the effective and efficient processing of such defendants.”

The mission of PTS, according to the department’s own description, “is to provide information to the criminal courts that facilitates the release and detention decision-making process at the earliest opportunity, in order to promote equitable treatment of the accused, provide protections for the community, meet statutory requirements, and reduce custody costs.” The Office of Pretrial Services also maintains an administrative

and support function that includes management, fiscal, budget and information systems support. The FY 2006-07 Office of Pretrial Services projected budget amounts to approximately \$5.8 million, of which about \$675,000 is reimbursed and slightly more than \$5.0 million is a General Fund cost. In addition, costs of the Office of Pretrial Services were used to calculate the booking fee that is charged to County cities. Depending on how the booking fee is calculated, PTS accounts for between 8 percent and 10.5 percent of the costs used. Based on the estimated booking fee revenue off approximately \$3 million included in the Sheriff's Department budget, eliminating the costs for PTS would also eliminate about \$240,000 to \$300,000 of the booking fee revenues received by the Sheriff's Department.

The functions the Office of Pretrial Services performs are mandated, for example, by Penal Code Section 1270, which states that a felony arrestee may be released by a magistrate, and that a misdemeanor trustee must be released, unless the magistrate makes a finding "that an own recognizance release will compromise public safety or will not reasonably assure the appearance of the defendant as required." Similarly, Section 1270.1 requires that before an arrestee charged with a serious or violent offense may be released on his own recognizance, the magistrate must consider evidence of past court appearances, the possible sentence the arrestee faces, and the danger that may be posed by the release. Other Penal Code sections have similar requirements that must be weighed in the magistrate's decision.

Furthermore, Penal Code Section 1318 requires a defendant being released under his own recognizance to sign a release agreement to promise to appear at all times as required by the Court, and to obey all reasonable conditions imposed by the Court.

Also, court decisions state that a defendant who is not arrested on a warrant must have a hearing by a magistrate within 24 to 48 hours after arrest, to determine whether probable cause exists to retain the defendant in custody prior to trial. The Office of Pretrial Services is responsible for ensuring that the hearing occurs within the mandatory timeframe, and to make sure that the arresting agency provides the information that is needed by the Court to decide whether probable cause exists.

While it is mandatory for the Court to go through these analyses, and have this information on which to base its judgments, it is not mandatory that an Office of Pretrial Services be established to provide this information. Specifically, Penal Code Section 1318.1(a) states:

"A court, with the concurrence of the board of supervisors, may employ an investigative staff for the purpose of recommending whether a defendant should be released on his or her own recognizance."

Subsection (b) of the statute further requires that if such a staff is employed, it must prepare a report in all cases involving a violent felony or felony drunken driving, recommending whether the defendant should be released on his own recognizance. County Code Section A28, which establishes the Office of Pretrial Services, effectuates the Board of Supervisors concurrence with the Superior Court on creation of the

investigative staff permitted under Penal Code Section 1318.1(a). County Counsel concurs with this assessment of the County ordinance.

Therefore, in reviewing the subsequent descriptions of this department's functions, the County Executive and the Board should be aware that the Board could choose to withdraw its concurrence with the Court by rescinding the existing ordinance, thereby permitting the Office of Pretrial Services to be eliminated, without adverse legal consequences under State law.

FY 2006-07 General Fund Budget by Program/Function

<u>Function</u>	<u>FY 2006-07 Adopted Budget</u>		<u>Departmental</u>	<u>General</u>	
	<u>Amount</u>	<u>Staffing</u>	<u>Revenue</u>	<u>Fund</u>	<u>Percent</u>
				<u>Subsidy</u>	
<u>Non-Mandated Activities</u>					
01 Court Contract	424,807	4.5	424,807	0	0%
02 SATTA (Prop. 36) Funding	<u>156,036</u>	<u>2.0</u>	<u>156,036</u>	<u>0</u>	<u>0%</u>
Subtotal	580,843	6.5	580,843	0	0%
<u>Mandated Activities</u>					
03 Court Unit	1,398,392	10.5	0	1,398,392	100%
04 Supervision Unit	1,552,703	12.5	94,000	1,458,703	94%
05 Jail Unit	<u>1,661,661</u>	<u>11.0</u>	<u>0</u>	<u>1,661,661</u>	100%
Subtotal	4,612,756	34.0	94,000	4,518,756	98%
<u>Required</u>					
Admin/Support	<u>565,198</u>	<u>4.0</u>	<u>0</u>	<u>565,198</u>	<u>100.0%</u>
Total	<u>5,758,797</u>	<u>44.5</u>	<u>674,843</u>	<u>5,083,954</u>	<u>88%</u>

Description of Programs and Functions

Administration (Required)

\$565,198

Administrative staff in the Office of Pretrial Services includes the Director and her support staff, as well as staff responsible for budgeting, payroll, accounting, contract management, personnel and information systems support functions. Because the department, with the concurrence of County Counsel, argues that three of its five direct service functions are mandated by County ordinance, the County must also provide adequate administrative oversight and support services to fulfill these mandates. The amount of staff and other resources necessary to provide an "adequate" level of funding is subject to determination by the Board of Supervisors pursuant to Government Code Sections 29063 and 29088. No objective basis was identified to determine if the current budget for administrative and support staffing and related resources exceeds the minimum legal funding level.

NON-MANDATED PROGRAMS AND FUNCTIONS

01–Court Contract (NON-MANDATED): **\$424,807**

The Office of Pretrial Services provides 4.5 FTEs that are funded through an agreement with the Superior Court to research and provide criminal history information to assist the Family Court in its decision-making process for cases where restraining orders and civil harassment actions are requested. Similar information is also provided in cases involving probate and dependency matters. Costs of this function are fully offset by the agreement with the Court.

02–SATTA (Prop. 36) Drug Testing Funding (NON-MANDATED): **\$156,036**

The Office of Pretrial Services utilizes 2.0 FTE Pretrial Technicians that provide drug testing services for the Adult Probation Division at PTS' drug testing location. This staff is fully funded by an agreement between PTS and the Department of Alcohol and Drug Services, which in turn receives funding for this function from the State. Approximately 30,000 testing slots annually are reserved for Probation Department Proposition 36 clients who must receive drug tests as a condition of their probationary sentence.

MANDATED PROGRAMS AND FUNCTIONS

03 - Court Unit (MANDATED): **\$1,398,392**

This function is carried out with 10.5 FTE staff positions. The Court Unit presents information and recommendations regarding own recognizance release and/or possible bail adjustments to the Superior Court on all in-custody felony arrestees who are being arraigned on charges stemming from arrests without warrants and arrests with arrest warrants. The Unit also makes similar recommendations to the Court on certain post-arraignment hearings. When requested, the Unit also provides formal reports with own recognizance release recommendations and conditions to the court.

04 – Supervision Unit (MANDATED): **\$1,552,703**

This function is carried out by approximately 12.5 FTE positions.

The Supervision Unit provides supervision, until final adjudication and sentencing, of all individuals who have been released on their own recognizance with certain conditions at the time of booking or arraignment. The purpose of this supervision is to ensure that defendants so released comply with these conditions. The Unit provides appropriate reports and makes court appearances for revocation of release or other appropriate action for those individuals who fail to comply with release conditions. The Unit also provides reports summarizing a defendant's performance while on own recognizance release for the Court's consideration at the time of sentencing.

The Unit's approximately \$1.55 million cost is offset by revenues of about \$94,000, which come from fees, paid by defendants under a sliding scale based on ability to pay, for drug tests administered by PTS as one of the conditions alleged drug offenders must meet for release on their own recognizance.

05 – Jail Unit (MANDATED):**\$1,661,661**

This function requires about 10.5 permanent staff, plus seven extra-help staff is used as needed.

The Jail Unit interviews all non-warrant felony arrestees and arrestees booked on felony warrants for the purpose of recommending to a magistrate those individuals who can be released on their own recognizance because they are likely to subsequently appear in court as directed, and will not compromise public safety if released. For arrestees not released, Jail Unit staff assist the magistrate in determining whether there is probable cause to keep the arrestee in custody, and the proper level of bail. For all these arrestees, the Unit also retrieves criminal record information from various databases. For misdemeanor arrestees not cited and released by the Department of Correction, the Unit retrieves records, but does not conduct interviews. The Unit is located in the Main Jail and is staffed 24 hours per day.

As discussed earlier in the description of the Office of Pretrial Services, the Jail Unit function, as well as the other two mandated functions previously discussed, are mandated by County ordinance creating the Office of Pretrial Services. This ordinance was adopted to effectuate the Board's agreement with the Superior Court on providing a separate investigative staff to carry out this function. Because State law permits, but does not require, a separate staff to carry out these functions, the Board has the authority to rescind the existing ordinance and eliminate this department.

RISK/BENEFITS OF DISCRETIONARY FUNCTIONS

As previously described in this analysis, the mandated functions of the Office of Pretrial Services arise from a County ordinance that the Board of Supervisors approved in order to effectuate its agreement with the Superior Court, under State law, to assign a separate investigative staff to the mandated functions PTS carries out.

Therefore, if the Board of Supervisors were to decide to no longer concur with the Court on providing the Office of Pretrial Services, the alternatives would presumably be for the Court to gather this information with its own staff, to get it from staff of other agencies in the criminal justice process, or to act without such information.

These alternatives entail financial and non-financial risks. For example, if the Office of Pretrial Services no longer exists to ensure that probable cause hearings occur within 24 to 48 hours, and that the required information is obtained from police agencies to support probable cause, police agencies, jail staff and prosecutors would inherit that responsibility. Assuming they do not make sure that the mandated hearing occurs in the required timeframe, and that sufficient information is provided to support a judge's decision, there is a risk that some defendants who would otherwise remain in custody would be released.

Furthermore, the court also could decide to end its practice of releasing defendants on their own recognizance, based on its inability to receive information on which to make such decisions. The financial risks of this step are reflected in the jail costs avoided for defendants diverted from the jail system prior to trial.

PTS staff estimates that in Calendar Year 2005, about 1,200 defendants were released on their own recognizance, without supervision, while an additional 2,323 were released with supervision, for a total of 3,523 inmates released. According to PTS staff, these releases mostly occurred during the booking process, typically during hearings by a magistrate to determine whether a defendant could be released on their own recognizance and whether there was sufficient probable cause to keep a defendant in custody following arrest, or at arraignment hearings before a judge, which must occur within two days following arrest, if a defendant is not released earlier on bail or their own recognizance.

Several methods could be used to determine the savings from the Office of Pretrial Services. One is to calculate the savings from pretrial defendants released on their own recognizance, based on the cost of pretrial defendants who cannot be released, as shown in the following table, which calculates the total and variable cost saved from these releases, using average length of stay data from the Department of Correction for the jail population on Aug. 3, 2006, and daily jail cost data provided to the Public Safety and Justice Committee by DOC in 2004 and 2005.

**Estimated Cost Savings from OR Releases,
Based on 2003 Releases and Estimated Lengths of Stay and Costs**

Total Costs

<u>Inmate Type</u>	<u>2005 Releases</u>	<u>Average Days Stay w/o release</u>	<u>Days Saved</u>	<u>Cost Per Day</u>	<u>Savings</u>
Felony	3,191	129	412,142	\$128.98	\$53,158,069
Misdemeanor	332	23	7,636	\$128.98	<u>984,891</u>
Total	3,523		419,778		\$54,142,960

Variable Costs

<u>Inmate Type</u>	<u>2003 Releases</u>	<u>Average Days Stay w/o release</u>	<u>Days Saved</u>	<u>Cost Per Day</u>	<u>Savings</u>
Felony	3,191	129	412,142	\$23.37	\$9,631,757
Misdemeanor	332	23	7,636	\$23.37	<u>178,453</u>
Total	3,523		441,938		\$9,810,210

As the table shows, savings calculated by this method, based on the Calendar Year 2005 defendants released as a result of the Office of Pretrial Services programs, amounts to more than \$54 million, based on total costs, and about \$9.8 million, just for variable costs such as inmate food and clothing, versus the program's net County cost of about \$5 million. However, this method overstates the savings, because the average length of stay for unsentenced felony inmates, which primarily drive the savings, presumably

includes lengthy stays for defendants charged with more serious felonies or otherwise ineligible for release pending trial.

Therefore, as another measure of the benefits of the Office of Pretrial Services, Management Audit staff calculated how many days of incarceration the 3,523 OR released inmates in 2003 would have to have avoided to recover the Office of Pretrial Services net County cost, as shown in the following table:

Net County Cost, Pretrial Services, FY 2003-04	\$5,083,954
Calendar Year 2002 OR/SOR Releases	3,523
Cost Per Release	\$1,443
Total Cost Per Day, Main Jail	\$128.98
Days of Savings Needed Per Released Inmate to Recover Total Cost	11
Variable Cost Per Day, Main Jail	\$23.37
Days of Savings Needed Per Released Inmate to Recover Variable Cost	62

As the table shows, the average inmate released through the efforts of the Office of Pretrial Services in 2005 would need to have served about 11 days in jail before trial in order for PTS' economic benefits to equal total daily jail costs, based on the total daily cost of \$128.98. By contrast, about 62 days would have to be served to recover only the variable costs, which the Department of Correction has defined as food, clothing and other selected costs that rise and fall with the daily jail population.

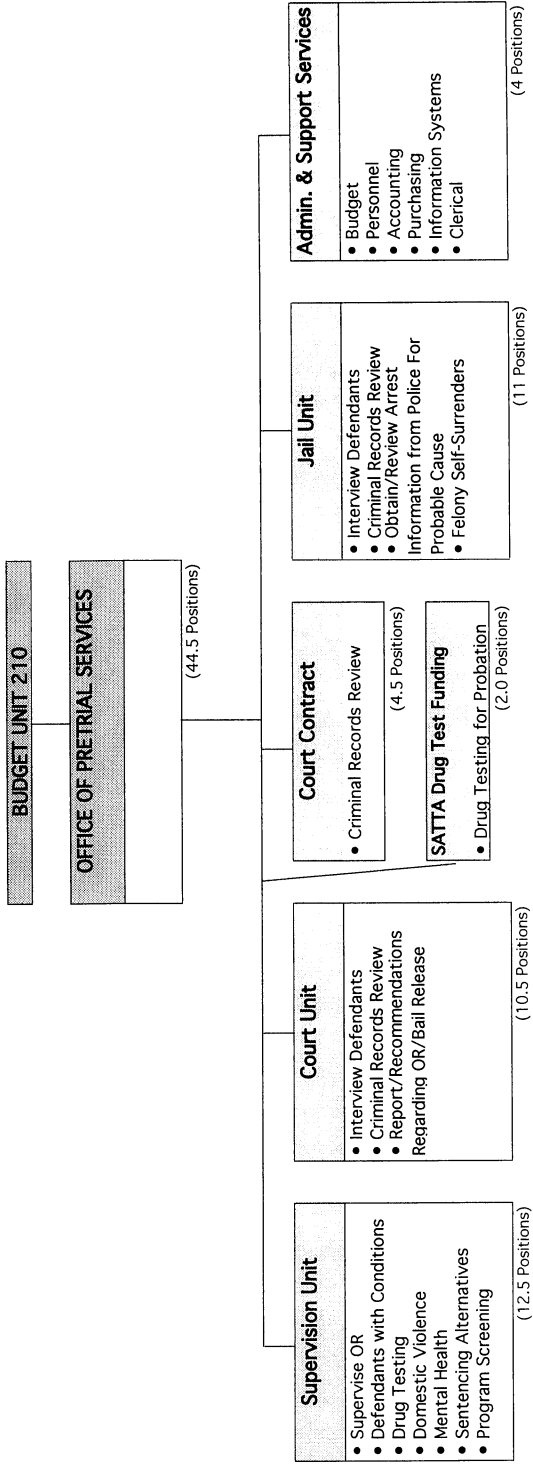
While it cannot be conclusively proven using Santa Clara County statistics that either level of savings would be achieved, we believe that savings probably would be achieved, based on research elsewhere. For example, a 2000 analysis by the U.S. Bureau of Justice Statistics of defendants in 75 urban counties nationwide facing felony charges found that the average stay of defendants who did not receive pretrial release and were facing property, drug or public-order charges ranged from 48 to 107 days. Similarly a study of arrestees held on felony charges in six New Mexico counties as of June 30, 2004 had an average length of stay, prior to sentencing, off 112 days. These figures are far higher than the 11-day average stay required to recover costs of the Office of Pretrial Services through reduced jail costs, and are generally higher than the 62-day stay that would need to be avoided to recoup PTS costs through reduced variable jail costs.

In addition to the savings of jail time and costs for pretrial arrestees who would have to be incarcerated without its work, PTS also advises that its work also results in savings on jail costs that would otherwise be incurred while awaiting sentencing. PTS reports that it prepared 6,888 misdemeanor pretrial services reports in 2005, about 22.4 percent of all reports it prepared. PTS reports that because these reports provide information on a defendant's criminal history, they are often used by the Court to offer a defendant the opportunity to plead guilty with a specified sentence, often a few days in jail, that is largely or entirely completed through time already served. Without this information, a defendant would be remanded for additional proceedings and held in custody for an additional one to two weeks, with the attendant additional jail cost. While PTS cannot estimate the amount of time saved through this method, it believes the savings are significant.

Essentially, whether savings of the Office of Pretrial Services exceeds its cost largely depends on whether housing defendants released through the Office's efforts would require hiring additional jail staff, whose salaries are a major component of the total cost per jail day. This question is beyond the scope of this analysis. Whether to continue to fund the Office of Pretrial Services is a policy decision for the Board of Supervisors

Total Office of Pretrial Services FY 2006-07 Adopted Budget	\$5,758,797
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OFFICE OF PRETRIAL SERVICES



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MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Susan Swain, Lead Deputy County Counsel *Susan Swain*

RE: Office of Pretrial Services Mandate Analysis (BU 210)

DATE: July 27, 2006

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of the legal mandates applicable to Budget Unit 210 regarding the Office of Pretrial Services. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the Office of Pretrial Services.

As set forth in our September 12, 2003 mandates analysis, Division A28 of the County Ordinance Code created the Office of Pretrial Services. Section A28-5 mandates that:

The director shall effect the pretrial release of criminal defendants, as authorized by state law or the judges' joint committee, and shall do whatever is necessary to improve the effective and efficient processing of such defendants.

This office has been informed by the Office of Pretrial Services that it is not asserting any new mandates which are not required under the above Ordinance Code section. Based on that assertion, following review of the prior memorandum, it does not appear any change to our prior analysis is warranted. A copy of the September 12, 2003 memorandum is attached for your reference.

c: Susan Chavez, Director, Office of Pretrial Services
Ann Ravel, County Counsel

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MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Susan Swain, Deputy County Counsel *Susan Swain*

RE: Pretrial Services Mandate Analysis

DATE: September 12, 2003

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to the Office of Pretrial Services (Pretrial Services). Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by Pretrial Services.

1. *Legal Basis for Mandate*

Pretrial Services provided a memo to the Harvey Rose Management Audit Firm, dated July 16, 2003, stating that "Pretrial Services performs functions to support the County/Court in meeting a mandate or court order," citing various statutes, court orders, case law, and a MOU with the Superior Court.

The memo did not state that any of the four functional areas identified in the memo (Jail Operation, Court Operation, Supervision Operation, Other Mandated Services) were mandates imposed directly upon Pretrial Services, but rather the authorities cited by Pretrial Services either required or allowed the functions performed by Pretrial Services to be performed by designated "staff." In other words, the authorities themselves as cited by Pretrial Services do not require the creation of an Office of Pretrial Services to perform the stated functions. As noted in the memo, Pretrial Services acts as the designated "staff" in this county and performs the services identified in the authorities provided by

Memorandum to Roger Mialocq
Re: Office of Pretrial Services Mandate Analysis
Date: September 12, 2003
Page 2

Pretrial Services. The authorities cited by Pretrial Services were accurately cited.¹

The memo submitted by Pretrial Services did not include a reference to Santa Clara County Ordinance Code, Division A28, "Office of Pretrial Release Services." Section A28-5 (Director's Powers) provides that "The director *shall effect the pretrial release of criminal defendants, as authorized by state law or the judges' joint committee, and shall do whatever is necessary to improve the effective and efficient processing of such defendants.*"

Unless and until the Board of Supervisors repeals this ordinance code provision, local law mandates that Pretrial Services facilitate pretrial release of defendants, and that it do whatever is necessary to improve the effective and efficient processing of such pretrial detainees. This mandate seemingly encompasses the Jail Operations and Court Operations functions (Pretrial Services provides investigative reports to the courts to assist in assessing defendants' release on supervised own recognizance or own recognizance [SORP/OR], and assists the court with probable cause hearings and bail hearings), Supervision Operation (Pretrial Services monitors pretrial detainees' compliance with the conditions of OR, such as drug testing) identified by Pretrial Services. It should be noted however, that a portion of the Supervision Operation involves supervision of defendants up until the time of sentencing. That portion of the supervision occurring between trial and sentencing, would not be covered by the mandate in Division A28-5 relating to effective and efficient processing of *pretrial* detainees.

Services or functions provided by Pretrial Services that would not fall within the mandate of the above ordinance code division include drug testing services provided as part of the County's Prop 36 program (Pretrial Services was selected by the Prop 36 Steering Committee in a plan approved by the Board of Supervisors to provide these services), and the provision of record-checking services to the Superior Court with respect to processing Civil and Criminal Protection Orders (Pretrial Services currently provides these services to the Court pursuant to a revenue agreement with the Superior Court).

¹The memo provided by Pretrial Services stated that probable cause hearings must be held within 24-hours of arrest following the decision by the United States Supreme Court in *Riverside v. McLaughlin* (1991) 500 U.S. 44, as well as a subsequent opinion by this Office. Under *McLaughlin*, a probable cause hearing must be held within 48-hours of arrest at the outside (absent exigent circumstances). But under this same Supreme Court case, a probable cause hearing cannot be delayed for delays' sake without violating a defendant's rights; thus, if this County doubled the time-frame for holding a probable cause hearing from 24-hours to 48 hours *without justification*, it could be problematic in defending the legality of a particular defendant's probable cause hearing.

217 Criminal Justice System-wide Costs

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Non-Mandated	1	370,080	0%	370,080	100%	0.0	0%
Mandated	3	52,448,092	100%	32,512,056	62%	0.0	0%
Admin/Support	-	<u>0</u>	<u>0%</u>	<u>0</u>	<u>0%</u>	<u>0.0</u>	<u>0%</u>
Total	<u>4</u>	<u>52,818,172</u>	<u>100%</u>	<u>52,818,172</u>	<u>62%</u>	<u>0.0</u>	<u>0%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=percent of total staffing

Departmental Description

The Criminal Justice System-wide Costs budget reflects General Fund support for Trial Court operations, indigent defense contract services and Public Safety Sales Tax revenue. Oversight and administration of maintenance of effort (MOE) requirements is provided by the Office of the County Executive and the Controller. The FY 2006-07 Criminal Justice System-wide Costs budget accounts for the receipt of \$161 million of Proposition 172 Public Safety Sales Tax revenues that are restricted to use by the following public safety departments.

BU 202 District Attorney
 BU 203 DA-Crime Laboratory
 BU 204 Public Defender
 BU 230 Sheriff
 BU 235 Correction-Jail Contract
 BU 240 Correction
 BU 246 Probation

In addition, Budget Unit 217 receives \$19.9 million of various General Fund court and criminal justice related revenues, that when combined with other unrestricted General Fund monies, fund the \$52.8 million of expenditures included in Budget Unit 217. These expenditures include \$46.2 million of court related costs, and \$6.2 million of contract legal costs for services provided by the Legal Aid Society of Santa Clara County related to cases in which the Public Defender has a conflict of interest. The balance of approximately \$0.4 million is budgeted for unmet civil legal needs.

FY 2006-07 Approved Budget by Program/Function

<u>Function</u>	FY 2006-07		<u>Departmental</u>	<u>General</u>	<u>Percent</u>
	<u>Amount</u>	<u>Staffing</u>			
<u>Non-Mandated Activities</u>					
01 Unmet Civil Legal Needs	370,080	0.0	0	370,080	0%
<u>Mandated Activities</u>					
02 Legal Aid Society	6,216,570	0.0	0	6,216,570	0%
03 Trial Court Operations	40,458,195	0.0	19,936,036	20,522,159	0%
04 Court Facilities/ Rule 810	<u>5,773,327</u>	<u>0.0</u>	<u>0</u>	<u>5,773,327</u>	<u>0%</u>
Subtotal, Mandated	52,448,092	0.0	19,936,036	32,512,056	0%
<u>Required</u>					
Admin/Support	<u>0</u>	<u>0.0</u>	<u>0</u>	0	<u>0%</u>
Total	<u>52,818,172</u>	<u>0.0</u>	<u>19,936,036</u>	<u>32,882,136</u>	<u>62%</u>

Description of Programs and Functions

Administration and Support (REQUIRED): **\$0**
 Administration and support of Budget Unit 217 Criminal Justice System-wide Costs is provided by the Office of Budget and Analysis and the County Executive's Office. These costs are included in the County-wide cost allocation plan and amount to \$22,211 in FY 2006-07. However, these overhead costs are not billed to the public safety departments that receive public safety sales tax allocations since they have limited opportunities to pass these costs along to non-General Fund customers and the State and federal government.

NON-MANDATED PROGRAMS AND FUNCTIONS

01 – Unmet Civil Legal Needs (NON-MANDATED): **\$370,080**
Funds budgeted for allocation to 12 agencies to provide unmet civil legal needs in the community. The funding of these services is fully discretionary.

MANDATED PROGRAMS AND FUNCTIONS

02 – Legal Aid Society (MANDATED): **\$6,216,570**
 Santa Clara County contracts with the Legal Aid Society to provide representation for defendants when the County’s Public Defender and/or Alternative Defender Office has a conflict of interest and cannot take a case. The program was designed to assume conflicted adult felonies declared in the San Jose Facility, and all adult homicides. Although mandated to provide these services, the County is not mandated to do so on a contractual basis, nor is the County mandated to utilize a specific contractor.

03 – Trial Court Operations (MANDATED): **\$40,458,195**
 The Trial Court Funding Act of 1997 requires Santa Clara County to meet a \$40,458,195 maintenance of effort (MOE) requirement in support of trial court operations. The MOE requirement consists of two components. An amount based on, though not equivalent to, the County’s contribution to trial court operations in Fiscal Year 1994-95, (\$28,726,780) and an amount equivalent to the fines and forfeitures revenue remitted to the State in Fiscal Year 1994-95 as modified by subsequent legislation (\$10,643,148). The \$19,936,036 of departmental revenues in this budget unit pertain to the County’s share of fines and forfeitures, traffic and motor vehicle related fines and fees, traffic school fees and State bail and fine realignment revenue.

Legislation addressing the distribution of various fines, fees and forfeitures that were overlooked in the original Trial Court Funding Act has created an additional obligation to remit \$1,088,267 to the State for FY 2006-07 for what have become referred to as the Court's "undesignated fees."

This function is mandated per the California Trial Court Funding Act of 1997, which provided for the separation of local trial court functions from that of counties.

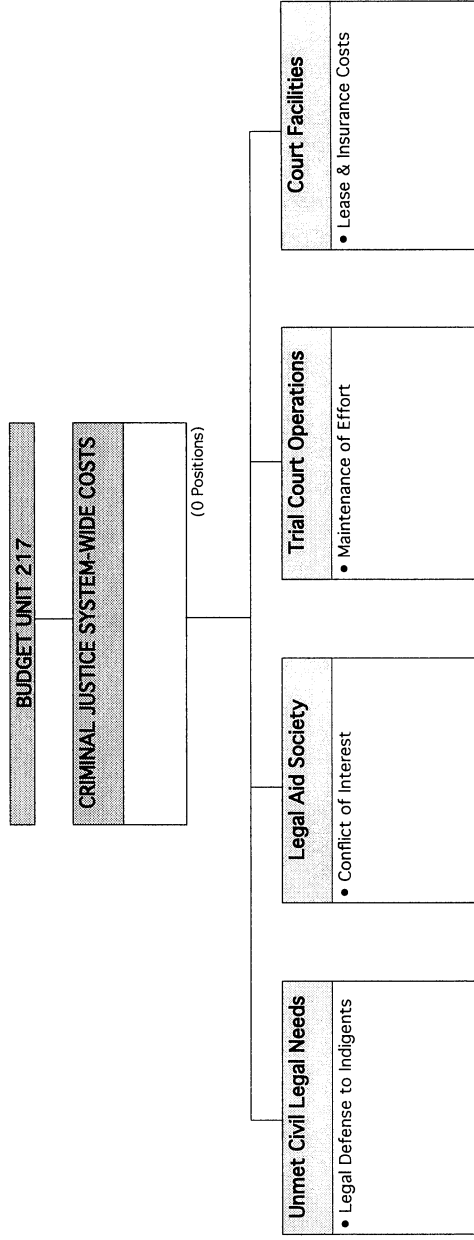
04 – Court Facilities (MANDATED): **\$5,773,327**
 Under the provisions of the Trial Court Funding Act, the County remains responsible for providing Court facilities. Lease and insurance costs for Court facilities are budgeted at \$4,823,327 for FY 2006-07. An additional \$950,000 is budgeted to meet the County’s fiscal obligation for a variety of expenses incurred by the Court (e.g. grand jury).

The California Trial Court Funding Act of 1997 provided for the separation of local trial court functions from that of counties. The legislation required counties to continue “maintenance of effort” (MOE) payments to the State based upon statutory formula (Government Code Section 77201, 77201.1). State law also requires counties to provide

suitable and necessary trial court facilities (Gov. Code Section 70311) until such facilities are later transferred to State ownership under other provisions of State law. The California Penal Code Sections 890.1, 914.5 and others require counties to provide specified budgetary support for the grand jury.

Total Criminal Justice System-wide Costs FY 2006-07 Adopted Budget	\$52,818,172
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CRIMINAL JUSTICE SYSTEM-WIDE COSTS



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ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager
FROM: Nancy J. Clark, Assistant County Counsel *Adell*
RE: Criminal Justice System-Wide Costs, Budget Unit 217, Mandate Analysis
DATE: August 4, 2006

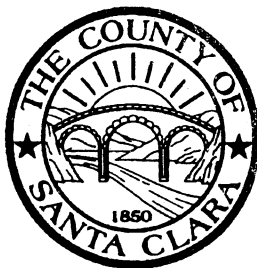
As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of the legal mandates applicable to Budget Unit 217, Criminal Justice System-Wide Costs.

The County Executive's Office is not asserting any new mandates. Based on that assertion and a review of the prior mandate analysis, no changes to the analysis or conclusions on mandated functions is warranted. A copy of a memo prepared in 2003 that includes this budget unit is attached.

Attachment: Mandate Analysis for County Executive's Office (Budget Units 107, 119, 217), dated September 29, 2003

c: Peter Kutras, Jr., County Executive
Ann M. Ravel, County Counsel

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MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Debra L. Cauble, Assistant County Counsel *dlc*

RE: Mandate Analysis for County Executive's Office (Budget Units 107, 119, 217)

DATE: September 29, 2003

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to the Office of the County Executive, Budget Units 107, 119, and 217. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the County Executive's Office.

BUDGET UNIT 107

Administration

The County Executive describes this function as including general administrative positions, oversight of court/county issues; support to the Local Agency Formation Commission (LAFCo), and cable franchise management.

1. **Legal Basis for Mandates.** The County executive states that the general administrative function is mandated under Section 4 of the County Charter. We understand this reference to be to Article IV of the Charter, which describes the role of the County Executive. Under the provisions of Article IV, as well as Section 701, the Charter mandates that the County have a County Executive, and an unclassified confidential secretary and administrative position for the Executive. The Charter does not mandate other positions in the County Executive's Office.

County support of LAFCo is no longer statutorily mandated. Government Code Section 56384 authorizes the LAFCo to appoint an executive officer and legal counsel, and other staff as the Commission deems appropriate. In our County the LAFCo has elected to continue the prior use of County Executive staff to fulfill the duties of executive officer and other support positions. This arrangement with the County is formalized under a contract and provides for full cost recovery for the County services provided to LAFCo.

We did not identify any other legal mandates for activities within the Administration function.

2. Level or Requirement of Mandate, If Applicable. As noted, the Charter specifies three positions to be maintained in the Office of the County Executive. LAFCo levels of staffing is established by the agreement between LAFCo and the County.

Habitat Conservation Program

Legal Basis for Mandate. We concur with the County Executive's analysis that there is no legal mandate for this function.

Special Projects

The County Executive identifies the following activities within this functional area: Fairgrounds Revitalization, Elmwood Surplus Land Development, Civic Center Strategic Development.

Legal Basis for Mandate. The activities within this functional area are economic development projects which are not legally mandated but have been initiated by the Board of Supervisors to pursue established policy goals.

The Silicon Valley Theater Financing Corporation is a nonprofit corporation created for the purposes of financing the theater at the Fairgrounds. Creation of the corporation was advantageous to the County but was not legally mandated.

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Office of Public Communication

This functional area includes a variety of public communication activities on behalf of the County. It also includes staff support to three sister-county commissions.

Legal Basis for Mandate. As noted by the County Executive, the public communication functions of this Office are not mandated by law. The three sister county commissions were created by ordinance of the Board of Supervisors (codified in Division A6 of the Ordinance Code). The ordinance code requires certain staffing support by the Clerk's office but does not mandate support by the County Executive's Office. However, Board Policy 3.39 provides that the County Executive's Office will provide programmatic and administrative support to the commissions.

Office of Women's Advocacy

Legal Basis for Mandate. We concur with the County Executive's analysis that there is no legal mandate for this function. As noted below, however, the Ordinance Code does require staff support in the County Executive's Office for the Commission on the Status of Women.

SACPA (Substance Abuse and Crime Reporting Act; Prop. 36)

Legal Basis for Mandate. State regulations implementing SACPA (Title 9, Code of California Regulations) require counties to designate a County Lead Agency to administer the Act locally and to receive funds. As a condition of receiving funds, counties must annually submit a county plan describing the processes and services that they will employ to implement the Act, as well as proposed expenditures. The plans must be developed and implemented in collaboration with all county agencies and any other entities responsible for administering the Act and with input from providers of drug treatment services, impacted community parties and federally recognized American Indian tribes. County Executive's Office resources devoted to fulfilling these requirements are a mandated function.

Level or Requirement of Mandate, if applicable. Proposition 36 and the regulations implementing it do not establish a specific level of support in order to satisfy the legal mandate.

Children's Services

Legal Mandate. We concur with the County Executive's analysis that there is no legal mandate for this function.

Legislative Program

Legal Mandate. We concur with the County Executive's analysis that there is no legal mandate for this function.

Integrated Pest Management Program

1. **Legal Mandate.** The Board of Supervisors has established a County IPM Program by ordinance (Div. B28 of the County Ordinance Code). The Ordinance requires the appointment of an IPM Coordinator within the Office of the County Executive to oversee and coordinate the Program.

2. **Level or Requirement of Mandate, if applicable.** The Ordinance describes the scope of the IPM Program that must be overseen by the IPM Coordinator.

Public Safety Program

The County Executive's Office states that this functional area includes oversight of indigent defense, Local Law Enforcement Block Grant (LLEBG) administration, and administration of the Board's program to fund nonprofits who provide legal services to low income persons with unmet needs for such services.

1. **Legal Mandate.** The County is required under the Penal Code to provide a defense in criminal proceedings for indigent defendants. This obligation is currently met through assignment of attorneys from the Public Defender's Office and through contracts for provision of representation when the Public Defender is unable to represent an indigent defendant due to conflict. To the extent County Executive resources are required to administer the conflict program, those resources should be considered mandated.

In order to obtain funds through the Local Law Enforcement Block Grant program, the County must comply with certain requirements regarding planning and oversight. To the extent such activities are required in order to comply with Grant terms, once the County has elected to apply for and use the grant funding, the activities should be considered mandated.

As noted by the County Executive's Office, there is no legal mandate for the County to provide civil legal services to persons who cannot afford them.

2. Level or Requirement of Mandate, If Applicable. There are no legal requirements mandating a particular level of service in this functional area.

Office of Budget and Analysis

1. Legal Mandate. Section 404(d) of the County Charter provides that the County Executive must "supervise and direct the preparation of the annual budget of the County and be responsible for its administration after adoption."

2. Level or Requirement of Mandate, If Applicable. Activities of the Office of Budget and Analysis in furtherance of the Charter requirements concerning the budget should be considered mandated.

Office of Emergency Services

The County Executive's Office states that this functional area includes planning and coordination of emergency and disaster efforts and training, coordination of the Santa Clara County Operational Area, support to the local Emergency Preparedness Council, and coordination of the Emergency Alert System.

1. Legal Mandate. Under the California Emergency Services Act (Government Code Section 8550 et seq.) counties have a significant role in addressing regional and local emergencies. The Act provides for establishment of Operational Areas at the county level which serve a variety of purposes in coordinating emergency responses (Section 8605). The Act authorizes counties to create local disaster councils by ordinance, in order to develop plans for addressing local emergencies (Section 8610).

In order to implement provisions of the Act, our Ordinance Code (Division A8) requires the County Executive to perform various functions in the role of County Director of Emergency Services. The Code provides that the County Executive serves as the Operational Area coordinator, and directs the appointment of an emergency services manager to carry out various functions related to emergency planning and operations. Our Board has also elected to create a local disaster council by ordinance.

2. Level or Requirement of Mandate, If Applicable. To the extent the functions described above implement the referenced provisions of state law and local ordinance, they should be considered mandated.

Human Relations

1. **Legal mandate.** We concur with the Office of County Executive that the only mandated activities related to this functional area concern support to the Human Relations Commission and Commission on the Status of Women. County Ordinance Code Section A6-55 provides that the Commission's Executive Secretary shall be appointed by the County Executive, shall attend all meetings and shall provide staff assistance. Section A6-77 sets forth a similar requirement with respect to the Commission on the Status of Women.

2. **Level or Requirement of Mandate, If Applicable.** The Ordinance Code does not specify the level of support required by the executive secretary to the two Commissions, except to the extent it requires attendance at all Commission meetings.

BUDGET UNIT 119

This Budget Unit contains a varied range of expenditures.

Legal Mandate. We concur with the County Executive's Office that none of the activities are legally mandated, except as follows: (1) This Budget Unit includes an appropriation for certain work performed by the Department of Environmental Health, required by state law to be performed. We are reviewing the assumption that no fees may be charged to recover costs of these services; and (2) the one-time appropriation for implementation of the Health Insurance Portability and Accountability Act (HIPAA) is mandated to the extent the expenditures are being used to make information systems changes mandated by HIPAA.

BUDGET UNIT 217

The County Executive's Office reports that this Budget Unit includes certain court-related expenses (Maintenance of Effort payment to the State, expenses related to court facilities, and grand jury expenses). In addition, we are advised that it includes expenses which appear to overlap those described under the Public Safety Program of BU 107 (see discussion above) for indigent legal services and unmet civil legal needs.

1. **Legal Mandate.** The California Trial Court Funding Act of 1997 provided for the separation of local trial court functions from that of counties. The legislation required counties to continue "maintenance of effort" (MOE) payments to the state based upon a statutory formula. (Gov. Code Section 77201. 77201.1). State law also requires counties to provide suitable and necessary

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trial court facilities (Gov. Code Section 70311) until such facilities are later transferred under other provisions of state law. The California Penal Code (Sections 890.1, 914.5 and others) requires counties to provide specified budgetary support for the grand jury.

2. Other comments. The Board of Supervisors may wish to consider pursuing legislation to transfer fiscal responsibilities for the grand jury to the court, in line with the overall statutory scheme of separating court and county functions.

c: Peter Kutras, Jr.
Ann Ravel

230 Office of the Sheriff

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing*4</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Non-Mandated	6	16,705,402	15%	67,281	0%	100.0	14%
Mandated	12	81,649,647	72%	17,553,179	21%	571.0	77%
Admin/Support	-	<u>14,971,114</u>	<u>13%</u>	<u>5,283,709</u>	<u>35%</u>	<u>68.0</u>	<u>9%</u>
Total	<u>18</u>	<u>113,326,163</u>	<u>100%</u>	<u>22,904,169</u>	<u>20%</u>	<u>739.0</u>	<u>100%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=percent of total staffing
*4=Excludes 75 unfunded cadet positions

Departmental Description

The Sheriff's Office performs 12 functions that are mandated by federal and State law and regulation and County ordinance, and six functions that are non-mandated. The principal authority for the Sheriff's Office comes from the California Constitution, which establishes counties as legal subdivisions of the State, and requires that "The Legislature shall provide for county powers, an elected county sheriff . . . in each county." The function of the Sheriff's Office is defined in Government Code Section 26600, which states: "The sheriff shall preserve peace, and to accomplish this object may sponsor, supervise, or participate in any project of crime prevention, rehabilitation of persons previously convicted of crime, or the suppression of delinquency." Other code sections provide the Office's authority and duty to make arrests for public offenses, to conduct search and rescue operations and to carry out other law enforcement and public safety functions. As the law enforcement officer for the County, the Office carries out its functions in areas where city police departments have not been established. This includes the unincorporated area of the County, as well as the cities of Cupertino, Los Altos Hills and Saratoga, which contract with the Sheriff for police services. The

Sheriff's Office also provides contract law enforcement services in County parks and on the Valley Transportation Authority transit system.

To carry out these functions, the Department is organized in three bureaus, the Administrative Services Bureau, which includes fiscal, personnel and information services staff, as well as other support services, the Field Enforcement Bureau, which includes the principal law enforcement functions such as patrol officers, investigative detectives, search and rescue operations and a number of miscellaneous services; and the Services Bureau, which provides a number of miscellaneous services, such as selected functions in County jails, security to the Superior Court, and civil and warrant functions. The FY 2006-07 Sheriff's Office expenditure budget amounts to approximately \$113.3 million. Of the \$113.3 million, approximately 80 percent is reimbursed from various sources, primarily contracts with other agencies and Public Safety Sales taxes, and the remainder is a General Fund cost. It should be noted that Budget units 202, 203, 204, 230, 235, 240 and 246 are partially financed by \$161 million of Proposition 172 Public Safety Sales Tax monies. Accordingly, the County is required to provide General Fund support at least equal to the FY 1992-93 maintenance of effort level. Since the FY 2006-07 budget for these departments exceeds the maintenance of effort level by more than \$100 million, any reduction in these budgets would generally reduce the General Fund subsidy on a dollar-for-dollar basis.

FY 2006-07 General Fund Budget by Program/Function

<u>Function</u>	<u>FY 2006-07 Adopted Budget</u>		<u>Departmental</u>	<u>General</u>	
	<u>Amount</u>	<u>Staffing</u>	<u>Revenue</u>	<u>Fund</u>	<u>Percent</u>
				<u>Subsidy</u>	
<i><u>Non-Mandated Activities</u></i>					
01 Reserves/Community Svcs	164,177	0.0	131,088	33,089	20%
02 Canine Unit	81,040	0.0	46,848	34,192	42%
03 Air Support Unit	219,657	0.0	219,657	0	0%
04 Westside Patrol-Cities	11,849,485	75.0	11,849,485	0	0%
05 Transit Patrol	3,528,242	19.0	3,528,242	0	0%
06 Parks Patrol	<u>862,801</u>	<u>6.0</u>	<u>862,801</u>	<u>0</u>	<u>0%</u>
Subtotal	16,705,402	100.0	16,638,121	67,281	0%
<i><u>Mandated Activities</u></i>					
07 Investigative Services	6,624,494	41.0	5,529,606	1,094,888	17%
08 Warrants & Fugitives	1,550,132	10.0	1,180,580	369,552	24%
09 Civil	1,931,363	18.0	1,402,128	529,235	27%
10 Headquarters Patrol	17,145,962	112.0	10,470,397	6,675,565	39%
11 Sheriff's Jail Operations	10,931,464	64.0	6,636,432	4,295,032	39%
12 Westside Patrol-Unincorp	2,936,714	10.0	1,782,335	1,154,379	39%
13 Records	6,047,082	62.0	4,001,120	2,045,962	34%
14 Special Operations	1,462,214	10.0	904,538	557,676	38%
15 Internal Affairs	875,173	5.0	531,155	344,018	39%
16 Court Security	31,617,208	236.0	31,337,823	279,385	1%
17 Parks Patrol	152,582	1.0	92,408	59,851	39%

(Continued)
FY 2006-07 Projected Budget by Program/Function

<u>Function</u>	FY 2006-07		<u>Departmental Revenue</u>	<u>General Fund Subsidy</u>	<u>Percent</u>
	<u>Adopted Budget Amount</u>	<u>Staffing</u>			
18 Coroner	<u>375,582</u>	<u>2.0</u>	<u>227,946</u>	<u>147,636</u>	<u>39%</u>
Subtotal	81,649,647	571.0	64,096,468	17,533,179	21%
<u>Required</u>					
Admin/Support	<u>14,971,114</u>	<u>68.0</u>	<u>9,687,405</u>	<u>5,283,709</u>	<u>35%</u>
Total	<u>113,326,163</u>	<u>739.0</u>	<u>90,421,994</u>	<u>22,904,169</u>	<u>20%</u>

Description of Programs and Functions

Administration and Support (REQUIRED):

\$14,971,114

Administrative and Support functions for this project have been defined to include management staff that cannot be directly attributed to a single function or a single-purpose operating unit, as well as centralized support functions such as fiscal, personnel and training and information services support. For the Sheriff's Department, management staff and support functions total 68.0 FTE positions, including 14 administrative staff, 16 fiscal staff, 24 personnel and training staff including range staff, 11 information services staff and three recruiting staff. Excluded from this count are 75 unfunded FTE Sheriff's cadet positions included in the recruiting function, although costs for this staff are included. Costs of these functions are offset by \$9,687,405 in revenues from Public Safety Sales tax, federal and State grants, and fees and charges of various types. Because the direct services performed by the Sheriff's Department are mandated, the County must also provide adequate administrative oversight and support services to fulfill these mandates. The amount of staff and other resources necessary to provide an 'adequate' level of funding is subject to determination by the Board of Supervisors pursuant to Government Code Sections 29063 and 29088.

NON-MANDATED PROGRAMS AND FUNCTIONS

01 – Reserves/Community Services (NON-MANDATED):

\$164,177

The Reserves/Community Services function is composed of a force of 142 volunteers, 45 reserve deputies, and 20 youth cadets. They are supported by staff in the Personnel and Training Division of the Office of the Sheriff. The volunteers and reserves supplement the regular force as needed on a regular basis, particularly during times of increased need, such as floods and other natural disasters and search-and-rescue

operations. Reserve deputies must attend a reserve academy on their own time in order to meet the same Commission on Peace Officer Standards and Training requirements that regular deputies must meet, and also must complete an intensive field training program. While the Department reports that this function is not mandated, these volunteers help the Department make more efficient use of its regular patrol staff, by relieving deputies from time-consuming non-critical duties such as completing arrestee bookings at the County Jail, providing traffic control, responding to alarm calls and other routine functions. The youth cadets help the Sheriff's Department make more efficient use of its regular patrol staff by relieving deputies from time-consuming non-critical duties such as proctoring physical agility testing for new hires, being used as decoys during alcohol and tobacco sting operations, participating in ride-a-longs, and assisting with community service events. The Department reports that reserves provided 12,000 hours of service in FY 2005-06, with an approximate value of \$630,000, based on the alternative cost of a Deputy Sheriff position at Step 3. This function generates about \$80,000 in revenues from providing reserves at various events, and an additional \$51,088 in Public Safety Sales taxes was allocated the Reserves/Community Services function resulting in a net General Fund cost of \$33,089.

02 – Canine Unit (NON-MANDATED): **\$81,040**

The Sheriff's Department canine unit is not mandated, but according to the Department, it is staffed with existing staff that will still be required even if the dog-handling function were eliminated. The unit is staffed with a sergeant and three deputies, all of whom handle dogs, receiving additional pay and training as a result. However, these positions are included in function 10 Headquarters Patrol, since they fill regular beats in that Unit.

Primarily due to their sensitive sense of smell, Department canines provide capabilities that human staff cannot, particularly in the areas of searching for missing persons or criminals, and searching for drugs, explosives and other contraband. The total cost of this function is approximately \$81,080, including costs related to the dogs as well as staff differential and training costs. This function is financed with \$46,848 Public Safety Sales Tax, and \$34,192 is a General Fund subsidy.

03 – Air Support Unit (NON-MANDATED): **\$219,657**

In September 2002, the Department purchased a helicopter with State technology grant funds. The helicopter is used for law enforcement operations, search-and-rescue incidents, and other purposes. According to the Department, this function is not mandated. However, this program has been supported without General Fund monies since its inception. Under the financing approach outlined by the Sheriff in October 2002, this program has been supported via service contracts from non-County agencies or entities that utilize the unit's services, as well as a federal grant and asset forfeiture monies.

04 – West Valley Patrol - Cities (NON-MANDATED): **\$11,849,485**

West Valley Patrol provides initial response to calls from the general public of a criminal, traffic, and/or emergency nature. The unit also takes persons into custody as specified in arrest warrants, and conducts searches and/or rescues of lost persons. The Sheriff's Department provides these services to the cities of Cupertino, Los Altos Hills

and Saratoga via contracts. Costs of these services are 100 percent reimbursed by fees paid by the contracting cities. Staffing for the contract law enforcement function is 75 FTE positions.

05 – Transit Patrol (NON-MANDATED): **\$3,528,242**

The Transit Patrol Division provides law enforcement services such as patrol, investigation and crime prevention to Santa Clara Valley Transportation Authority vehicles and facilities under a contract with the Authority. According to the Sheriff's Department's FY 2006-07 budget, these services are more than 100 percent reimbursed by revenues received under the VTA contract.

06 – Parks Patrol (NON-MANDATED): **\$862,801**

Under a contract with the Santa Clara County Department of Parks and Recreation, a staff of one sergeant and six deputies provide law enforcement services to the 27 County operated parks, as well as providing services to two Santa Clara Valley Water District properties that are used recreationally. The costs of this service, including the Sheriff's Department's overhead associated with providing the direct services, are offset by contract payments from the Parks Department.

MANDATED PROGRAMS AND FUNCTIONS

07 – Investigative Services Division (MANDATED): **\$6,624,494**

This unit conducts investigations of alleged violations of federal, State and County laws as they occur or are reported to have occurred within the Sheriff's designated jurisdiction, which includes the unincorporated areas of the County and selected cities that have chosen to contract with the Sheriff's Department for law enforcement services. The Division is organized as a series of units whose members specialize in specific types of crimes, such as homicide, assault, robbery, domestic violence, hate crimes, or sex crimes. The Division also reports that its staff completes documentation for the District Attorney on suspects arrested by Patrol Division deputies. This documentation establishes probable cause to make the arrest, and without it, the arrestee could not be taken before a magistrate. Failure to do so in a timely manner could subject Department staff to legal sanctions. The Division also includes the Department's share of the Regional Auto Theft Task Force, as well as the Rapid Enforcement Allied Computer Team, which investigates crimes related to the high technology industry. The Sheriff's Office reports that Public Safety Sales taxes and fees offset \$5,529,606 of the Division's cost.

08 – Warrants and Fugitives Section (MANDATED): **\$1,550,132**

The Warrants and Fugitives Division is responsible for the service of all felony warrants and certain misdemeanor warrants within the County of Santa Clara, which are issued by judges. Approximately 95 percent of the felony warrants served relate to charges for probation violation. The majority of original arrest warrants are served by the original investigating agency. The Division is also responsible for processing fugitives who are captured in our County and are wanted on charges in other states, as well as for extraditing fugitives arrested in other states on charges filed within Santa Clara County. A substantial amount of the Division costs are reimbursed from the State as they relate

to extradition costs, fees from the Superior Court relating to the service of bench warrants, and Public Safety Sales taxes. The Warrant and Fugitive Division also provides protection for visiting dignitaries when requested to do so by the U.S. Secret Service.

09 – Civil Section (MANDATED): **\$1,931,363**

The Civil Division serves or executes, or attempts to serve or execute, documents and notices given to the Sheriff by the Superior Court or by the public. Various California Government Code, Civil Code and Code of Civil Procedures sections mandate the service and execution of key documents and notices on and for parties to civil litigation. In some cases, the Civil Division's role is limited to verifying the documents to be served, with the actual physical serving of the documents being handled by a private process server hired by the party wanting the documents served. Other service functions, such as a writ of possession ordering the removal of a tenant that has been evicted, or a "keeper" in which the sales proceeds of a business are collected for a period of time to satisfy a debt owed to a third party, or real property or personal property sales mandated by law must be carried out personally by a Sheriff's deputy. Most civil operations require the charging of fees under State law to the person requesting that a document be served. The Sheriff's Office is able to recover substantial costs through these fees and Public Safety Sales taxes. Aside from these above described documents, the Sheriff's Civil Division also serves all restraining orders, which are processed within the Family Court structure.

10 – Headquarters Patrol: (MANDATED) **\$17,145,962**

Headquarters Patrol provides initial response to calls from the public regarding crimes and other emergencies. Patrol deputies take persons into custody who are specified in arrest warrants, when such persons are encountered. This unit also conducts searches and/or rescues of lost persons. These services are provided in specific unincorporated areas of the County, including the urban Burbank, Cambrian and Eastside areas adjacent to the City of San Jose, the Mount Hamilton Range in the eastern county and the mixed rural residential and agricultural areas in the South county, including the unincorporated communities of San Martin, Coyote Valley, Rucker, Madrone and the Casa de Fruta area in the southeast County. Headquarters Patrol operates a substation in San Martin. maintains a Field Training Program for new officers, which is required by State regulations enforced by the Commission on Peace Officer Standards and Training, and includes an abandoned vehicle towing and abatement function staffed by a Law Enforcement Clerk. This function receives offsetting revenues of \$10,119,199.

11 – Sheriff's Jails Operations (MANDATED): **\$10,931,464**

The Sheriff's Department provides 64 FTE positions to provide oversight of custodial officers, investigate and supervise criminal activity within the jails, provide authority for weapon usage, provide perimeter security and provide transportation of jail inmates to courts, hospitals, prisons and other locations. This staff is provided under a 1997 agreement between the Sheriff and the Board of Supervisors to allow correctional officers to carry weapons for specific functions within the jail, to supervise correctional staff within the jail, and to investigate jail-related crimes. The agreement was in turn motivated by requirements of the California Penal Code and court decisions that determined that only staff with peace officer powers could supervise and carry out

selected functions within County jails. The Department receives \$6,636,432 in Public Safety Sales taxes and State reimbursement for transportation of certain State prisoners.

12 – West Valley Patrol –Unincorporated Area(MANDATED): **\$2,936,714**

Similar to Headquarters Patrol, West Valley Patrol provides initial response to calls from the general public of a criminal and/or emergency nature. In addition West Valley responds to traffic collisions and conducts traffic enforcement. The unit also takes persons into custody as specified in arrest warrants, and conducts searches and/or rescues of lost persons. These services are provided to residents of selected unincorporated areas, including the Los Gatos Mountains and the Moffett Field area near Mountain View, using 10 FTE positions.

13 – Records (MANDATED): **\$6,047,082**

The Records Division provides storage, maintenance and dissemination of information contained in over 450,000 criminal history files. The information is in the form of an in-depth local arrest history record maintained as paper files. The information is collected through information gathered during arrests and from fingerprint-related data. This information is provided to various units and divisions of the Sheriff's Office, to the 17 non-County law enforcement agencies in the County, such as city police departments, and to other criminal justice agencies, including the District Attorney, Courts and the Probation Department.

The Records Division also processes, stores, maintains and collects bail or provides information booking services for more than 120,000 criminal warrants issued annually. The Division also prepares, processes, indexes and retains reports of crimes, traffic violations and accidents and other incidents for the Sheriff's Office and five other agencies. From these reports, statistical information is provided to the State and other County agencies, report information is provided in response to subpoenas, and data is entered into various computerized databases. Crime report information is also indexed for assignment and follow-up by detectives and preparation of detailed reports.

The Records Division also has an Identification Services function that gathers and analyzes fingerprint and video information from crime scenes, and also provides fingerprinting services to the public in relation to application for certain jobs and other roles, including teachers, foster parents and others. Costs of the Identification Section of the Records Division are offset by fees, including fees for fingerprinting services, fees obtained from other law enforcement agencies for use of the Police Information Network for information access, and Public Safety Sales taxes. This Identification Section within the Records Division is also responsible for the verification of prints submitted on individuals who either have no criminal history or who during the booking process have created duplicate Personal Filing Numbers (PFN).

14 – Special Operations Division (MANDATED): **\$1,462,214**

The Special Operations Division encompasses a variety of miscellaneous Sheriff's Department functions using 10 FTE positions, including the following mandated functions:

- Provides management and oversight to the three positions assigned to the Homeland Security Program, Underwater Search Unit, Crowd Control Unit, Bomb Squad, Off-Road Enforcement Team, Mutual Aid, Search & Rescue, Air Support, Vice & Intelligence, Canine Specialized Search Team, FBI Joint Terrorism Task Force liaison, and the Marijuana Detection and Eradication Team. Also responsible for all Special Team budgets.
- Develops and implements the three-year regional training and exercise plan for the Homeland Security Operational area. This function is fully paid for by Homeland Security funds and must work with the Exercise Planning Committee and the Office of Emergency Services to ensure goals are met and progress is reported to the Approval Authority.
- Creates and implements a sustainability plan for the Multi-Discipline Task Force along with representatives from Fire, EMS, and OES. This grant-funded position represents law enforcement from our area at regional UASI meetings and at National Guard Joint Hazardous Training Assessment exercise and planning meetings.
- Acts as a point of contact for all HSG training in the Homeland Security Operational area and coordinates and facilitates all ODP approved training. This function is fully paid for by Homeland Security funds and is responsible for ensuring compliance with all training mandates and reporting to the Approval Authority.
- Detects and eradicates marijuana plants throughout Santa Clara County. This team is staffed by two full-time deputy sheriffs and is supervised by a sergeant, who has other responsibilities as well. The two deputy sheriffs are funded by a Federal grant received through the State Office of Emergency Services; they successfully eradicated over 80,000 plants last year and 40,000 plants so far in the current growing season.
- Represents the Sheriff as the Santa Clara County Operational Area Law Enforcement Mutual Coordinator. This coordination of mutual aid among law enforcement agencies in emergency or disaster situations is required under various sections of the California Government Code, and maintenance of this function also permits the County to receive State disaster assistance funds when necessary.
- Provides search and rescue operations. The mandated status of this function under the California Government Code is not clear. Section 26614 states: "The board of supervisors of a county may authorize the sheriff to search for and rescue persons who are lost or are in danger of their lives within or in the immediate vicinity of the county." In addition, Section 26614.5 permits the County to charge the County of residence for expenses in excess of \$100 incurred in conducting a search and rescue of a non-County resident. However, Section 29612 states: "The expenses necessarily incurred in searching for and rescuing persons who are lost or in danger of their lives are county charges." Section

26614 has similar language. Therefore, while it is clear that this function, once established, is a cost of the General Fund, it is not clear that the Board of Supervisors must authorize the Sheriff to provide it.

- Coordinates licensing and testing of all applicants for massage practitioner or massage parlor licenses, as required by County ordinance. The deputy assigned to this function also oversees investigation of prostitution and gambling violations in the unincorporated area.
- Provides identification of explosive devices and renders safe such discovered devices, anywhere in the County, and through mutual aid, out of county. A sheriff's sergeant who is a certified bomb technician with years of experience staffs this position. This sergeant is also responsible for conducting site inspections of explosive storage facilities and issuing explosive permits.

15 – Internal Affairs (MANDATED): \$875,173

The Internal Affairs Section investigates complaints against Sheriff's personnel, and interacts with the public, interested civic groups, and command personnel within the agency. Internal Affairs staff members also testify in court regarding discovery motions for personnel records filed regarding personnel complaints. The Section also provides training and advice to employees of other investigative units regarding proper procedures, civil liability issues and other performance related matters. There are 3 FTE positions assigned to this function. In addition, 1 FTE position in the Section is assigned to assist in investigations of elder abuse, in association with the Public Guardian, while a second FTE position is assigned to assist in investigating cases involving potential liability and litigation for the County. Both these functions are mandated.

16 – Court Security (MANDATED): \$31,617,208

The California Government Code states that, unless otherwise provided by law, "whenever required, the sheriff shall attend all superior court held within his or her county. . . .The sheriff shall obey all lawful orders and directions of all courts within his or her county. Under that mandate, the Sheriff's Department serves as an office of the judicial branch, providing court bailiffs and other security to the Court. While this function is mandated, State law also provides for reimbursement to the County for providing this function. According to the Department's Projected FY 2006-07 budget, \$31,337,823 of this cost is reimbursed by the court, while \$279,385 is not. According to the Sheriff's Office, most remaining costs will be reimbursed once the contract with the Court is revised to reflect new State law that permits nearly all costs to be reimbursed once the State provides an appropriation for these costs. The only remaining unreimbursed cost will be for one officer used to transport in-custody defendants between courthouses, a cost for which reimbursement is not permitted under court rules. Based on the average cost for Sheriff's Correctional Officers used in transporting prisoners, we estimate this unreimbursed cost at \$176,333 annually.

17 – Parks Patrol-Unincorporated Area (MANDATED): \$152,259

The \$152,259 amount represents the cost of Parks Patrol staff spending time on unincorporated activities. The majority of staff time is obviously spent on Parks activities, which is appropriately reimbursed by the Parks Department. Occasionally

throughout the day, Parks Patrol staff may be called to assist on unincorporated activities to handle or assist other officers on calls for service.

18 – Medical Examiner-Coroner (MANDATED): **\$375,582**

The Office of the Medical Examiner Coroner has a budget of approximately \$3 million and a staff of 19. The cost recognized for this office in the Sheriff's budget represents a captain and a lieutenant. These positions are responsible for the administrative oversight of the Office of the Medical Examiner-Coroner.

Total Office of the Sheriff FY 2006-07 Adopted Budget	\$113,326,163
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Winifred Botha
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Laurie F. Faulkner
ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Lori E. Pegg, Lead Deputy County Counsel 

RE: Sheriff's Office Mandate Analysis - Budget Unit 230

DATE: August 3, 2006

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of the legal mandates applicable to Budget Unit 230 regarding the Sheriff's Office. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the Sheriff's Office. A copy of our prior September 12, 2003 memorandum is also attached for your reference.

With the exception of the additional mandates identified below, we have been advised by the Sheriff's Office that they do not have any new mandates to report since the last mandate analysis was conducted. I find there are no other changes in the mandated functions of this department.

A. Parks Patrol

The Sheriff's Office Parks Patrol division provides initial response to calls from the general public of a criminal and/or emergency nature. The unit also takes persons into custody as specified in arrest warrants, and conducts searches and/or rescues of persons lost. These services are provided in the unincorporated areas of the County. Government Code sections 26601 and 26602 provide the legal mandates for this function.

B. Medical Examiner - Coroner

Effective July 1, 2004, the Office of the Sheriff assumed supervision and administration of the Medical Examiner-Coroner Department as a result of acceptance by the Board of Supervisors of the County Executive's recommendation for this organizational change. The County Executive and Sheriff entered into a Memorandum of Understanding to transfer authority to the Sheriff to perform certain administrative functions for the Medical Examiner-

Roger Mialocq, Management Audit Manager
Re: Sheriff's Office Mandate Analysis - Budget Unit 230
August 3, 2006
Page 2

Coroner Department.

There are no changes to the initial assessment that we provided in September 2003 or the subsequent assessment in October 2004 regarding the mandated functions of the Medical Examiner-Coroner Department.

Attachment: September 12, 2003 Mandate Analysis of Sheriff's Office

c: Sheriff Laurie Smith
Nancy J. Clark, Assistant County Counsel
Ann Miller Ravel, County Counsel


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Susan G. Levenberg
ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialoco, Management Audit Manager
FROM:  David E. Kahn, Deputy County Counsel
RE: Sheriff's Office Mandate Analysis
DATE: September 12, 2003

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to the Sheriff's Office. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the Sheriff's Office.

Investigative Services

1. Legal Basis for Mandate- Government Code §§ 26601 and 26602
2. Level or Requirement of Mandate- Adequate staffing to timely investigate crimes, make arrests and provide documentation for prosecution.

Warrants and Fugitives

1. Legal Basis for Mandate- Government Code § 26608

Civil Division

1. Legal Basis for Mandate- Government Code §§ 26608 and 26665

Sheriff's Jail Operations

1. Legal Basis for Mandate- Penal Code §§ 831.5 and 831.6; County Charter § 509
2. Level or Requirement of Mandate- The California Penal Code requires that gun-bearing jail officers have peace officer powers and be supervised by a peace officer.

Westside Patrol

1. Legal Basis for Mandate- Government Code §§ 26601 and 26602
2. Level or Requirement of Mandate- Adequate staffing to timely investigate crimes, make arrests and provide documentation for prosecution.

Records

1. Legal Basis for Mandate- Multiple Government, Vehicle, Penal and Civil Code provisions which cover the many different types of records- warrants, bail bonds, sex offender registration, fingerprints, subpoenas, booking information- which are stored, maintained and distributed by the Records Division.

Special Operations

1. Legal Basis for Mandate- California Disaster and Civil Defense and Master Mutual Aid Agreement, Government Code §§ 8550, 8569, 8615-19 and 8868 (mutual aid)

Ordinance No. B-22 (massage parlor licensing)

Health and Safety Code § 12007 (explosives permits)

Ordinance No. B-19 (firearms dealer permits)

Internal Affairs

1. Legal Basis for Mandate- Penal Code §§ 832.5 and 832.7, Evidence Code §§ 1043 and 1045

Court Security

1. Legal Basis for Mandate- Government Code § 26603
2. Level or Requirement of Mandate- The Sheriff is required to attend superior court at the request of the court, and to carry out the orders and directions of the courts. The level of staffing is set by the Agreement between the County and the Superior Court and the cost of security is paid from State Trial Court funding.

c: Laurie Smith, Sheriff
Ann Ravel

235-240 Department of Correction

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Non-Mandated	5	9,492,140	6%	5,888,555	62%	62.5	6%
Mandated	6	141,657,936	88%	71,133,981	50%	905.0	89%
Admin/Support	-	<u>10,463,785</u>	<u>6%</u>	<u>9,575,785</u>	<u>92%</u>	<u>52.0</u>	<u>5%</u>
Total	<u>11</u>	<u>161,613,861</u>	<u>100%</u>	<u>86,598,321</u>	<u>54%</u>	<u>1,019.5</u>	<u>100%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=percent of total staffing

Departmental Description

The Department of Correction performs six detention-related functions that are mandated pursuant to federal and State law and regulation. The basic legal authority for the County to operate jails is provided by California Penal Code Section 4000, which states:

“The common jails in the several counties of this State are kept by the sheriffs of the counties in which they are respectfully situated, and are used as follows:

- For the detention of persons committed in order to secure their attendance as witnesses in criminal cases;
- For the detention of persons charged with crime and committed for trial;
- For the confinement of persons committed for contempt, or upon civil process, or by other authority of law;
- For the confine of persons sentenced to imprisonment therein upon a conviction for crime.”

While Section 4000 provides for the sheriff to operate the jails, Government Code Section 23013 authorizes the Board of Supervisors to establish a department of corrections to oversee "institutional punishment care, treatment and rehabilitation of prisoners, including . . . the county jail and industrial farms and road camps, their functions and personnel." The Department operates under various State and Federal laws and regulations, the primary ones being portions of Title 15 of the California Code of Regulations which govern detention facility operations, and portions of Title 24 of the same code, which govern the physical plant for detention facilities.

To carry out its function, the Department is organized into five primary divisions:

- 1) Administrative Services Division; overseeing support services such as Fiscal Services, Food Services, Information Systems and the Inmate Welfare Fund;
- 2) Main Jail Complex, detention complex consisting of the Main Jail North and Main Jail South facilities;
- 3) Elmwood Complex, detention complex, including the Correctional Center for Women;
- 4) Support Services/Programs Division, which includes the Administrative Booking, Classification, Operations and Programs units. These units process and manage inmate records, classify inmates, manage Department programs that are alternatives to incarceration, and programs offered to jail inmates, and oversee the laundry and facility maintenance; and,
- 5) Professional Compliance Division that oversees compliance, personnel and training functions.

The Department's facilities comprise the sixth largest County jail system in California, and housed about 4,350 inmates per day as of August 1, 2006. The FY 2006-07 annual Department of Correction budget amounts to approximately \$161.6 million, of which \$75 million is reimbursed and \$86.6 million is the General Fund subsidy. The \$75 million in reimbursements includes \$56 million in Public Safety Sales Tax allocated to the Department based on its percentage of expenditures relative to all criminal justice agencies eligible to receive these funds, which must be used to pay for criminal justice programs. The General Fund is required to provide General Fund support to these departments at least equal to the FY 1992-93 maintenance of effort level. Because the FY 2006-07 budget for these departments exceeds the maintenance of effort level by more than \$100 million, reductions in these budgets would not cause a reduction in Public Safety Sales Tax revenues, and would generally reduce the General Fund subsidy on a dollar-for-dollar basis.

FY 2006-07 General Fund Budget by Program/Function

<u>Function</u>	<u>FY 2006-07 Adopted Budget</u>		<u>Departmental Revenue</u>	<u>General Fund Subsidy</u>	<u>Percent</u>
	<u>Amount</u>	<u>Staffing</u>			
<i><u>Non-Mandated Activities</u></i>					
01 Program Unit	4,391,022	33.5	1,352,755	3,038,267	69%
02 Operations/Industries	2,445,601	23.0	155,000	2,290,601	94%
03 Inmate Visits	627,060	5.0	72,179	554,881	88%
04 Assignment Officer	125,412	1.0	120,606	4,806	4%
05 Other IWF Positions	<u>1,903,045</u>	<u>0.0</u>	<u>1,903,045</u>	<u>0</u>	<u>0%</u>
Subtotal	9,492,140	62.5	3,603,585	5,888,555	64%
<i><u>Mandated Activities</u></i>					
06 Administrative Booking	3,368,361	38.0	1,333,590	2,034,771	60%
07 Classification	4,897,966	38.0	1,939,186	2,958,780	60%
08 Elmwood Complex	60,927,722	367.0	26,743,085	34,184,637	56%
09 Main Jail Complex	64,936,927	378.0	37,359,099	27,577,828	42%
10 Internal Affairs	732,487	4.0	290,004	442,483	60%
11 Food Service	<u>6,794,473</u>	<u>80.0</u>	<u>2,858,991</u>	<u>3,935,482</u>	<u>58%</u>
Subtotal	141,657,936	905.0	70,523,955*	71,133,981	50%
<i><u>Required</u></i>					
Admin/Support	<u>10,463,785</u>	<u>52.0</u>	<u>888,000</u>	<u>9,575,785</u>	<u>92%</u>
Total	<u>161,613,861</u>	<u>1,019.5</u>	<u>75,015,540</u>	<u>86,598,321</u>	<u>54%</u>

* Includes \$56 million of Public Safety Sales Tax revenue allocated to these departments based on their percentage of total expenditures relative to other departments receiving this revenue. This amount was in turn allocated within this budget unit based on the expenditure for each mandated function as a percentage of the expenditure for all mandated functions.

Description of Programs and Functions**Administration and Support (REQUIRED):****\$10,463,785**

Administration and Support functions for this project have been defined to include management staff that cannot be directly attributed to a single function or a single-purpose operating unit, as well as centralized support functions, which in the Department of Correction includes Personnel, Financial Services, Information Systems, Professional Compliance/Audit, Training and Warehouse. These management staff and support functions total 52.0 FTE positions, including (13) administrative staff, (19) fiscal staff, (9) personnel and training staff, (3) compliance/audit staff, (5) information services staff, (2) warehouse staff and (1) Operations/Industries Manager. Excluded from this count are 50.0 FTE unfunded Correctional Officer cadet positions included in the training function, although costs for these positions are separately funded outside the regular salary allotment. Costs of these functions are offset by \$888,000 in revenues associated with the Administrative Unit, received from federal and state grants and

from fees and charges of various types. Because the direct services performed by the Sheriff's Department are mandated, the County must also provide adequate administrative oversight and support services to fulfill these mandates. The amount of staff and other resources necessary to provide an "adequate" level of funding is subject to determination by the Board of Supervisors pursuant to Government Code Sections 29063 and 29088.

NON-MANDATED PROGRAMS AND FUNCTIONS

01 – Operations/Industries (NON-MANDATED): **\$2,445,601**

The mission of the Operations/Industries Unit is to provide building and grounds maintenance service to the Department of Correction apart from Facilities and Fleet Department mandates, and to provide laundry cleaning service for inmate clothing, as well as delivery of other services to the Department as required by the Board of Corrections (BOC), Fire Marshal, OSHA, County Board of Supervisors and all other regulatory bodies. Because these inspections are mandated, it is a practical requirement that someone from the Santa Clara County Department of Correction coordinates the repairs and maintenance of Department facilities, coordinate with and escort contractors, inspectors, engineers and others as required. Therefore, 1.0 FTE position, the Operations/Industries Manager, is considered mandated, and the \$131,512 costs for this position are included in the Administration and Support section above.

Additionally, the Operations/Industries Unit assist inmates by providing vocational education programs to help improve their ability to integrate back into the community. Vocational inmates help maintain the correctional facility by supplying it with mattresses and other items manufactured on-site which reduces the cost of providing a safe and healthy environment for all inmates. CCR Section 1280 regarding facility sanitation and maintenance, states "The intent is not that each facility be spotlessly clean all the times but that the facility is maintained in a safe and healthful manner." Although offering vocational education is optional for the County and not mandatory, the viability of this program rests primarily on its ability to provide these services at lower cost, thanks to inmate labor, than they could be procured elsewhere. Such cost savings that would be at risk if this non-mandated function were eliminated, and may be assessed in Phase II of the mandate study. The unit carries out this function with a staff of 23.0 FTE positions.

02 – Programs Unit (NON-MANDATED): **\$4,391,022**

The Programs Unit, which consists of 33.5 FTE positions, offers programs, classes, groups and activities for in-custody and out-of-custody inmates. The average daily inmate attendance for in-custody programs is approximately 850 and 663 for out-of-custody programs including Weekend Work Program and Public Service Program. Programs are effective in achieving positive behavior change, successful reintegration and short and long-term reduction in recidivism among Department of Correction inmates. Providing effective program and treatment options to inmates while they are in custody allows them to use their time in jail to make positive changes in their lives rather than simply being warehoused. This will facilitate a positive transition back into their homes, families, communities and society and will reduce subsequent criminal justice referrals and incarcerations. Inmate programs also play an important part in

establishing a safe and secure environment by diverting what would be otherwise idle inmates to positive and productive activities, effectively reducing tension and stress levels and improving inmate behavior and cooperation.

In addition, Program Unit staff administers Alternative Sentencing programs of the Court (Weekend Work Program) and of the DOC (Public Service Program). These programs divert eligible offenders from serving local jail sentences in DOC jail facilities by providing community work assignments. Out-of-custody programs also allow DOC to avoid housing costs that otherwise would be associated with sentenced individuals at a rate of \$71.06 per day at the Elmwood Correctional Complex, where most alternative sentencing inmates would most likely be housed. These avoided costs, incurred if the Programs Unit were reduced or eliminated as a non-mandated function, would be significant and exceed the costs associated with the Programs function.

As a result of previous budget reductions and current budget constraints Milpitas Adult Education (MAE) continues to be the main educational provider at the Elmwood Correctional Complex. MAE receives some non-County funding to provide courses.

03 – Inmate Visits (NON-MANDATED): **\$627,060**

The Department of Correction provides 5.0 FTE staff at the Men’s Correctional Facility to assist with visits of family and friends to inmates by escorting visitors to visiting locations, scheduling visits and conducting background/security checks on visitors. This staffing consists of 4.0 Correctional Officers and a 1.0 FTE Law Enforcement Clerk. Although not mandated by law, providing inmates visiting privileges provides benefits such as reduced inmate tension, a healthy emotional climate in the jail, maintenance of family relationships, and better inmate and staff morale. Title 15 supports the practice of giving inmates the opportunity to receive visitors. The cost for the Law Enforcement Clerk position, \$72,179 is paid by the Inmate Welfare Fund.

04 – Assignments Officer (NON-MANDATED): **\$125,412**

Staffing at the Men’s Correctional Facility includes 1.0 FTE Corrections Officers assigned to ensure that inmate work crews are adequately staffed, and to complete requests for use of inmate workers on various projects. This position is paid for from the Inmate Welfare Fund and provides necessary functions by insuring inmate workers are available to perform required maintenance and cleaning. Costs associated with this position appear to be outweighed by the cost avoided through the use of free inmate labor for these functions.

05 – Other Funded IWF Positions (NON-MANDATED): **\$1,903,045**

There are partially funded positions throughout DOC Operations that perform IWF funded tasks as part of their assignment. IWF reimburses the general fund \$1.9 million for these costs.

MANDATED PROGRAMS AND FUNCTIONS**06 – Administrative Booking (MANDATED):** **\$3,368,361**

The mission of the Administrative Booking Unit is to accurately and expediently initiate, evaluate, monitor and disseminate documentation and information to facilitate an incarcerated person's movement throughout the justice system, in accordance with legal codes, statutes and mandates. From booking until years after release, the Administrative Booking Unit maintains records on all inmates booked in to the Department of Correction, and even some juveniles that are not held in jail custody but are charged in the adult criminal courts. Inmate records include intake information, personal property receipts, commitment papers, court orders, reports of disciplinary actions taken, holds from other agencies and any special release instructions. Administrative Booking staff initiates, processes, and finalizes all of the paperwork associated with the subject's in custody and release from custody. Administrative Booking clerks also input and update information in the County's Criminal Justice Information Control (CJIC) computer system. The unit carries out these functions with a staff of 38.0 FTE positions. Costs of the function are offset by \$208,235 provided from the Inmate Welfare Fund for 2.5 FTE staff that assists in determining inmate eligibility for programs.

07 - Classification (MANDATED): **\$4,897,966**

The department's Classification Unit determines where each inmate will be housed by applying an objective, systematic and continual method based on a behavior-driven risk assessment to classify and separate inmates according to their risk factors, behavior and special needs. Staff carefully analyzes information associated with each inmate and makes a rational and objective decision to determine the inmate's custody profile and housing assignment. The classification plan ensures a safe and secure environment for staff, inmates and the public.

As required by Penal Code and Title 15 guidelines, The Department of Correction Classification Unit utilizes an objective classification plan and carries out this 24-hour a day, seven-day-a-week function with a staff of 38.0 FTE positions.

08 – Elmwood Correctional Complex (MANDATED): **\$60,927,722**

The Elmwood Correctional Complex is located on a 62-acre site in Milpitas. The men's side of the complex has a BOC rated capacity of 1956 for minimum- and medium-security male inmates; the female side has a BOC rated capacity of 458 for minimum-, medium-, and maximum-security female inmates.

The Elmwood Complex is also home to the DOC Food Service Unit, DOC Warehouse, DOC Building Operations/Correctional Industries Unit, and the County Facilities and Fleet Services. The DOC Programs Unit has their administrative offices at Elmwood and most of the inmate programs provided by the DOC Programs Unit are provided at Elmwood. The Elmwood Complex also provides office space for the Public Defender and the Adult Probation Department.

Routine activities at the Elmwood Complex include: clothing exchange, commissary delivery, inmate meals, pill call, doctor call, x-ray completion, AA/NA/SA programs,

chaplain programs, literacy programs, MAE programs, ESL programs, social visiting, official visiting, Proposition 36 screening, County Parole hearings, probation screening, recreation programs, etc.

Most functions at the Elmwood Correctional Complex are mandated by State laws. For example, Penal Code Section 2600 states that: "A person sentenced to imprisonment in a state prison may during that period of confinement be deprived of such rights, and only such rights, as is reasonably related to legitimate penological interests." Court decisions have applied this requirement to County jails as well, and also have applied Penal Code Section 2601, enumerating selected rights inmates retain, including the right to correspond with public officials and to receive newspapers and periodicals. Other Penal Code sections provide other requirements for jails, such as Section 4015, requiring inmates to be provided with food, clothing and bedding of a minimum standard. These requirements are further spelled out in State regulations, principally Title 8 of the California Code of Regulations and Title 24, which regulate jail operations and jail facilities, respectively.

Some costs of the Elmwood Complex are offset by revenues; for example, \$1,021,100 of positions at Elmwood are funded by the Inmate Welfare Fund to provide non-mandated inmate services. In addition, Elmwood accounts for \$1.6 million received from federal and State contracts to house non-County prisoners in the Elmwood Complex. Staffing for the Elmwood Complex, not including the visiting and assignment officer positions previously discussed, is 367.0 FTE positions.

09 – Main Jail (MANDATED):

\$64,936,927

The Santa Clara County Main Jail Complex is comprised of two jail facilities – Main Jail North and Main Jail South. Both facilities house medium and maximum security inmates. The facilities are linked together underground via a tunnel, which also links them to the Superior Courthouse.

The Main Jail North facility is the primary booking center for the entire county. Except in exigent circumstances, all arrestees, male and female, are booked at Main Jail North. This facility has both an acute medical care infirmary and an acute psychiatric care unit for both male and female inmates. Main Jail North's general population housing units use the "direct supervision" inmate management model. Direct supervision is a concept that combines architectural design, specialized staff training, and an inmate management system based upon positive behavior. In this environment, one officer oversees a locked "module" or dormitory with up to 96 inmates. Main Jail North has a BOC rated capacity of up to 898 inmates.

Main Jail South facility has a BOC rated capacity of 455 inmates and is designed in the older linear style, complete with bars and tiers.

As in the case of the County's other jail facilities, functions associated with incarcerating inmates in the Main Jail and are nearly all mandated by State law, and implemented through State regulations focusing on maintaining the security of the facility against escapes, maintaining the safety of inmates and staff, and providing inmates humane treatment. Main Jail costs are partially offset by revenues, including \$85,268 in Inmate

Welfare Fund monies to provide non-mandated inmate services, and \$11.5 million in revenues received from temporary housing of state and federal prisoners. Main Jail staffing is 378.0 FTE positions.

10 – Internal Affairs Unit (MANDATED): **\$732,487**

The DOC Internal Affairs Unit (IAU) is comprised of three separate functions under one command. Investigators are responsible for conducting investigations into citizen and inmate complaints as well as departmental generated complaints against employees, with the purpose of protecting the rights and safety of both the complainants and employees. The Custodian of Records function provides the courts with legally required documents and complies with legal mandates. The unit compiles and produces statistical records both for Grand Jury requests and for departmental needs. The unit provides booking photos to Law Enforcement agencies to assist in their criminal investigations. Staffing for this function is 4.0 FTE positions.

11 – Food Service Unit (MANDATED): **\$6,794,473**

The Food Service Unit prepares more than 16,259 meals daily – approximately 5.9 million meals in FY 2005-06. The Elmwood kitchen is a 40,000-square-foot state-of-the-art facility and is ranked the second largest in California. The inmate menu is designed to be in compliance with Title 15 and requires purchasing, receiving and storing necessary food and supplies. Food Service personnel are assisted by inmate workers to produce, package, deliver and serve meals to inmates. The unit is staffed by 80.0 FTE positions, assisted by inmate workers as needed.

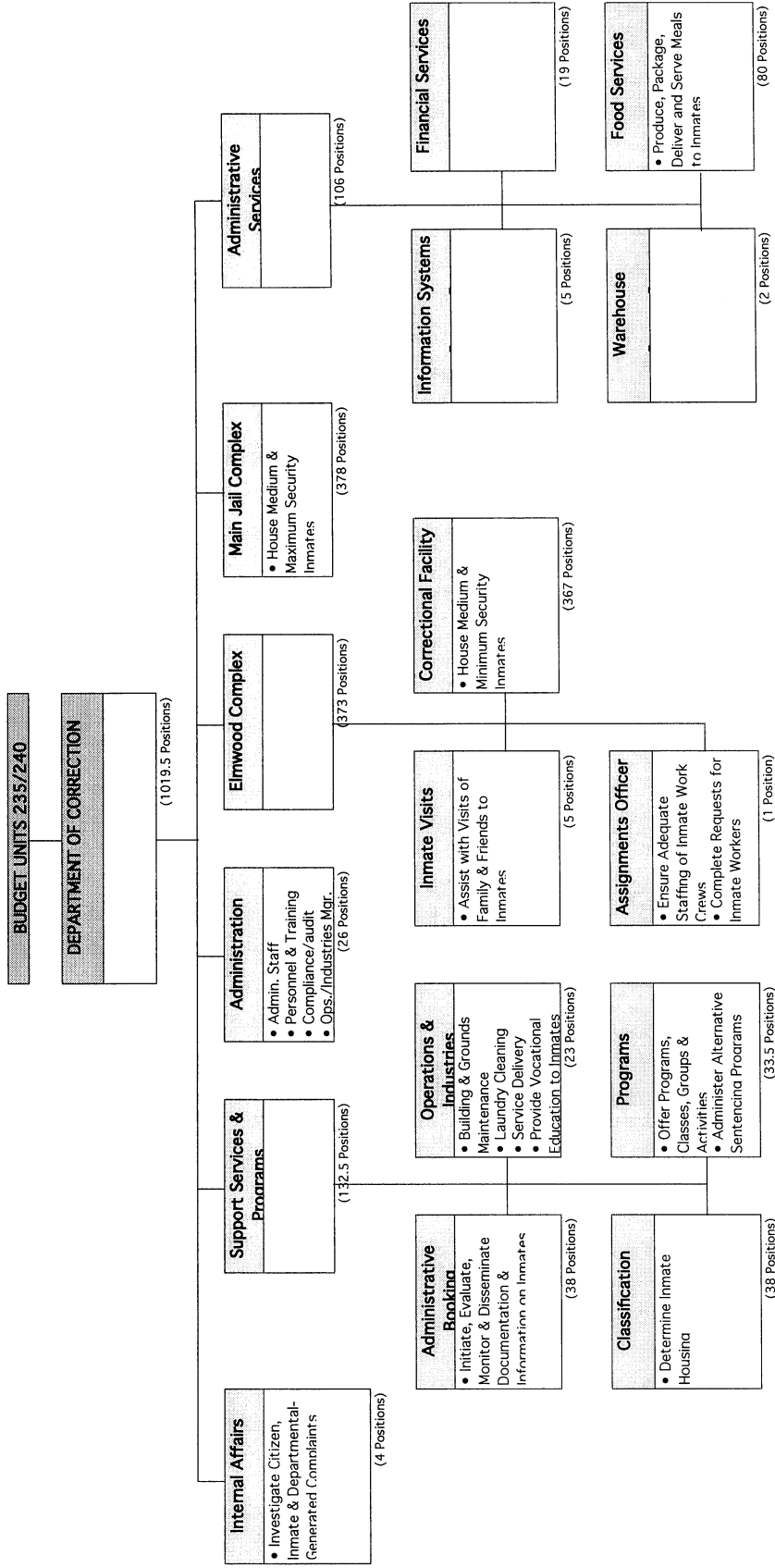
The Food Service Unit is a centralized operation providing meals to the DOC's four custody facilities – Elmwood, CCW, Main Jail North and Main Jail South. Additionally, meals are served in staff dining rooms at the Elmwood and Main Jail Complexes. Several Probation facilities are also provided with food and bakery supplies from the central production facility. Supplying meals to these other facilities and to staff generates about \$40,000 in revenue annually. In conjunction with Valley Medical Center, the Food Service Unit prepares and tracks about 197,527 medical and religious diet meals each year.

Food Service employs “cook chill” technology, whereby food is prepared and sealed in sterilized plastic bags, quick-cooled and then reheated at numerous food service points. This process ensures inmates and staff receive quality hot meals daily.

Food service is required under Penal Code 4015, which requires that jail inmates be provided adequate food, clothing and shelter. More specific dietary requirements are provided by California Code of Regulations Title 8.

Total Department of Correction FY 2006-07 Adopted Budget	\$161,613,861
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DEPARTMENT OF CORRECTION



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Ann Miller Ravel
COUNTY COUNSEL

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Laurie F. Faulkner
ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Linda A. Deacon, Lead Deputy County Counsel 

RE: Department of Correction, Budget Unit 235-240, Mandate Analysis

DATE: July 28, 2006

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to Budget Unit 235-240 regarding the Department of Correction. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the Department of Correction.

Department Description

Title 15, California Code of Regulations sets forth minimum standards for local detention facilities promulgated by the Corrections Standards Authority pursuant to Penal Code section 6030. However, those standards *are not mandatory for local entities*. 63 Ops.Atty.Gen. 227, 3-19-80. Where the regulations implement mandates otherwise established by constitutional, statutory or case law, they may exceed minimum legal mandates.

DNA Testing

In November 2004, the voters passed Proposition 69 (codified in the Penal Code at Penal Code § 295 et seq.). Prop 69 requires that DNA testing (buccal swabs, palm prints and any blood specimens or other biological samples which may be required) be conducted on specified adults and juveniles.

With respect to adult DNA testing, the Department of Correction administers the testing in this County as to in-custody defendants, while the Probation Department provides any testing required for out-of-custody defendants. Testing is required to be done on adults convicted of

Memorandum to Roger Mialocq, Management Audit Manager

Re: Mandate Analysis

Date: July 28, 2006

Page 2

committing any felony offense, or who are found not guilty by reason of insanity as to any felony offense. Pen. Code, § 296(a). Similarly, any person arrested or charged with specified offenses is subject to testing following arrest, whether in custody or out-of-custody. Pen. Code, § 296.1. *This significantly increased the number of persons who must submit to DNA testing.*

Health Care for Pregnant Inmates

Penal Code section 6030 was amended in 2005 to require that local correctional facilities provide pregnant inmates with a balanced, nutritious diet approved by a doctor; prenatal and postpartum information and health care, including, but not limited to, access to necessary vitamins as recommended by a doctor, and information pertaining to childbirth education and infant care. Title 15, Section 1200 places the responsibility to ensure provision of emergency and basic health care services to all inmates on the facility administrator, who is the Chief of Correction. Medical and mental health services are provided through the Santa Clara Valley Health and Hospital System (VMC and Custody Health Services). This new mandate is also referenced in the mandates analysis submitted by Custody Health Services.

c: Edward C. Flores, Chief of Correction
Ann Miller Ravel, County Counsel

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MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Linda Deacon, Deputy County Counsel 

RE: Department of Correction Mandate Analysis

DATE: September 12, 2003

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to the Department of Correction. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the Department of Correction.

OPERATION OF A COUNTY JAIL

1. **Legal Basis for Mandate**

The operation of a county jail is a mandated function.

Penal Code §4015 mandates that the sheriff receive all persons committed to jail by competent authority, and provide the necessary food, clothing and bedding at least equal to the minimum standards and requirements prescribed by the state Board of Corrections; §4004 mandates that prisoners committed for examination or upon conviction must be confined; and §4005 mandates that the sheriff receive and keep prisoners committed under authority of the United States; County Charter §509 mandates that the Board of Supervisors establish a Department of Correction and appoint a Chief Officer to operate the county jails for sentenced and unsentenced prisoners and to carry out such other

functions of a Department of Correction as the Board determines; County Ordinance Code §A20-41 provides that a director shall be responsible for correctional facilities and inmates consistent with duties assigned to a sheriff under general law. Protections guaranteed to prisoners by the First, Fourth and Eighth Amendments of the federal Constitution impose various mandates on jail operations in terms of affording access to courts, opportunity for religious expression, access to medical care, due process rights and freedom from cruel and unusual punishment.

BOOKING

1. Legal Basis for Mandate

The booking function includes processing all persons committed to jail on competent authority, whether by arrest, warrant, court order or other process. Persons may be delivered into custody, cited and released, released on bail, released to a program or transferred to another jurisdiction. The administrative booking function maintains a record of all processes within the criminal justice system for each person booked at the jail, and those juveniles either housed at the jail or tried as adults. These include intake information, personal property receipts, commitment papers, court orders, reports of disciplinary actions, holds from outside agencies and release instructions. The booking staff also input and update 35% of all information in the County's Criminal Justice Information Control (CJIC) computer database.

Mandates are contained in numerous statutes as follows: Penal Code §290(b)(1) (notify sex offender of duty to register), §296.1 (collect specimens and fingerprints for DNA database), §457.1 (notify person convicted of arson to register), §646.92 (notify victim of release of person convicted of stalking or domestic violence), §646.93 (answer public inquiry re bail status), § 816 (shall execute arrest warrant directed to public officer), §825 (take defendant before magistrate within 24 hours), §829 (take defendant triable in another county before magistrate), §849a (take person arrested without warrant before magistrate), §849b (release person arrested for intoxication), §851.5 (shall post sign informing arrestee of right to make three free local phone calls to attorney, bail bondsman or family or friend), §851.7 (seal misdemeanor arrest of minor), §851.8 (seal and destroy arrest records), §853.5 (cite and release infraction), §853.6 (cite and release misdemeanor), §1202a (deliver defendant to state prison), §1203.45 (seal misdemeanor arrest records of minor), §1269a (failure to release on bail pursuant to court order is misdemeanor), §1381 (shall endorse the cause and date of commitment and date of release), §2900.5 (duty to apply

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credit for time served), §3076 (shall post information re eligibility for county parole or give same to prisoner), §3081 (shall not give parole time in calculating unserved sentence), §4013 (must deliver judicial papers to prisoner), §4005 (shall keep prisoners committed under authority of federal government), §4019(b) (give time credit for work performance and good behavior), §4024.2 (where BOS in its discretion offers work release program, shall be under a person appointed by sheriff, and shall retain inmates' agreement to appear and shall deliver copy of same to inmate), §4024.4 (shall provide information to implement notification to victim's and shall cooperate with law enforcement agencies to implement victim notification program), §11079 (give attorney general criminal offender record information as directed), §13020 (shall be duty of sheriff to install and maintain records needed for the correct reporting of statistical data to the AG), §13021 (shall report to DOJ information as directed by the AG relative to misdemeanor violations), §13125 (shall record criminal offender information in prescribed form), §13300 (shall furnish local summary criminal history information to designated law enforcement personnel), Health and Safety Code §121361 (TB release procedures), County Ordinance Code § (shall take possession of inmate's property and enter description on receipt, and shall return property upon release), §A20-44 (shall dispose of unclaimed money or other property as prescribed), §A20-45 (accept and receipt for bail), Code of Civil Procedure §1209(a)(5) (disobedience of court order is contempt), Government Code § 6253 (Public Records Act requires response to records request within 10 days), Government Code §72301 (must accept bail 24/7), Welfare & Institutions Code §826(b) (shall destroy juvenile records as ordered by the court and advise court of compliance), Title 8, CFR, 287.7 (monitor immigration holds).

2. Cost Recovery Options

- a. Bookings Fees: Government Code §29550 allows for the collection of an administrative fee to cover the cost of booking. The County may directly bill cities, special districts, community college districts, and colleges or universities for booking expenses incurred with respect to booking persons arrested by those agencies. Persons arrested by other law enforcement agencies that cannot be directly billed are responsible for paying the booking fee directly. The County has an agreement with the cities under which they pay a flat rate of \$3, 939,750 annually. The Board of Supervisors is currently reviewing how the booking fee is calculated, which agencies can and should be directly billed, and the option to directly bill persons arrested, booked and later convicted. It is unclear at this time how those fees will be allocated within the General Fund.

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- b. Administrative Screening Fee or OR Release: Government Code §29550(f) allows for a \$25 administrative screening fee to be collected from each person arrested and released on his/her own recognizance upon conviction of any criminal offense related to the arrest other than an infraction. The court has discretion to waive or lower the fee upon a showing that the defendant is unable to pay. County Ordinance Code §A14-67 has authorized collection of the fee since 1993, however, it has never been collected. Pretrial Services indicates that the Presiding Judge proposed to the County Executive that jail overcrowding would be impacted by a fee that was a condition to getting released, and that there would be greater savings associated with early releases. It was also explained that the 10% bail pilot program for misdemeanor arrests failed because it costs more to collect the money than to simply write it off.
- c. Citation Processing Fee: Government Code §29550(f) allows for a \$10 citation processing fee to be collected from each person cited and released by any peace officer in the field *or at a jail facility upon conviction of any criminal offense other than an infraction*. The court may waive or lower the fee upon a showing that the defendant is unable to pay. County Ordinance Code §A14-67 has authorized collection of the \$10 fee since 1993, however, it has never been collected. Last year the DOC cited and released 11,528 persons. It is estimated that only 50% of these were convicted. The other 50% were charged with being drunk in public, a charge which the DA does not prosecute.

3. Potential New Cost Recovery Option

- a. Commit Desk Pre-Processing Fee: Each year the Department of Correction pre-processes about 2500 persons at the Commit Desk located in the Main Jail lobby. About 5% of these persons are *self-surrendering under outstanding warrants* for their arrest; however the majority have previously been booked and are processing into the *Weekend Work Program* or have been *sentenced to serve time in the County Jail* at Elmwood. There is no statutory authority similar to Government Code §29550 to impose a fee for this service; however County may implement a pre-processing fee by County ordinance. The County currently collects a fee for the Weekend Work Program under County Ordinance Code §A20-52, which includes a \$35.00 program processing fee, and a \$10.00 daily participation fee. The cost of pre-processing into the WWP at the Commit Desk is not currently included in that fee. The County is in the process of amending the Ordinance to increase the WWP fee. This increase may or may not include recovery of the cost of pre-processing at the Commit Desk.

CLASSIFICATION

1. Legal Basis for Mandate

All inmate housing is determined by the Classification Unit. The objective classification plan is based on a behavior-driven risk assessment system used to classify and separate inmates according to their risk factors, behavior and special needs. The plan ensures a safe and secure environment for staff, inmates and the public in a manner least restrictive to the inmates.

Mandates are contained in numerous statutes as follows: Penal Code §4002 (civil and criminal detainees, and male and female prisoners shall not be kept in the same room), §4006 (answerable for safekeeping of federal prisoners), §13020 (duty to maintain records of statistical data when requested by AG), Penal Code §13021 (duty to report to DOJ information required by AG re misdemeanor violations), §13023 (duty to report to DOJ information required by AG relative to hate crimes), Welfare and Institutions Code §208 (shall not permit juvenile detainee to come in contact with adult inmates), Americans With Disabilities Act, 8th Amendment to the Constitution (guarantee against cruel and unusual punishment of prisoners).

2. Cost Recovery Options

- a. **Fee For Monitoring Inmate Telephone Calls For Law Enforcement Agencies:** The Department of Correction currently monitors various inmate telephone calls for safety and security purposes. Department staff also spends hundreds of hours of uncompensated time monitoring inmate telephone calls for the purpose of gathering evidence at the request of the District Attorney's Office and local law enforcement agencies. The Department is considering proposing an hourly fee for this service to outside agencies. Although the same information can be obtained through a criminal subpoena at no cost, the Department believes that outside agencies may be willing to pay for County staff time to provide this valuable service. Alternatively, the Department is considering making remote access monitoring available to these outside agencies for an annual user fee.

CUSTODY

1. Legal Basis for Mandate

The custody function is performed primarily by correctional officers and custody support assistants who supervise and monitor the daily activity of inmates in custody, including ensuring that they are moved to and from court, medical appointments and visits; distributing meals, laundry, medication and mail; managing program time and access to telephones, showers and recreation; conducting security and welfare checks; maintaining order and civility; addressing hostility and physical aggression; and maintaining records of inmate activities.

In addition to the general mandate to operate a jail, some more specific mandates include: Penal Code §825(b) (officer must allow attorney to visit prisoner or pay forfeiture of \$500), §825.5 (shall permit physician, surgeon or psychologist to visit), §1269b (shall discharge defendant from custody as to offense on which bail is posted), §4002 (civil and criminal detainees, and male and female prisoners shall not be kept in the same room), §4003 (shall give receipt for property taken), §4025 (where the sheriff establishes a commissary operation, any profits and any commission from an inmate telephone provider shall be deposited into an inmate welfare fund, and shall be expended primarily for the benefit of inmates), §4027 (inmates shall be afforded opportunities to exercise religious freedom), §4029 (shall provide separate facilities of equal quality, or separate use of same, or joint use where appropriate for inmates of the opposite sex), §4537 (shall notify local chief of police of an escape), Government Code §26640 (shall take and keep money and valuables, and shall pay or deliver as prisoner directs), §26641 (shall deliver inmate's money or valuables to state hospital or prison if inmate transferred).

2. Cost Recovery Options

- a. Reimbursement For Housing State Prisoners: Penal Code §4016.5 provides that a county shall be reimbursed by the state for the detention of a state prisoner or parolee based upon the cost of prisoner care in state correctional facilities. The state shall withhold all or part of the reimbursement where the jail facility does not conform to minimum standards for local detention facilities as authorized by Penal Code §6030 (Title 15), only if the county is failing to make reasonable efforts to correct differences, with consideration given to the resources available for those purposes. For FY03, the County received \$1,715,865 for housing state prisoners.

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- b. Reimbursement For Housing Federal Prisoners; Penal Code §4005 provides that the sheriff shall receive and keep any prisoner committed by process or order issued under the authority of the United States, and that provision shall be made by the United States for the support of the prisoner. The County accepts federal prisoners through its contract with the United States Marshall's Service. The County also receives reimbursement from the federal government for inmates on an immigration *hold*, and after the first 48 hours (not including Saturday, Sunday and federal holidays) for inmates on an immigration *detainer*. For FY03, the County received \$4,976,915 for housing federal prisoners.
- c. State Criminal Alien Assistance Program Appropriation (SCAAP): The County receives federal monies for housing aliens who are charged with two misdemeanors or one felony, and who are housed for more than 72 hours. The County received \$1,208,824 dollars in FY03.
- d. DNA Database Specimen Processing Fee: The state reimburses the County for the cost of collecting DNA specimens which are forwarded to the state for processing. The County collected \$45,000 in FY03.
- e. Not Guilty By Reason Of Insanity Reimbursement (NGI): The state reimburses the County for non-treatment costs related to transportation and housing of persons found not guilty by reason of insanity who are brought before the court on petitions by the District Attorney to extend their commitment to state hospitals in proceedings mandated pursuant to Penal Code §§1026 and 1026.5. This is an SB 90 cost recovery.
- f. Mentally Disordered Offender Reimbursement (MDO): The state reimburses the County for the costs of transportation, housing, and security of the mentally disordered offender during civil proceedings mandated pursuant to Penal Code §§2970, 2972, and 2972.1. This is an SB 90 cost recovery. The County received \$27,215 dollars in NGI and MDO monies for FY03.
- g. Sexually Violent Predators Reimbursement (SVP): The state reimburses the County for housing sexually violent predators who are housed in this County pending hearings or trial on petitions to commit them to a state hospital. This is an SB 90 cost recovery that the state has suspended as of March 2003. The DOC continues to submit its claims to the state, which historically have been paid in arrears with interest. The County usually receives \$250,000-300,000 in SVP monies.

- h. Contracts to House Out-Of-County Mental Health Inmates: The Department also receives revenues for the *non-mandated* housing of mental health inmates under contracts with other counties in the amount of \$1,560,000. These revenues offset the cost of providing *mandated* services.

3. **Potential New Cost Recovery Option**

- a. Inmate-Initiated Medical Visits: Penal Code §4011.2 authorizes a sheriff to charge a \$3.00 fee for each inmate-initiated medical visit, by charging the inmate's personal account. If the inmate has no money in his/her account, there shall be no charge for the medical visit. The medical provider may waive the fee for any inmate-initiated treatment, and shall waive the fee in any life-threatening or emergency situation. Follow-up visits at the direction of the medical staff shall not be charged to the inmate. The County has never collected this fee. The Department is assessing whether this fee would be cost-effective.

FOOD SERVICES

1. **Legal Basis for Mandate**

Food Services provides three daily meals for more than 4000 inmates per day, including medical and religious diets, and snacks for pregnant and diabetic inmates.

Mandates are contained in statutes as follows: Penal Code §4015 (shall receive persons committed under competent authority and provide food, clothing and bedding of a quality and quantity at least equal to the minimum standards and requirements prescribed by the Board of Corrections), Health & Safety Code §114020 (employees shall follow procedures prescribed for safe handling of food).

2. **Cost Recovery Options**

- a. The Food Services Division generates annual revenues of \$70,000 by providing baked goods to the Probation Department, and charging non-badge staff for meals in the Officer's Dining Room.

OPERATIONS

1. Legal Basis for Mandate

The Operations Unit provides building and grounds maintenance services, laundry services and various services as mandated by the Fire Marshall, Health Department, OSHA and other regulatory agencies. Jail Industries provides vocational training to inmates while manufacturing furniture and mattresses used in the jail, and assembling hygiene kits for inmates. These items are also sold to other counties.

Mandates are contained in numerous statutes as follows: Labor Code §6400 (duty of employer to provide safe workplace), various OSHA regulations, and §6401.7 (employer shall establish injury prevention program); Penal Code §851.5 (shall post sign that arrestee has right to make three calls), §4573 (duty to post outside jail facilities sanctions for bringing controlled substances onto grounds), §4573.5 (duty to post outside jail facilities sanctions for bringing alcohol or other drugs onto grounds), §4573.6 (duty to post outside jail facilities sanctions for possessing controlled substances on grounds), §4573.8 (duty to post outside jail facilities sanctions for possessing drugs or alcohol on grounds), §4573.9 (duty to post outside jail facilities sanctions for selling, furnishing or administering controlled substances to person in custody), Public Contract Code §20102 (public agency shall perform work in strict compliance with plans and specifications), County Ordinance Code §A20-41 (director shall be responsible for correctional facilities and inmates consistent with duties assigned to sheriff under general law).

2. Cost Recovery Options

- a Jail Industries is a *non-mandated* program which provides vocational training to inmates who manufacture furniture and mattresses used in the jail, and assemble hygiene kits for inmates and for sale to other counties. These products offset the cost of purchasing them to fulfill other mandates.
- b The Department of Correction uses inmate workers and PSP workers to provide janitorial services in the facilities, to respond to facility service calls, perform landscaping and gardening services, and do inmate laundry at costs below alternative means of providing these services.

INTERNAL AFFAIRS

1. Legal Basis for Mandate

Internal Affairs is responsible for conducting investigations of complaints by inmates, complaints by or against employees; and critical incidents. It serves as the custodian of records for the DOC and responds to all Public Records Act requests, subpoenas, requests for production of documents in litigation and Pitchess motions for officer personnel records. It provides all security clearances for persons who work inside or visit the jail facilities.

Mandates are contained in statutes as follows: Government Code §3300 (Public Safety Officers Procedural Bill of Rights Act mandates conditions under which a public safety officer may be investigated), §6253 (Public Records Act requires response to records request within 10 days), and §12525 (shall report in custody death to attorney general within 10 days); Penal Code §832.7 (shall maintain as confidential and not disclose officer personnel records).

Investigations of *citizen complaints* against correctional officers are *discretionary* under Penal Code §832.5(2).

2. Cost Recovery Options

None.

PROFESSIONAL COMPLIANCE AND AUDIT UNIT

1. Legal Basis for Mandate

The Professional Compliance and Audit Unit develops, reviews, updates and revises department policies and procedures which support the general mandates referred to above of operating a jail; conducts internal audits of operations; and coordinates the Department's response to mandated inspections by the Board of Corrections, Health Department, Fire Marshall and Grand Jury. Penal Code §4015 mandates that the sheriff receive all persons committed to jail by competent authority, and provide the necessary food, clothing and bedding at least equal to the minimum standards and requirements prescribed by the State Board of Corrections; §4004 mandates that prisoners committed for examination or upon conviction must be confined; and §4005 mandates that the sheriff receive and keep prisoners committed under authority of the United States.

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2. **Cost Recovery Options**

None.

TRAINING

1. **Legal Basis for Mandate**

Correctional officers are required to complete 24 hours per year of continuing professional training.

Mandates are contained in numerous statutes as follows: Penal Code §831.5 (officers shall complete training course specified in Section 832), §6035 (shall adhere to standards for selection and training established by the state Board of Corrections), see BOC regulations in Title 15, Section 1025 on training, §6401.7 (employer shall establish an injury prevention program), §13518 (sheriff shall train staff in first aid and CPR); Labor Code §6400 et seq, (shall train employees whenever new substances, processes, procedures, or equipment are introduced to the workplace and represents a new hazard); County Ordinance Code §A20-41 provides that the director shall be responsible and legally accountable for county employees assigned to the jail.

2. **Cost Recovery Options**

- a. **Allocation For Mandated Training of Correctional Officers:** Penal Code §§6035 and 6040 provide for grants of state aid to local governments that adhere to Board of Corrections standards for selection and training of local corrections officers. The Department received funds in the amount of \$419,303. The State is considering reducing the level of reimbursement to counties as a budget reduction measure.

INMATE PROGRAMS

1. **Legal Basis for Mandate**

The Programs Unit provides *non-mandated* programs, classes and group activities to inmates intended to achieve positive behavior change, successful reintegration into the community, and reduction in recidivism. County Ordinance Code §A20-39 gives the Department of Correction jurisdiction over all functions related to institutional punishment including rehabilitation of prisoners, but does not make the same mandatory.

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The only *mandated* program is the court-ordered Weekend Work Program. That mandate is contained in Penal Code §1209 (court orders serving sentence on weekends).

2. **Cost Recovery Options**

- a. **Weekend Work Program**: Penal Code §1209 authorizes a court to order a defendant to serve his/her sentence on weekends or similar periods during the week other than their regular workdays, and authorizes the County to collect from a defendant according to his/her ability to pay a fee for the cost allocable to the defendant of administering the program, and which does not exceed the cost of confinement. County Ordinance Code §A20-52 authorizes the collection of a \$35.00 program processing fee and a \$10.00 daily participation fee. The County is in the process of amending the ordinance to increase the WWP fee.
- b. **Inmate Welfare Fund**: The Department of Correction maintains an Inmate Welfare Fund which receives revenues from the operation of an inmate commissary system and an inmate telephone system.

CONSEQUENCES OF NON-COMPLIANCE WITH MANDATES

Failure to meet the mandates of operating a jail may result in the denial of constitutionally-guaranteed civil rights for inmates, may result in liability for the County for failure to keep inmates, staff and the public safe and secure, and may result in disqualification for receipt of various state and local reimbursements, funding allocations or grant monies. Some of these impacts are apparent from the mandate itself or the conditions tied to certain funding sources.

LEGISLATION TO CREATE NEW COST RECOVERY OPTIONS

The Department of Correction suggests proposing legislation that would increase the cap on the daily jail rate set by the state to determine reimbursements for housing state prisoners and parolees.

- c: James Babcock
Ann Miller Ravel

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FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>% *1</u>	<u>Amount</u>	<u>% *2</u>	<u>Amount</u>	<u>% *3</u>
Non-Mandated	17	19,588,891	18%	10,130,922	52%	150.0	18%
Mandated	14	69,742,563	64%	21,017,468	30%	628.0	74%
Admin/Support	-	20,172,824	18%	7,664,891	38%	69.0	8%
Total	<u>31</u>	<u>109,504,278</u>	<u>100%</u>	<u>38,813,281</u>	<u>35%</u>	<u>847.0</u>	<u>100%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=percent of total staffing

Departmental Description

The Probation Department performs 31 functions, 14 of which are mandated pursuant to State law and regulations. The Department provides a wide range of administrative, rehabilitative, supervision, and Court services for adult and juvenile offenders, and is organized into three Divisions.

The Probation Services Division delivers County-wide early intervention services through the Restorative Justice Program; provides investigation, placement, and supervision services through specialized units; and participates in a variety of collaborative service delivery programs for juveniles. The Division also provides adult investigation and sentencing recommendations directly to the courts, and provides assessment, case management, treatment and supervision services for adult clients.

The Institutional Services Division maintains the County juvenile detention facility (Juvenile Hall), two juvenile rehabilitation facilities (James Ranch and Wright Center); and residential work furlough facilities for men and women. The Division also provides the Community Release and Juvenile Electronic Monitoring programs to divert appropriate juvenile offenders from secure custody.

The Administrative Services Division provides the full spectrum of support services to the operational divisions, such as information technology, fiscal and personnel services.

The FY 2006-07 projected Probation Department budget amounts to approximately \$109.5 million, about \$70.69 million of which is reimbursed and nearly \$38.8 million is a General Fund subsidy cost. The reimbursement includes Public Safety Sales Tax of \$34 million allocated to this department based on its expenditures as a percentage of expenditures for all criminal justice agencies, to whom these funds are limited. The General Fund is required to provide General Fund support to these departments at least equal to the FY 1992-93 maintenance of effort level. Because the FY 2006-07 budget for these departments exceeds the maintenance of effort level by more than \$100 million, reductions in these budgets would not cause a reduction in Public Safety Sales Tax revenues, and would generally reduce the General Fund subsidy on a dollar-for-dollar basis.

FY 2006-07 General Fund Budget by Program/Function

<u>Function</u>	<u>FY 2006-07 Adopted Budget</u>		<u>Departmental Revenue</u>	<u>General Fund Subsidy</u>	<u>Percent</u>
	<u>Amount</u>	<u>Staffing</u>			
<u>Non-Mandated Activities</u>					
01 Comm.-Based Aftercare	1,320,786	4.0	1,320,786	0	0%
02 Services to Bilingual Clients	94,838	0.0	0	94,838	100%
03 Restorative Justice/Victims	1,959,421	18.0	1,416,920	542,501	28%
04 APA/CET/YEA	568,352	5.0	539,805	28,547	5%
05 Special Programs Unit	1,399,123	13.0	1,201,811	197,312	14%
06 Juvenile Diversion Services	251,322	2.0	207,537	43,785	17%
07 Adult Court Unit	1,606,523	15.0	0	1,606,523	100%
08 Adult Assessment Unit	1,273,296	12.0	0	1,273,296	100%
09 Admin. Monitoring Team	401,024	5.5	0	401,024	100%
10 Electronic Monitoring Prog.	479,574	4.0	500,000	(20,426)	(4%)
11 Adult Screening Unit	1,264,752	11.0	0	1,264,752	100%
12 Juvenile Court Work	337,330	3.5	452,590	(115,260)	(31%)
13 Juv. Elec. Mon.-Comm. Rel.	1,484,477	13.0	1,776,349	(291,872)	(20%)
14 Multi-Agency Assmt. Ctr.	611,571	3.0	611,571	0	0%
15 Work Furlough, Resi. Ctr.	4,731,633	36.0	1,085,000	3,646,633	77%
16 Informal Juv./Traffic Court	484,877	5.0	169,910	314,967	65%
Subtotal	18,268,899	150.0	9,282,279	8,986,620	49%
<u>Mandated Activities</u>					
17 Juvenile Ranches	12,434,011	97.0	11,020,302	1,413,709	11%
18 Juvenile Delinquency Serv.	9,569,846	76.0	8,989,075	580,771	6%
19 Juvenile Gang Unit	1,272,081	11.0	1,090,484	181,597	14%
20 Juvenile Court Unit	1,127,806	10.0	998,315	129,491	11%
21 Placement Unit	1,354,738	12.0	1,221,099	133,639	10%
22 Juvenile Screening Unit	1,107,756	10.0	1,107,756	0	0%
23 Adult Investigation Unit	5,254,151	44.0	2,386,995	2,867,156	55%
24 Drug Treatment Court	1,319,992	12.0	175,690	1,144,302	87%
25 Substance Abuse Unit	1,600,103	16.5	611,115	988,988	62%
26 Recovery Services Unit	1,604,054	15.0	1,604,054	0	0%
27 Adult Train./Background	1,038,207	6.0	614,375	423,832	41%
28 Adult Supervision Unit	9,244,091	84.0	7,926,288	1,317,803	14%
29 Juvenile Hall Ops./Living	23,170,064	223.5	10,786,432	12,383,632	53%
30 DNA Fingerprint-Prop. 69	450,120	7.0	171,911	278,209	62%
31 Internal Affairs Unit	515,535	4.0	196,894	318,641	62%
Subtotal	71,062,555	628.0	48,900,785	22,161,770	31%
<u>Required</u>					
Admin/Support	20,172,824	69.0	12,507,933	7,664,891	38%
Total	109,504,278	847.0	70,690,997*	38,813,281	35%
* Includes Public Safety Sales Tax of \$34 million allocated to this department based on its expenditures as a percentage of expenditures for all criminal justice agencies, to whom these funds are limited.					

Description of Programs and Functions

Administration and Support (REQUIRED):

\$20,172,824

The Probation Department Administrative and Support function includes the Chief Probation Officer, the Deputy Chief Probation Officers overseeing the Probation Services and Institutional Services Divisions and the Executive Administrative Services Manager overseeing the other managerial and analytical staff, and separate units devoted to information services, fiscal and human resources functions. The mandated Training and Backgrounds function was added to the Administrative Services Division in April 2006. The Administration and Support function also includes selected positions, such as the Senior Management Analyst who is the overall manager for Department clerical staff, and the Administrative Support Officer overseeing clerical staff for various adult-related probation programs, that could not easily be allocated to direct operating functions. Staffing for these various administration and support functions totals 69.0 FTE positions. Also included as part of this function are selected services and supplies costs, such as insurance, rent on various Probation Department satellite offices, and miscellaneous equipment leases, that could not be accurately allocated to individual programs. Because some of the direct services performed by the Probation Department are mandated, the County must also provide adequate administrative oversight and support services to fulfill these mandates. The amount of staff and other resources necessary to provide an "adequate" level of funding is subject to determination by the Board of Supervisors pursuant to Government Code Sections 29063 and 29088. No objective basis was identified to determine if the current budget for administrative and support staff, and related resources, exceeds the minimum legal funding level.

NON-MANDATED PROGRAMS AND FUNCTIONS

01 – Community-Based Aftercare (NON-MANDATED):

\$1,320,786

The Community-Based Aftercare program includes 4.0 FTE positions, serving a caseload of approximately 496 clients. Program clients have graduated from a juvenile rehabilitation facility or from the Juvenile Hall commitment program and are receiving up to 12 months of services to assist their transition back to the community, including community support, family reunification services, substance abuse services, mental health services and educational services. These services are provided by a team of professionals who create a transition plan before a minor is released from an institution. This program is 100 percent revenue offset by funding from the State Juvenile Justice Crime Prevention Act.

02 – Providing Services to Bilingual Clients (NON-MANDATED):

\$94,838

The Department identified providing services to bilingual clients as discretionary. Under contracts with Service Employees International Union Local 715 and Santa Clara County Probation Peace Officers Union Local 1587, staff employed in positions requiring bilingual skills receive additional pay of \$110 or \$130 per month, depending on the position. In FY2006, the Department's cost for this additional pay was \$92,745. Taking into consideration the approximately 8% increase in the new contract with the Local 715 Union, the Department is projecting the annual cost for this pay will increase to \$94,838 in FY2007.

03 – Restorative Justice (NON-MANDATED): **\$1,959,421**

The Restorative Justice Program provides early intervention, prevention and diversion services throughout the County to less serious juvenile offenders. Services provided include parent-teen conferencing and family mediation, and seven community-based organizations also provide intensive case management, competency development and asset building for at-risk youth. The program also focuses on providing services to juvenile crime victims, such as victim awareness/effects of crime workshops and oversight of restitution payments to crime victims. Services are provided with a staff of 18.0 FTE positions. Revenue in the amount of \$1,416,920 from the Juvenile Probation and Camp Funds Grant and the State Juvenile Justice Crime Prevention Act offset costs of this program. Therefore, the General Fund discretionary expenditure in excess of the minimum mandated service level is \$542,501.

04 – Alternative Placement Academy/Community Education Transition/Youth Education Advocate (NON-MANDATED): **\$568,352**

The Alternative Placement Academy is a school-based collaborative program that provides in-home placement and a specialized community school program for high-risk youth that have been previously Court ordered to be placed in a juvenile rehabilitation facility or out-of-home placement. Community Education Transition is a separate school-based program for youth who are released from a juvenile rehabilitation facility and are not able to enroll or attend mainstream schools. Finally, Youth Education Advocate Services are provided by advocates who recruited, trained and monitored by Probation staff. These advocates support parents and guardians in working collaboratively with school districts to ensure school enrollment and to obtain special education services. These programs, staffed by 5.0 FTE positions, are 100 percent revenue offset by funds received from the State Juvenile Probation and Camp Funds Grant and Federal Title IV-E program.

05 – Special Programs Unit (NON-MANDATED): **\$1,399,123**

This unit provides 13.0 FTE positions to staff several special court sessions adjudicating certain types of cases for juvenile offenders, including a Juvenile Drug Treatment Court, a Juvenile Mental Health Court, a Juvenile Domestic Violence/Family Violence Court, and a Juvenile Sex Offender Court. For example, the Treatment Court assists youth with serious substance abuse problems, using recovery and treatment services ranging from residential care to 12-step programs to one-on-one mentoring, with frequent review hearings by the court and close supervision of offenders in the community by probation officers. The other specialized courts similarly combine referring offenders to appropriate treatment with frequent court hearings and intensive supervision in the community by probation officers. These programs are offset by revenues from the Juvenile Probation and Camp Funds Grant and the Federal Title IV-E programs. This Unit also provides 1.0 FTE position to staff our Evening Reporting Center (ERC). The ERC is an alternative to detention for youth who are Court wards and who are in violation of probation.

06 – Juvenile Diversion Services (NON-MANDATED): **\$251,322**

Two Deputy Probation Officers are contracted for and funded by local law enforcement agencies, school districts and local governments to coordinate local community resources for juveniles and provide delinquency prevention, early intervention and diversion services in the community. These services are offset by revenue amounting to \$207,537 from the contracting agencies.

07 – Adult Court Unit (NON-MANDATED): **\$1,606,523**

The Adult Court Unit provides services to all Superior Courts in Santa Clara County, providing a direct link between the Probation Department and the Court in Sentencing Hearings, Settlement Conferences, Felony Advanced Resolution Calendars and Narcotic Case Resolution Hearings. This discretionary function is staffed with 15.0 FTE positions, including clerical positions, and these probation officers are subject-matter experts on sentencing laws. They provide probation history and other background information regarding offenders during court hearings, based on their own research and information obtained from other investigating and supervising probation officers in the Department. Without the Adult Court Unit's function, other probation officers responsible for investigating and supervising offenders would have to make court appearances on those cases for which they are responsible, taking time from other duties, and possibly requiring lower caseloads than those other Adult Investigating and Adult Supervision staff.

08 – Adult Assessment Unit (NON-MANDATED): **\$1,273,296**

All supervision cases are initially assessed, administratively processed and referred for services by the Assessment Unit, which is a discretionary function staffed by 12.0 FTE positions, including clerical positions. The level of supervision and reporting standards that establish field contact frequency are determined through comprehensive risk and need assessments. The three classifications of supervision are minimum, regular and intensive. This permits the offenders who need the most intense supervision to be assigned to units with lower caseloads and to probation officers with expertise in the areas of greatest risk for a particular offender. The Assessment Unit classifies each case, coordinates the fingerprinting and registration of offenders, and makes referrals to treatment programs, community services, and the Department of Revenue for payment of victim restitution. Assessment and processing in the Assessment Unit allows Deputy Probation Officers who supervise offenders to spend more time in the direct supervision of offenders in the community. Because the most serious offenders that pose the greatest risk to the community and to victims are placed on intensive supervision by probation officers with lower caseloads, the frequency of contact with the offender is increased and the risk of re-offending is reduced. Without this unit, opportunities to match an offender with the proper intensity of supervision would be reduced, and the risk of re-offending would increase.

09 – Administrative Monitoring Team (NON-MANDATED): **\$401,024**

The 5.5 FTE Deputy Probation Officers on this team supervise minimum-risk adult clients who have scored low on their risk and need assessment, or have made satisfactory adjustment to probation over time. Clients are monitored for required registering, payment of financial obligations, community service requirements, and new arrests. The higher caseloads of the team, 1,600 cases per staff member, permit other

probation officers to carry lower caseloads, and more effectively supervise higher-risk offenders. If the caseload of this team was supervised at the standard ratio, additional probation officers would be required. Alternatively, without the team, caseloads of other staff would increase, supervision of higher-risk offenders would decrease, and the risk of re-offense and the risk to public safety would rise.

10 – Electronic Monitoring Program (NON-MANDATED): **\$479,574**

This program, part of the Adult Screening Unit, provides intensive supervision including monitoring of the whereabouts of probationers who would, without electronic monitoring, be sentenced to County Jail rather than released into the community. The program is staffed with 4.0 FTE positions (2 DPOs/ 1 Senior GC), including one clerical position. Without this program, these offenders would be housed in the County Jail, raising its population, and requiring a housing cost of \$160.85 per day.

11 – Adult Screening Unit at Elmwood (NON-MANDATED): **\$1,264,752**

A probation unit located at the Elmwood jail facility reviews incoming sentenced inmates for eligibility for programs that are alternatives to full-time incarceration, including the Public Service Program, County Parole, Day Reporting Program, Work Furlough Program, Electronic Monitoring Program and the Regimented Corrections Program. Without this function, there would be no way to determine which inmates are most likely to be successful in these alternative programs. Assuming the result were to reduce or eliminate use of these alternatives, the result would be higher jail populations and associated higher costs to incarcerate these additional inmates. Staffing for this unit is 11.0 FTE positions, including 3.0 clerical positions

12 – Court Work Program (NON-MANDATED): **\$337,330**

The Court Work Program is a program for youth in custody at Juvenile Hall who work on the Juvenile hall campus performing general maintenance and community service work as part of their commitment orders. This program is also available to out-of-custody youth that participate in this program on weekends as an alternative to detention in the Juvenile Hall. This program, staffed by 3.5 FTE positions, including one clerical support, is 100 percent revenue offset by revenue from the Juvenile Probation and Camp Funds Grant and Title IV-E programs.

13—Electronic Monitoring Program and Community Release Program (NON-MANDATED): **\$1,484,477**

Similar to the Electronic Monitoring Program for adult offenders, this program provides intensive supervision by Probation Group Counselors and an electronic monitoring device to monitor the whereabouts of juvenile offenders who, without the device, would be held in Juvenile Hall both before and after Court disposition. The Community Release Program provides intensive supervision without electronic monitoring for less risky offenders. These programs, staffed by 13.0 FTE counselor positions (11 counselors, one supervising group counselor and one clerical support) are 100 percent revenue offset via funds from the Juvenile Probation and Camp Funds Grant and Title IV-E programs.

14 – Multi-Agency Assessment Center (NON-MANDATED): **\$611,571**

The Multi-Agency Assessment Center provides educational assessment, substance abuse assessment, mental health assessment, referral services, case and transition plans for youth who are held in Juvenile Hall for more than 72 hours. Nine community-based organizations provide key program elements, as do other County agencies, and assessment information is used to formulate a case plan that serves each detained youth throughout their involvement with the juvenile justice system. The case plan developed through this process is also used to link offenders and their families to appropriate services when the offender leaves custody and returns to the community. This program, staffed by 3.0 FTE positions, including one clerk, is 100 percent revenue offset by funding from the State Juvenile Justice Crime Prevention Act.

15 – Men’s Work Furlough/Women’s Residential Center (NON-MANDATED): **\$4,731,633**

These two facilities, providing 56 beds for women and 264 beds for men, provide transition services for sentenced offenders to continue to work or pursue education programs in the community during the day, while serving sentences in confinement at night. Programs provided include domestic violence support groups, health and mental health services, life skills training, family reunification services, parenting classes, anger management and substance abuse treatment and education. Room and board is charged to offenders on a pro-rated basis to offset operating costs. These charges provide about \$1.1 million to offset costs of this program. Without this facility, these offenders would be housed in the County’s jail facilities at higher cost or placed on Electronic Monitoring programs. Staffing for this program is 36.0 FTE positions, including six positions assigned to provide food services at the two facilities and three clerical support staff.

16 – Informal Juvenile and Traffic Court (NON-MANDATED): **\$484,877**

Truancy cases and minor offense probation citations issued to juveniles in Santa Clara County are adjudicated by this program, which also serves as a liaison between the Department and the Courts for Juvenile matters. In FY2006, the program received approximately 5,000 minor offense citations and approximately 1,500 truancy matters. Revenue budget amounting to \$169,910 in FY 2007 from Juvenile Traffic fines offsets the program costs. Staffing for the program is 5.0 FTE positions, including one Traffic Hearing Officer and four clerical positions.

MANDATED PROGRAMS AND FUNCTIONS**17 – Juvenile Ranch Facilities (MANDATED):** **\$12,434,011**

The Department operates two juvenile rehabilitation facilities, William F. James Ranch for boys, and Muriel Wright Residential Center for boys and girls. The two minimum-security facilities, which serve an average daily population of about 76 residents, provide treatment and educational services to lower-risk juvenile offenders. The Ranch Programs will be changing this year to provide comprehensive cognitive treatment modality services to youth and families they serve. Services and treatment will be based on an individual case plan formulated through a Multi-Disciplinary Team. The focus of the new Enhanced Ranch Programs will be providing youth intensive counseling provided by staff through individual and group counseling. Other Services will also include chemical dependency treatment and education, life skills and family

counseling, gang intervention, religious counseling, health education, sports programs, sexual abuse treatment and sex offender counseling. In addition there will be an extensive Aftercare Program developed for residents and families. Residents are court-ordered to complete a six to eight month program, which starts with an orientation program for new residents. Revenue offsets in the amount of \$10,974,748 are received for the ranch programs, from the State Juvenile Probation and Camp Funds Grant, Juvenile Accountability Block Grant programs, Title IV-E programs and State Aid for Correction Food Nutrition programs. Without this alternative placement option, these offenders would be placed in Juvenile Hall at greater cost. Staffing for this function totals 97.0 FTE positions, and includes 12.0 positions assigned to provide food services at the two facilities. In addition, there are five clerical staff supporting this function. Costs also include medical care provided to residents of these facilities.

18 – Juvenile Delinquency Services (MANDATED): \$9,569,846

This function provides investigation and supervision services for juvenile offenders using 76.0 FTE positions, including clerical support positions. This function is divided into six regionally-organized units. Investigation services include an evaluation of the social and legal aspects of the case, as well as a recommendation to the Court as to case disposition. Supervision services include referral of offenders to community and school services and assuring offender compliance with Court orders. Three levels of supervision, minimum, regular and maximum, are provided, and juvenile clients may also be assigned based on informal supervision without Court intervention, or the matter may be settled at intake without further disposition. The goal of appropriate probation supervision is to ensure public safety at the lowest level of offender sanction. In addition to staffing, major costs of this unit include the cost of housing juvenile offenders in California Youth Authority facilities, group homes or other appropriate non-County placements. This function is offset by revenues received from the State Juvenile Probation and Camp Funds Grant and the Federal Title IV-E programs in the amount of \$8,954,015.

19 – Juvenile Gang Unit (MANDATED): \$1,272,081

This unit specializes in the investigation and supervision of adult and juvenile offenders with high-risk gang involvement. The unit coordinates closely with law enforcement agencies, community services, schools and citizen groups to prevent gang-related crime and violence. Staffing for this unit is 11.0 FTE positions, including one clerical support staff.

20 – Juvenile Court Unit (MANDATED): \$1,127,806

This unit represents the Probation Department in all Juvenile Court hearings using a staff of 10.0 FTEs, including one clerical support staff, and also coordinates activities between the Department and the Court, District Attorney, Public Defender, private defense attorneys and offenders' families.

21 – Placement Unit (MANDATED): \$1,354,738

This unit is responsible for locating an appropriate out-of-home placement for clients with unique treatment and residential requirements. Deputy Probation Officers provide case management and supervision with the overall goal of family reunification. Staffing for this unit is 12.0 FTE positions, including two clerical support staff.

22 – Juvenile Screening Unit/Victim Services (MANDATED) \$1,107,756

The Juvenile Screening Unit Deputy Probations assess minors transported to Juvenile Hall to determine their eligibility for release. Further, they coordinate family reunification and diversion of low-level offenders utilizing community resources and counseling through a Probation Unit. Offenders from other counties are also served by expediting returns to proper jurisdictions. This Unit also provides Victim Services by focusing on parent-teen conferencing, family mediation, victim awareness and effects of crime workshops, and facilitates payment of Court ordered restitution to victims of crime. This program, staffed by 10.0 FTE positions, is 100 percent revenue offset by funding from the State Juvenile Justice Crime Prevention Act, the State Juvenile Probation and Camp Funds Grant and the Title IV-E programs.

23 – Adult Investigation Unit (MANDATED): \$5,254,151

Investigation units provide this mandated service at the main adult probation office and at the North County Office. When the Court hears a case, a detailed report is provided to the Court for the sentencing hearing. These reports contain critical information summarizing the circumstances of the crime, criminal record of the defendant, the social history of the defendant, and a technical analysis of the sentencing disposition. These in-depth reports follow the defendant throughout the criminal justice process and take into consideration the perspective and rights of the victim while providing the framework for recovery of financial losses to crime victims. This service is provided by a staff of 44.0 FTE positions, including 11.0 clerical positions.

24 – Drug Treatment Court (MANDATED): \$1,319,992

The Drug Treatment Court Unit provides intensive supervision for clients with more serious substance abuse histories and drug-related offenses, who have been adjudicated by the County's Drug Treatment Court. Such clients make frequent Court appearances and participate in a highly structured regime of supervision, treatment and drug testing. This function was identified by the Department as mandatory to the extent that standard probation services are provided under Penal Code Section 1202.8, but discretionary for the additional services related to the specialized nature of this caseload. Because some level of services would need to be provided for this caseload in any case, this function is considered mandated in this year's mandate study, even though it was reported as non-mandated in the previous studies. It is possible that an assessment of potential savings for this function, by increasing its caseloads to levels comparable with the Department's regular Supervision units, or other changes, may be included in Phase II of the mandate study.

25 – Substance Abuse Unit (MANDATED): \$1,600,103

The Substance Abuse Unit operates two programs. The Multiple Offender program provides higher-level supervision to clients with multiple Driving Under the Influence (DUI) convictions. Each case is monitored for payment of fines and restitution, completion of treatment programs, new arrests and compliance with Court orders. The unit also operates the Deferred Entry of Judgment Program, in which first-time drug offenders are monitored for completion of substance abuse treatment and education programs. Offenders who successfully complete the terms of the program may return to

court and have the charges for which they were originally arrested dismissed. Services are provided by a staff of 16.5 FTE positions, including 6.5 clerical positions.

26 – Recovery Services Unit (MANDATED): **\$1,604,054**

The Recovery Services Unit was established in response to the State's Substance Abuse and Crime Prevention Act, approved by voters in 2002 as Proposition 36. The unit provides substance abuse assessment, treatment and supervision in lieu of incarceration for non-violent substance abusers convicted of drug-related crimes. The unit collaborates with the Department of Alcohol and Drug Services in providing assessment and treatment alternatives. Unit costs are offset by State funding of \$1,245,408 from the Substance Abuse and Crime Prevention Act, and services are provided by 11.0 FTE positions, including 3.0 clerical positions. The program also includes additional 4.0 FTE positions, including one Deputy Probation Officer and 3.0 clerical positions that are subsidies by the General Fund.

27 – Adult Training/Backgrounds Unit (MANDATED): **\$1,038,207**

This unit provides training to Department sworn peace officer staff under standards mandated by the Penal Code and associated regulations, and enforced by the California Board of Corrections. The unit also conducts background investigations of prospective sworn staff as required by the California Government Code. Finally, the unit certifies domestic violence and child abuse treatment and education programs used by the Department for referral of offenders, as required by the Penal Code. A staff of 6.0 FTE positions provides this function, including 1.0 clerical position. This unit now operates at the Holden Ranch as a collaborative Justice Training Center in conjunction with the Office of the Sheriff to provide academies and other required peace officer trainings.

28 – Adult Supervision Unit (MANDATED): **\$9,244,091**

Supervision units at three sites in the County provide general supervision services for all adult probation clients in Santa Clara County. Deputy Probation Officers monitor compliance with Court orders, participation in treatment programs, completion of community service, new arrests, and payment of restitution to victims. Service in this unit is provided to offenders requiring a regular or intensive classification level of supervision, versus the minimum level of supervision provided to offenders by other units. The Adult Supervision Unit also includes a sub-unit of probation officers who specialize in supervising domestic violence offenders. Staffing for the Adult Supervision Unit is 84.0 FTE positions, including 19.0 clerical positions.

29 – Juvenile Hall Operations/Living (MANDATED): **\$23,170,064**

The Santa Clara County Juvenile Hall provides temporary residential housing for youth awaiting adjudication or disposition from the Juvenile Court. Services are provided to youth to assist with their social reintegration back into the community and address their social, physical, behavioral, psychological and emotional needs. Services provided include admissions services, visiting services, a waiting area for youths appearing in Juvenile Court, transportation of juveniles when needed, a variety of program services and housing of juveniles in ten housing units. Generally housing units classify and house juveniles according to age, gender and offenses. However, there are housing units that provide specialized program services including a unit for offenders requiring mental health services, a commitment unit, and two honor units. These services are

provided using a staff of 223.5 FTE positions, including 17.0 FTE positions to provide food services, 5.0 FTE to provide laundry services and 15.5 FTE positions to provide clerical support. In addition to staffing, major costs of this function include medical and mental health care provided to Juvenile Hall residents.

30 – DNA Program -Proposition 69 - (MANDATED) **\$450,120**

DNA Fingerprint, Unsolved Crime and Innocence Protection Act

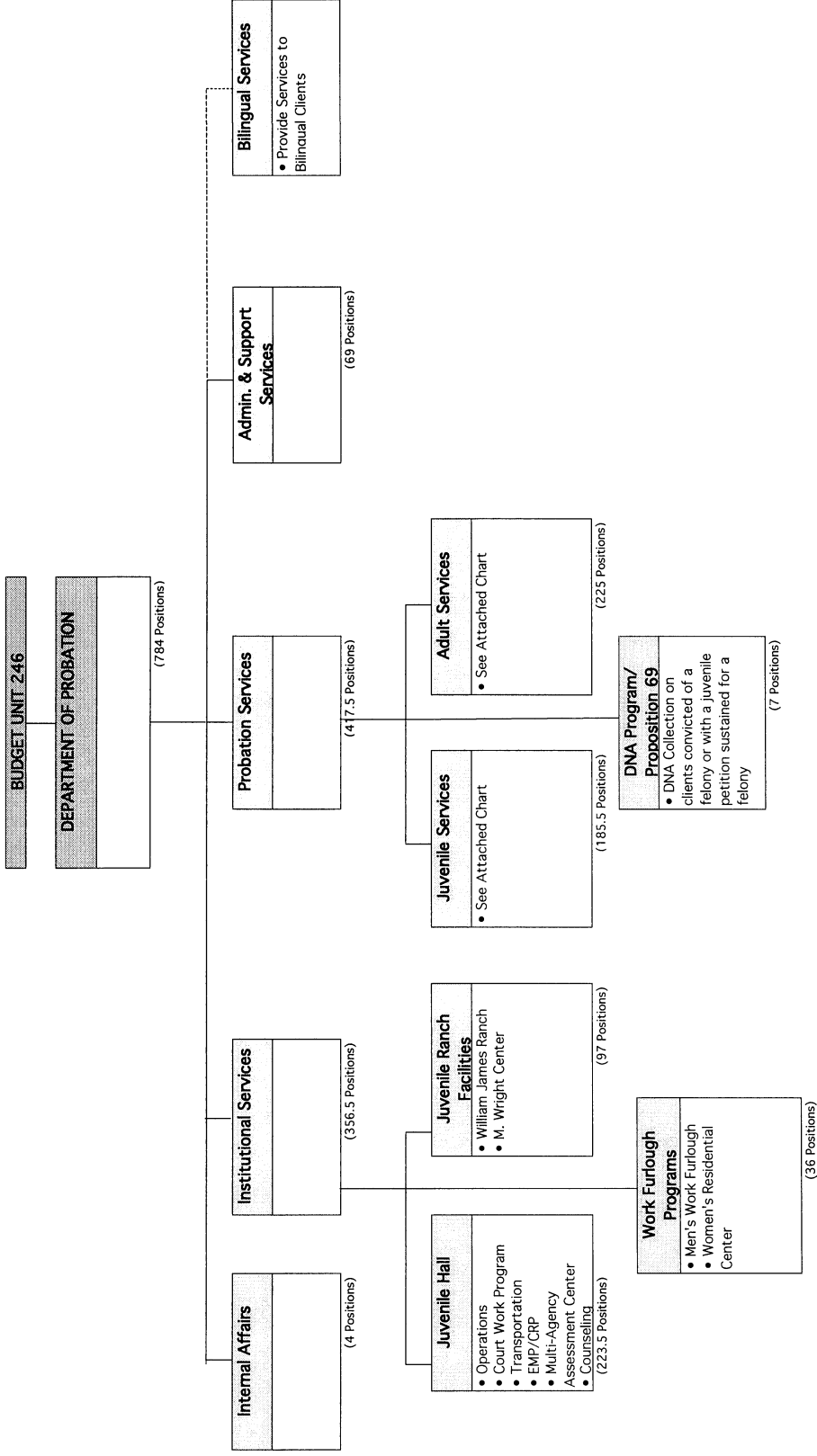
Proposition 69 passed in November 2004, which expanded the DNA and Forensic Identification Database and Data Bank Act of 1998 to require DNA samples to be obtained from any person, adult or juvenile, who is convicted or has a petition sustained for any felony and/or is found not guilty by reason of insanity for a felony. DNA collection is provided in both our Adult and Juvenile Divisions by 7.0 FTE position, including 2.0 clerical positions.

31 – Internal Affairs/Quality Assurance Unit (MANDATED) **\$515,535**

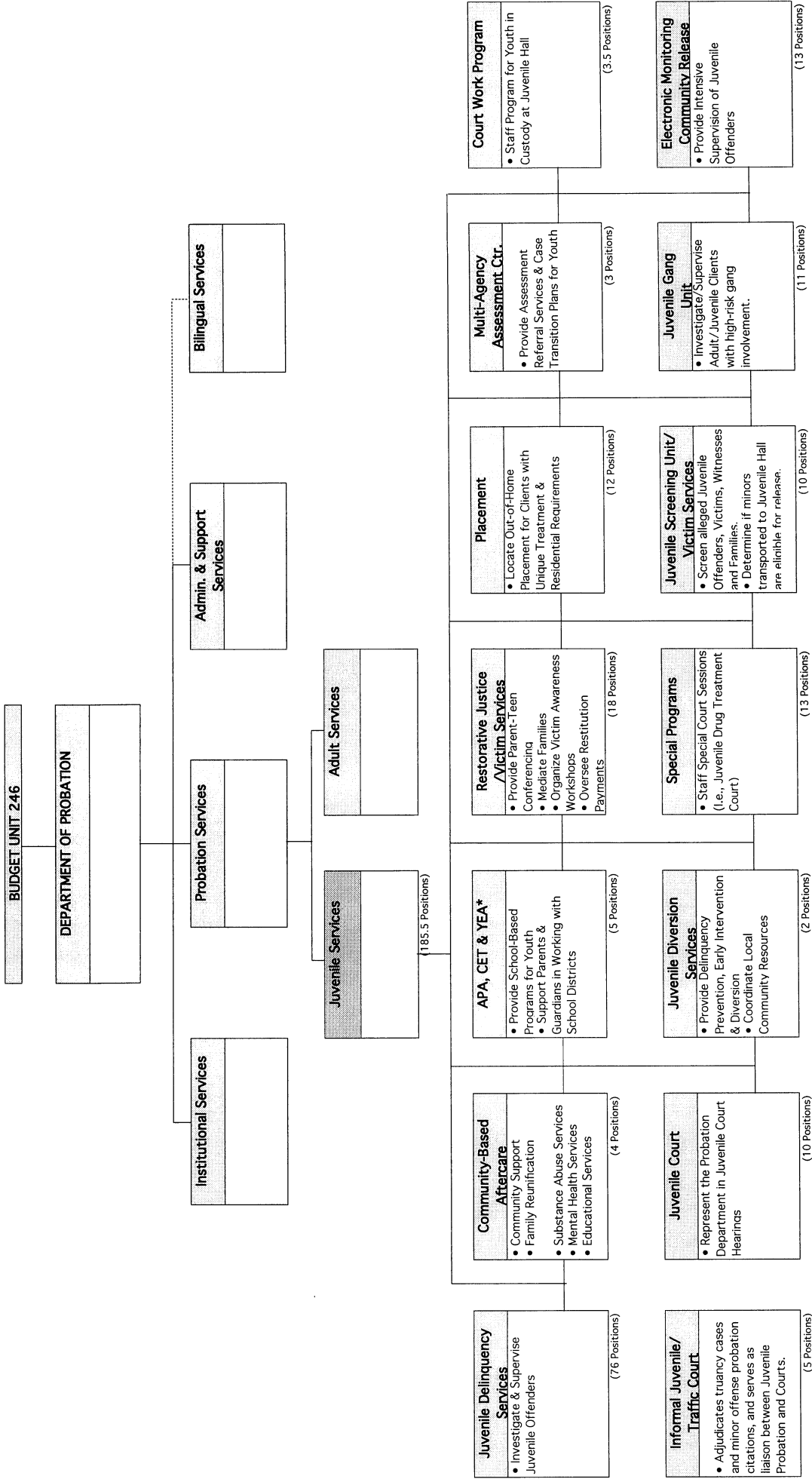
The Internal Affairs Unit was established on January 17, 2005. The Unit investigates allegations of misconduct or neglect of duty involving employees of the Santa Clara Probation Department and to assist in the creating quality assurance standards for the Department. The Unit is staffed with 3 FTES and 1 clerical FTE position.

Total, Probation Department FY 2006-07 Adopted Budget	\$109,504,278
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DEPARTMENT OF PROBATION

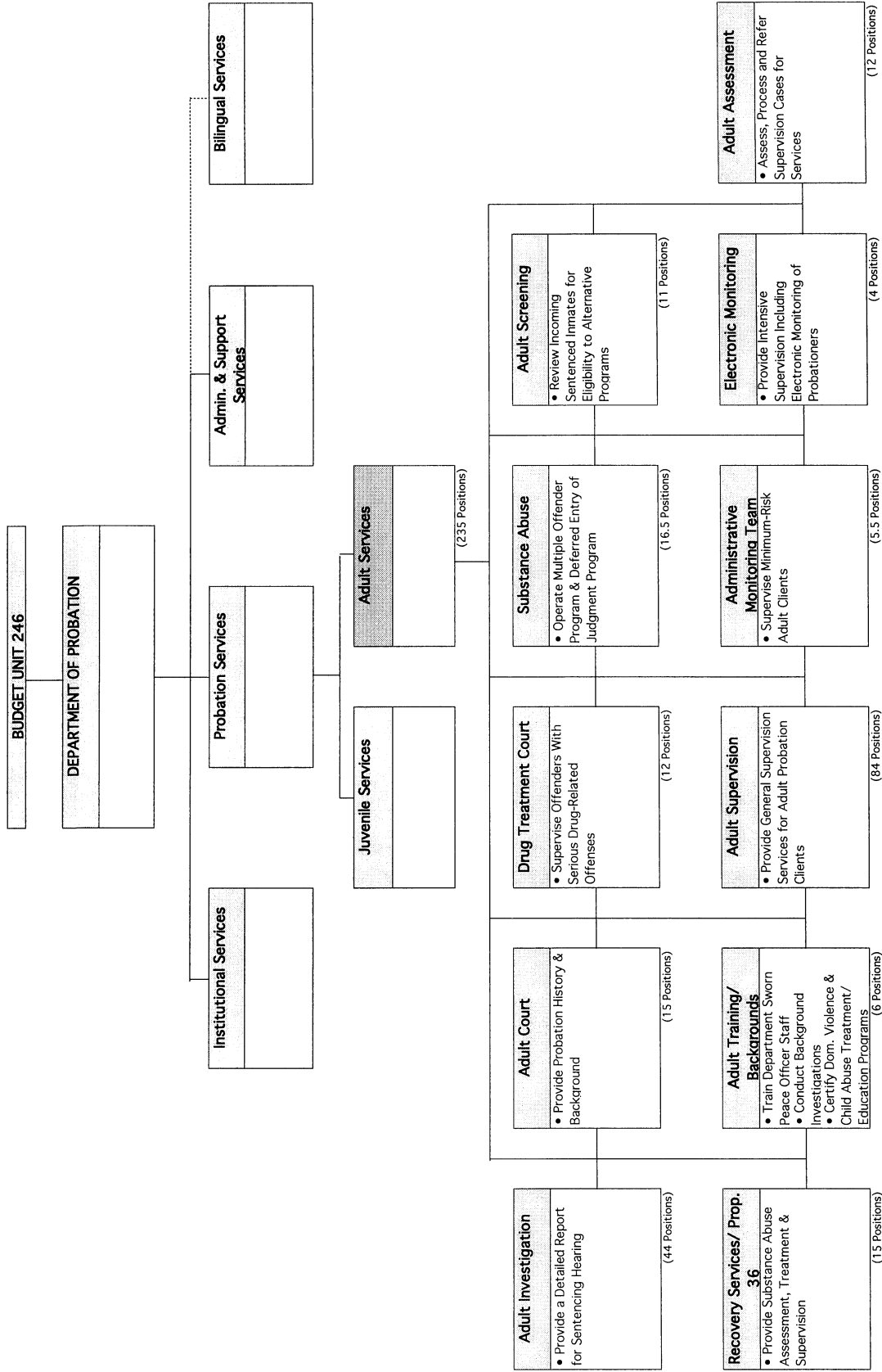


DEPARTMENT OF PROBATION JUVENILE SERVICES



* APA, CET and YEA are acronyms for Alternative Placement Academy, Community Education Transition, and Youth Education Advocate.

DEPARTMENT OF PROBATION ADULT SERVICES



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MEMORANDUM

TO: Roger Mialocq, Management Audit Manager
FROM: Susan Swain, Lead Deputy County Counsel *Susan Swain*
RE: Probation Department Mandate Analysis (BU 246)
DATE: August 3, 2006

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of the legal mandates applicable to Budget Unit 246 regarding the Probation Department. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the Probation Department. A copy of our prior September 12, 2003 memorandum is also attached for your reference.

With the exception of the additional mandates identified below, we have been advised by Probation that they do not have any new mandates to report since the last mandate analysis was conducted.

A. Prop 69 DNA Testing

1. Legal Basis for Mandate

In November 2004, the voters passed Proposition 69 (codified in the Penal Code at Penal Code § 295 et seq.). Prop 69 requires that DNA testing (buccal swabs, palm prints and any blood specimens or other biological samples which may be required) be conducted on specified adults and juveniles.

With respect to adult DNA testing, the Department of Correction administers the testing in this County as to in-custody defendants, while the Probation Department provides any testing required for out-of-custody defendants. Testing is required to be done on adults convicted of committing any felony offense, or who are found not guilty by reason of insanity as to any felony offense. Pen. Code, § 296(a). Similarly, any person arrested or charged with specified offenses is subject to testing following arrest, whether in custody or out-of-custody. Pen. Code,

To: Roger Mialocq, Management Audit Manager
Re: Probation Department Mandate Analysis (BU 246)
July 27, 2006
Page 2

§ 296.1.

With respect to juvenile DNA testing, the Probation Department is required to test in-custody juveniles adjudicated under Welf. & Inst. Code § 602 for the commission of any felony (Pen. Code, § 296(a)(1)) as well as juveniles adjudicated for specified misdemeanor offenses (Pen. Code, § 296(b)(2)). Similarly, any juvenile arrested or charged for specified offenses is subject to testing following arrest, whether in-custody or out-of-custody. Pen. Code, § 296.1.

Prior to final sentencing or final disposition of any case (adults and juveniles), the court is required to inquire whether the requisite testing has been done. Pen. Code, § 296(f).

Once a sample is collected, the Probation Department is required to forward it to the Department of Justice DNA Laboratory. Pen. Code, § 295.

B. Operation of Juvenile Ranch Facilities

1. Legal Basis for Mandate

Per County Ordinance, Probation is mandated to operate the Juvenile Ranch Facilities. See Ord. Code, § A27-18.

2. Level or Requirement of Mandate, if Applicable

Section 1321 of Title 15 of the California Code of Regulations sets forth criteria relating to staffing of juvenile facilities. A copy this section is attached for your reference.

C. Internal Affairs Unit

1. Legal Basis for Mandate

Penal Code section 832.5 provides that "Each Department or agency in this state that employs peace officers shall establish a procedure to investigate complaints by members of the public against the personnel of these departments or agencies, and shall make a written description of the procedure available to the public." Pen. Code, § 832.5, subd. (a)(1); See Also Pen. Code, §§ 832.7, 832.8, Evid. Code, § 1043 et seq. Accordingly, Probation has established an Internal Affairs Unit to meet the requirements of the above statutes. Activities associated with carrying out this mandate include, but are not limited to: the investigation of complaints, preparing reports, retention of investigative files, responding to discovery requests for peace officer personnel records within the unique statutory framework applicable to peace officers, and preparation and distribution of a policy regarding the investigation of citizen complaints.

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Re: Probation Department Mandate Analysis (BU 246)
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2. *Level or Requirement of Mandate, if Applicable*

There are no local ordinances, state statutes, case law, or professional organization standards setting the mandated level of services.

c: Sheila Mitchell, Chief of Probation
Ann Ravel, County Counsel



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MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Susan Swain, Deputy County Counsel *Susan Swain*

RE: Probation Mandate Analysis

DATE: September 12, 2003

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to the Department of Probation (Probation). Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by Probation.

1. Legal Basis for Mandate

Probation provided a 14-page Excel matrix labeled "SCC Probation Department Analysis of Minimum Legal Funding" to the Harvey Rose Management Audit Firm, dated September 10, 2003, delineating several different mandated duties and discretionary duties Probation must perform. The citations have been reviewed thoroughly with Probation and we concur with Probation's analysis that each of the asserted mandates is supported by citation to at least one statutory authority. For your convenience, there are a few "conditional" mandates noted by Probation in its matrix, which are highlighted below for you.

Probation lists the following as mandatory duties under the "Mandates" tab of the matrix, regarding Juvenile functions, which are more in the nature of "conditional" mandates: Inter-State Transfer of Cases, citing Welf. and Inst. Code § 738 (If the court orders a minor with a residence and/or friends or relatives out of state, to be sent out-of-state to live with a person with custody of the minor, the court may order Probation to provide an attendant accompany the minor, and Probation must also implicitly process the paperwork related to the transfers); Maintain Records, citing Pen. Code § 1203.7 (this is mandatory, but only as to defendants 16-years of age or older); Formal Reports

Memorandum to Roger Mialocq
Re: Department of Probation Mandate Analysis
Date: September 12, 2003
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to the Court, citing Welf. and Inst. Code § 281.5 (this does require Probation to provide a report to the court – if Probation determines that a child should be removed from the physical custody of a parent/guardian); Post Detention Case Plan, citing Welf. and Inst. Code § 636.1 (Probation must provide a post detention case plan for a minor – if the minor is at risk of entering foster care).

Probation lists the following mandatory duties under the “*Juvenile Services Tab*” tab of the Excel matrix, which are either conditional mandates or not supported by statutory authority: Under “Supervision Activities,” Conduct urinalysis testing (mandatory when ordered by court).

Probation lists the following mandatory duty under the “*Adult Services Tab*” tab of the Excel matrix, which is a conditional mandate: Under “Supervision Activities,” Conduct urinalysis testing (this is mandatory in drug cases when testing is ordered by the court as a condition of probation and the probation officer directs the defendant to undergo testing).

2. *Level or Requirement of Mandate, If Applicable*

There are no local ordinances, state statutes, case law, or professional organization standards setting the mandated level of services.

c: John Cavalli, Chief Probation Officer
Ann Miller Ravel, County Counsel

260 Planning and Development

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Non-Mandated	1	191,376	1%	94,783	50%	2.0	2%
Mandated	27	7,217,350	55%	(1,141,725)	-16%	79.0	90%
Admin/Support	-	<u>5,670,512</u>	<u>43%</u>	<u>5,610,512</u>	<u>99%</u>	<u>7.0</u>	<u>8%</u>
Total	<u>28</u>	<u>13,079,238</u>	<u>100%</u>	<u>4,563,570</u>	<u>35%</u>	<u>88.0</u>	<u>100%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=percent of total staffing

Departmental Description

The Planning and Development Department provides services that implement the General Plan. It provides administration of land development regulations, including processing of applications to develop private property and issuance of building permits. Also included are map services provided by the County Surveyor's Office and regulatory compliance services provided by the Clean Water Program. The Department charges fees for many of its services, and strives to provide applicants with excellent service and prompt turnaround of submitted applications.

Department Structure

The Planning and Development Department provides long range and current planning services and development services to the unincorporated areas of Santa Clara County and consists of Building Inspection, Land Development, Surveying, the Clean Water Program, Planning, the Fire Marshal, and the Habitat Conservation Plan. These functions are divided into four offices or units as described below:

Development Services Office – The Development Services Office consists of Building Inspection, Land Development, Surveying and the Clean Water Program. Building Inspection staff provide services to ensure safe and code-compliant structures by issuing building permits for construction, remodels, and other improvements. This office provides plan review and inspection to complete the permitting procedure. Land Development staff provide services to safeguard the interest of the general public by reviewing the design and construction of land development projects for compliance with County and engineering standards. Surveyor staff provide services that accurately surveys, checks and records maps. The Clean Water Program, formerly known as the Nonpoint Source Program, enforces the County's Nonpoint Source Pollution Ordinance and maintains the County's NPDES Phase II Storm Water Discharge Permit requirements.

Planning Office – The Planning Office is responsible for the maintenance and implementation of the General Plan and administration of land development regulations. Planning staff accomplish this by providing public information, reviewing and assessing land development requests, supporting commissions and committees, implementing policy and program initiatives, supporting county geographical information system and other programs, and providing policy analysis and ordinance development.

Fire Marshal's Office – The Fire Marshal reports through the Planning and Development Department, and as such, reviews land use proposals for compliance with fire department access and fire protection water supply regulations. The Fire Marshal conducts plan reviews for code compliance in conjunction with the building and fire code permitting process, followed by inspections to ensure compliance with approved plans. Special events throughout the County are subject to plan review and inspection and permit issuance. The Fire Marshal inspects State licensed care facilities providing medical, social, or rehabilitation services upon request for fire clearance by the State, as required by the Health and Safety Code. Annual inspections are conducted as required by Title 19 of the California Code of Regulations in state regulate occupancies such as schools, dorms, and detention facilities. Annual inspections are also conducted in all significant county-owned or leased facilities.

Habitat Conservation Plan/Natural Communities Conservation Plan – Effective July 1, 2006, administration of the Habitat Conservation Plan/ Natural Communities Conservation Plan (HCP/NCCP) was transferred from the County Executive's Office to the Planning and Development Department. Preparation of the HCP/NCCP was initiated by the County and the City of San Jose, Santa Clara Valley Water District and Valley Transportation Authority (Local Partners) in 2001 as part of receiving Wildlife Agency approvals for a number of projects including widening Highway 101 in South County and the Highway 101/Bailey Avenue interchange. In 2004, a Memorandum of Understanding (MOU) between the four Local Partners was approved. The MOU is an operational agreement for development of an HCP/NCCP under applicable State and federal regulations. In October 2005, the cities of Gilroy and Morgan Hill agreed

to join the HCP/NCCP development effort. Santa Clara County serves as the administrator for the HCP/NCCP program.

As directed by the Board of Supervisors, the Department has sought full cost recovery for the land use and development application and permitting process. However, the Department does provide additional functions that are performed without associated fees. These are related to providing customer services and public information to the public and cannot be associated with a particular application. In the past year, the Department has instituted new fees in an effort to decrease reliance on the general fund, this includes a comprehensive planning maintenance fee, a scanning fee to cover costs for scanning plans and permits; and, fees to offset some of the costs associated with the Williamson Act.

The method by which the Planning and Development Department reports hours expended per function is consistent with the cost allocation methodology used by departments that charge projects in which direct, indirect, and cost plan charges are allocated to specific projects and/or activities. This method specifically derives expenditures and full time equivalent (FTE) positions, based on the actual recording of time by staff against projects and customers, and is therefore accurate. The FY 2005-06 actual hours are used to estimate the projected expenditure of hours per function. Therefore, a single FTE in the table reflects hours expended by multiple staff on a given function, the total of which may be the equivalent of one full-time position but is not necessarily a distinct position.

Most of the functions performed by the Planning and Development Department are mandated. Providing public information in a timely manner is not necessarily mandated but supports the mandated functions. The only fully non-mandated function is the Viewshed Protection Study, which is evaluating existing policies, regulations, standards and guidelines concerning hillside development and the visual impacts of such development.

FY 2006-07 General Fund Budget by Program/Function

<u>Function</u>	<u>FY 2006-07</u>		<u>Departmental</u>	<u>General</u>	<u>Percent</u>
	<u>Adopted Budget</u>	<u>Staffing</u>			
	<u>Amount</u>			<u>Subsidy</u>	
<i><u>Non-Mandated Activities</u></i>					
01 Viewshed Protection Study	<u>191,376</u>	<u>2.0</u>	<u>96,593</u>	<u>94,783</u>	<u>50%</u>
Subtotal	<u>191,376</u>	<u>2.0</u>	<u>96,593</u>	<u>94,783</u>	<u>50%</u>
<i><u>Mandated Activities</u></i>					
02 Geographical Info System	109,591	2.0	0	109,591	100%
03 Land Use Permit Review	1,078,109	20.3	1,737,675	(659,566)	-61%
04 Post Approval Monitoring	88,828	1.0	0	88,828	100%
05 Zoning Investigation	249,652	5.5	0	249,652	100%
06 Proj/Prog Implementation	174,750	2.6	102,000	72,750	42%
07 Commission Support	101,714	2.4	0	101,714	100%
08 Williamson Act	102,023	2.1	0	102,023	100%
09 Fire Marshal	1,279,346	1.0	320,000	959,346	75%
10 Engineering Plan Check	323,827	4.5	320,000	3,827	1%
11 Grading Violation Invest	27,268	0.6	0	27,268	100%
12 Private Develop Inspection	159,864	3.2	250,000	(90,136)	-56%
13 Monument Bond Check	4,000	0.0	0	4,000	100%
14 Map Check	41,266	1.0	80,000	(38,734)	-94%
15 Subdivision Map	26,395	0.5	0	26,395	100%
16 Clean Water Program	379,779	1.3	0	379,779	100%
17 Surveying of Co Projects	35,456	0.5	0	35,456	100%
18 Building Plan Check	593,343	8.9	1,410,000	(816,657)	-138%
19 Building Inspection	939,942	14.6	1,700,000	(760,058)	-81%
20 Code Enforcement Program	95,536	1.5	0	95,536	100%
21 Stanford Plan Check	107,248	1.7	650,000	(542,752)	-506%
22 Stanford Inspection	172,363	2.8	900,000	(727,637)	-422%
23 Corner Records	4,285	0.0	0	4,285	100%
24 Record of Survey	12,042	0.2	0	12,042	100%
25 LAFCO Annexations	20,108	0.3	19,126	982	5%
26 City Annexations	21,945	0.5	20,874	1,071	5%
27 Monument Preservation	19,270	0.3	0	19,270	100%
28 Habitat Conservation Plan	<u>1,049,400</u>	<u>0.0</u>	<u>849,400</u>	<u>200,000</u>	<u>19%</u>
Subtotal	<u>7,217,350</u>	<u>79.0</u>	<u>8,359,075</u>	<u>(1,141,725)</u>	<u>-16%</u>
<i><u>Required</u></i>					
Admin/Support	<u>5,670,512</u>	<u>7.0</u>	<u>60,000</u>	<u>5,610,512</u>	<u>99%</u>
Total	<u>13,079,238</u>	<u>88.0</u>	<u>8,515,668</u>	<u>4,563,570</u>	<u>35%</u>

Description of Programs and Functions

Administration and Support (REQUIRED): \$ 5,670,512

The Administration and Support function includes the equivalent of 7.0 FTE positions. The budgetary figure used in this analysis represents two components of administrative cost: the cost of the administration for the department and the department related indirect costs, including administrative support and information technology support, that cannot be attributed to a particular program or function and that generally support all the programs on the floor.

The Department recovers the majority of the budgeted costs for the Administration and Support function each year from its customers, which include non-General Fund Departments, private developers and individual residents. Because many of the direct services performed by the Planning and Development Department are mandated, the County must also provide adequate administrative oversight and support services to fulfill these mandates. The amount of staff and other resources necessary to provide an "adequate" level of funding is subject to determination by the Board of Supervisors pursuant to Government Code Sections 29063 and 29088.

NON-MANDATED PROGRAMS AND FUNCTIONS

01-Viewshed Protection Study (NON-MANDATED) \$191,376

The Viewshed Protection Study was undertaken at the direction of the Board of Supervisors to evaluate existing policies, regulations, standards and guidelines concerning hillside development and the visual impacts of such development. Implementation of its recommendations will improve existing policies and regulations to better preserve the generally natural appearance of hillside viewshed areas.

Planning Office staff have primary responsibility for implementing and interpreting viewshed-related policies and regulations. To address the potential increase in public information inquiries, applications, and inspections resulting from expanding the area subject to Design Review zoning, an additional Planner and GIS Technician position have been added to the Planning Office. These staff will be assigned to handle the additional workload anticipated to implement new policies and regulations for affected areas, meetings with applicants and neighboring property owners, responding to public inquiries, guiding applicants and reviewing development applications, making site visits, performing visual impact and ridgeline visibility analyses and mapping, preparing for and conducting necessary zoning administration hearings, issuing Design Review permits, performing building permit review and sign-offs, follow-up site visits and inspections prior to final building inspections for condition compliance, and other related duties. The Board of Supervisors added 2.0 FTE positions to facilitate the process.

In addition, cost recovery will be partial due to the need to set up the program. Of the \$191,376 budgeted for the Viewshed Protection Study in FY 2006-07, \$96,593 will be generated from fees related to design review services that result in a land use application.

MANDATED PROGRAMS AND FUNCTIONS**02–Geographical Information Systems (MANDATED):** **\$109,591**

The Geographic Information System (GIS) function includes the equivalent of 2.0 FTE positions responsible for development and maintenance of the GIS, which provides for digital data storage, analysis, and mapping capability. The GIS is necessary to provide and maintain mandated components of the County General Plan, such as the Land Use Plan, and the Official Zoning Maps of the Zoning Ordinance, among hundreds of other types of data and thematic maps that are components of adopted plans, needed for performance of other mandated, ongoing functions such as environmental review, or used in special planning studies, responding to Board referrals and data requests, and similar matters. GIS is also utilized and essential for fulfilling mandates related to the preparation for the U.S. Census and redistricting mandates following the Census.

03–Land Use Permit Review (MANDATED): **\$1,078,109**

The Land Use Permit Review function includes the equivalent of 20.3 FTE positions and is responsible for activities associated with accepting, processing and conditioning, land use applications. These applications include, at a minimum, Building Site Approval, Use Permit, Architecture and Site Approval, Special Permit, Design Review, Lot Line Adjustment, Certificate of Compliance and other Administrative Major and Minor Permits, Appeals and Investigations of Land Use Violations. These activities also include those associated with the preparation of environmental documents, preparation of staff reports/conditions, participation in public hearings, including providing all necessary logistical support, agenda public noticing, conducting public meetings, preparation of meeting minutes, maintaining correspondence and supporting the Architectural and Site Approval Committee. This function recovers the full amount of its costs through land use permit review fees, which are expected to generate more than \$1.7 million in revenue in FY 2006-07. The revenue includes an increase of \$60,000 as a result of raising the application processing fee.

04–Post Approval Monitoring (MANDATED): **\$88,828**

The Post Approval Monitoring function includes the equivalent of 1.0 FTE position and is responsible for activities that assure specified conditions of approval, as authorized by the Board of Supervisors, are implemented. Additional responsibilities include at a minimum, attending the Stanford Community Resource Group meetings and meeting with Stanford University Officers of the Department of Land and Buildings on a regular basis. Under the Public Resources Code Section 2710 et seq., the County is required to implement the provisions of the State's Surface Mining and Reclamation Act (SMARA). In the past this has involved the use of Planning Office staff through Post Approval Monitoring. This program is under review both internally and by the State Mines and Geology Board, and will likely expand during FY 2006-07 to include additional staff within the Planning and Development Department. The Stanford General Use Permit is also a legal mandate, approved by the Board of Supervisors, which requires Post Approval Monitoring take place. Another important citation is Government Code Section 65104 that states that the "legislative body (County) shall provide the funds equipment, and accommodations necessary or appropriate for the work of the planning agency."

05–Zoning Investigation (MANDATED): **\$249,652**

The Zoning Investigation function includes the equivalent of 5.5 FTE positions and is responsible for investigating compliance with the codes and standards required by State law and implemented by local ordinances, particularly the Zoning Ordinance. Appropriate action to abate violations may include field inspections, letters to owners, meeting with owners, follow-up inspections, issuance of citations and advising District Attorney throughout court hearings as to the resolution of criminal cases. Zoning investigation also includes reviewing, revoking and modifying projects going to the Planning Commission and work with other agencies on joint enforcement issues as well as enforcing the abandoned vehicle program on private parcels. California Government Code Section 65800 establishes the broad authority of counties related to planning, and County Ordinance Code Section A33-22 states that “the Planning Director shall be responsible for enforcing all zoning ordinances.” Therefore, the Board of Supervisors relies on the Planning and Development Department to establish a budget that meets the mandated functions, including zoning investigations. The Zoning investigation function is performed by three full-time County staff and a half-time contract employee. The other hours reported represent hours by various staff billed to the zoning investigation function.

06–Project/Program Implementation (MANDATED): **\$174,750**

The Project/Program Implementation function includes the equivalent of 2.6 FTE positions and performs all work related to the preparation, development and maintenance of the General Plan and County Ordinances, which are mandated by State law and County code. This area also includes the preparation of Board directed special projects including the Water Collaborative, Riparian Ordinance, Heritage Preservation Ordinance and Inventory, Urban Pockets, Coyote Valley Specific Plan, and the Stanford Special Conservation Zoning Ordinance. In addition, all Board and Housing, Land Use Environment and Transportation Committee referrals are included in this category. A technical opinion from the Chief Planning Officer is required according to Section A33-23 of the County Ordinance Code related to planning.

The Department has recently instituted a Comprehensive Planning fee. This fee became possible when Assembly Bill 2936 (Aroner) amended Section 66014 of the Government Code (The Mitigation Fee Act). This amendment effectively authorizes counties to “include costs reasonably necessary to prepare and revise the plans and policies that a local agency is required to adopt before it can make any necessary findings and determinations.” In other words, a local jurisdictions planning documents, including general plans, special area plans, implementing ordinances and formally adopted guidelines, serve as the basis for land use, development, and building permit approvals, and as such, their adequacy must be maintained as a prerequisite for permit issuance. Chief among these are the General Plan.

Pursuant to this code, the Planning Office established a fee, effective July 24, 2006, that charges 0.00074 on the construction value of building permits. It is anticipated the fee will generate \$102,000 in revenue in FY 2006-07. The cumulative revenue generated from this proposed fee is estimated to be over \$1.53 million over 15 years based on existing assumptions, trends and rates, which would cover 50 percent of the estimated cost of funding comprehensive planning functions.

07-Commission Support (MANDATED): **\$101,714**

The Commission Support function includes staff related activities associated with the Planning Commission, the Historical Heritage Commission, the Airport Land Use Commission, the Local Agency Formation Commission, the San Martin Planning Advisory Committee, and the South County Joint Planning Advisory Committee. Typical duties include providing all necessary logistical support, agenda public noticing, undertaking studies, preparation of staff reports/conditions of approval, conducting public meetings, preparation of meeting minutes, and maintaining correspondence. While the level of support and seeking of reimbursement by the Planning Office for services provided may be subject to judgment, the County Ordinance Code requires that the Chief Planning Officer provide opinions to the Board of Supervisors. This function is provided by the equivalent of 2.4 FTE positions.

08-Williamson Act (MANDATED): **\$102,023**

Planning and Development staff are responsible for Williamson Act contract and Open Space Easement compliance review when land development is proposed on restricted parcels. This entails a Compatible Use Determination or enhanced design review to ensure that the proposal is both compatible with and incidental to the agricultural or open space use of the parcel. In addition, staff is responsible for monitoring and enforcing Williamson Act contracts and Open Space Easements to ensure that there is no material breach of contract. Staff also evaluates applications for new Williamson Act contracts and Open Space Easements, and petitions for contract cancellation and abandonment, and provides a recommendation to the Board of Supervisors.

On June 13, 2006, the Board of Supervisors adopted a resolution establishing fees for services related to Williamson Act contracts and augmented the FY 2006-07 Adopted Budget to include a Planner III assigned to activities related to the Williamson Act. It is anticipated that the Department will receive \$121,874 in revenue.

09-Fire Marshal (MANDATED): **\$1,279,346**

The California Health and Safety Code gives the Fire Marshal the authority to enforce building standards relating to fire and panic safety and other regulations of the State Fire Marshal to the chief of the city or county fire department or fire protection district. State Law requires the County to adopt the California Fire Code, which it has in Section A33-40 to A33-64 of the County Ordinance. The County enforces these regulations in the unincorporated areas through a contract with the Central Fire Protection District (CFPD) for staffing. The cooperative agreement with the CFPD also provides for fire code inspection of County owned buildings. The Board of Supervisors renewed this agreement effective July 1, 2004 through June 30, 2009. The agreement requires the CFPD to provide Fire Marshal services for private development, County capital projects and fire code inspections in both County owned and private facilities in unincorporated Santa Clara County outside of the jurisdiction of either a city fire department or fire district. The amount of the contract with the CFPD in FY 2006-07 is \$1,173,695. The agreement requires the County to provide adequate office space, services and supplies, and 1.0 FTE position to support the program. The contract is under review for some modification. Reimbursement for Fire Marshal services for private land development, code permits and fire code inspections, and building plans are obtained through permit fees. In FY 2006-07, these fees are expected to generate \$320,000 in revenue.

10–Engineering Plan Check (MANDATED): **\$323,827**

The Engineering Plan Check function includes the equivalent of 4.5 FTE positions and is responsible for the review of grading, street improvements, and water system plans. Such review is specifically mandated in the County Ordinance Code. The various ordinances do not specify timelines by which plans must be reviewed, thus suggesting that the rate of review is subject to review and revision. The Department reports that the public expectation regarding the completion of these reviews is four weeks and that it is important to meet reasonable customer service expectations, since the Department seeks to recover its costs through fees. In FY 2006-07, fees generated from the Engineering Plan Check function are expected to amount to \$320,000.

11–Grading Violation Investigations (MANDATED): **\$27,268**

The Grading Violation Investigation function includes the equivalent of 0.6 FTE position and is responsible for the investigation of grading violations. The various sections of the County Ordinance Code cited by the Department establish the authority of the Land Development Office to investigate and follow-up on grading violations. However, the sections do not specifically direct that such investigations will take place regularly, in a manner similar to a police department or Sheriff's Department not being able to investigate every complaint that is made.

12–Private Development Inspections (MANDATED): **\$159,864**

The Private Development Inspection function includes the equivalent of 3.2 FTE positions and is responsible for inspections related to grading, street improvements, and water systems projects. This function recovers the full amount of its costs.

13–Monument Bond Check (MANDATED) **\$4000**

This function ensures that monuments included in maps are accurately drawn and marked on site in a manner consistent with Business and Professions Code Section 8772.

14–Map Check (MANDATED): **\$41,266**

The Map Check function includes the equivalent of 1.0 FTE position and is responsible for the review and approval of all record of surveys and corner records filed in the county, including those within any city jurisdictions. This function also includes the review and approval of all certificates of correction for records of surveys within the unincorporated area and all city jurisdictions, and all subdivision maps within the unincorporated area. In addition, the County Surveyor is required to index geographically all of the above three different documents, within all cities and unincorporated areas. All three documents require that the County Surveyor sign a statement that appears on each, that the document meets requirements of specific state codes prior to them being filed or recorded. This function recovers the full amount of its costs.

15–Subdivision Map (MANDATED): **\$26,395**

The Subdivision Map function includes the equivalent of 0.5 FTE position. The County Surveyor is responsible for the review and approval of all subdivision maps filed in the unincorporated area. Prior to these maps being filed with the County recorder, the County Surveyor is required to sign a statement on the map stating that the map has been examined; that the subdivision as shown is substantially the same as it appeared on the approved tentative map; that all provisions of the subdivision map act and local

ordinances (including conditions of approval) have been complied with; and that the map is technically correct.

16–Clean Water Program (MANDATED):

\$379,779

The Clean Water Program function includes the equivalent of 1.3 FTE positions, a portion of which is used to provide a staff liaison to the Pajaro River Watershed Flood Protection Act Staff Working Group and to the District I County Supervisor, as required by Assembly Bill 807. The Clean Water Program is an administrative function of the County government, which exists to maintain its compliance with a National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit and to promote storm water pollution prevention within that context. State and federal laws mandate county compliance with the NPDES Permit. The specific authority for the NPDES Permit comes from the Clean Water Act and the State of California Porter Cologne Act. The County Nonpoint Source Pollution ordinance makes storm water pollution unlawful and punishable. The 2001 NPDES Permit includes many new requirements of the County in both its own development projects (GSA, Roads, Parks, Special Projects) and in the review of private development projects. The potential penalties for non-compliance with NPDES Permit conditions are severe. Appendix A, items F (2) and F (3) of the 2001 NPDES Permit, refers to penalty provisions for violating NPDES permit conditions. Section F(2) states: "Any violation of the permit constitutes violation of the California Water Code and regulations adopted hereunder and the provisions of the Clean Water Act, and is the basis for enforcement action, permit termination, permit revocation and reissuance, denial of an application for permit reissuance; or a combination thereof." Section F (3) states: "The [Regional Water Quality Control] Board may impose administrative civil liability, may refer a discharger to the State Attorney General to seek civil monetary penalties, may seek injunctive relief or take other appropriate enforcement action as provided in the California Water Code or federal law for violation of Board orders." Administrative penalties may be levied up to \$25,000 per day of noncompliance. Penalties are also defined by Section 309 of the federal Clean Water Act (CWA). Penalties are also provided for in the California Water Code, in some cases exceeding the penalties provided for by the CWA. The NPS Program was originally funded by the General Fund, beginning in 1990.

From FY 1991-92 through FY 1996-97, the program was funded by a Nonpoint Source Fee, which was collected along with property tax assessments. One effect of Proposition 218 was to eliminate the collection of the Storm Water Fee, as of July 1, 1997. The County Clean Water Program operated from FY 1997-98 through FY 2001-02 from the remainder of this fee. Since then, it has been funded using General Fund resources. The funding for this program includes \$256,255 allocated for the cost of the various permits.

17–Surveying of County Projects (MANDATED):

\$35,456

The Surveying of County projects function includes the equivalent of 0.5 FTE position and is responsible for development review for other County Departments such as the County Fairgrounds Revitalization Project. While surveying of County projects is required, such activity would not be necessary if the Departments made a decision to no longer pursue the project. Therefore, while the function is mandated for the Planning and Development Department, the actual projects may be considered discretionary and if ceased would represent General Fund savings. The Department reports that the County Surveyor is mandated to survey County boundaries and other surveys as may

be required by the Board of Supervisors, according to California Government Code Section 27551 to 27564.

18–Building Plan Check (MANDATED): **\$593,343**

The Building Plan Check function includes the equivalent of 8.9 FTE positions and is responsible for the review of applications for building permits to ensure proposed structures meet land development and zoning conditions of approval, such as use, setback, height, geologic hazards, access and compliance with conditions of approval. Staff also determine other pertinent information related to city limits and pending annexations. The Department reports that the Senior and Associate Plan Check Engineers and Senior Building Inspectors are responsible for enforcing the California Building Code (for architectural, structural, accessibility, energy conservation, electrical, plumbing, mechanical and historical components) and local amendments thereto, by reviewing construction documents for compliance with the codes and ordinances.

Effective July 24, 2006, the Development Services Office established a scanning fee to cover the costs of scanning plans, permits and documents. State law requires the office to retain a record of plans and permits issued. It is standard industry practice to charge a fee for scanning plans and permits. The new scanning fee is expected to generate \$110,000 in revenue in FY 2006-07. An additional \$1.3 million has been budgeted for fees related to the review of building permit applications.

19–Building Inspection (MANDATED): **\$939,942**

The Building Inspection function includes the equivalent of 14.6 FTE positions. The Department reports that the Senior and Associate Plan Check Engineers and Senior Building Inspectors are responsible for enforcing the California Building Code (for architectural, structural, accessibility, energy conservation, electrical, plumbing, mechanical and historical components) and local amendments thereto, and other local ordinances (for planning, zoning, grading and fire) by observing construction in the field for compliance with the codes, ordinances and approved plans. The function recovers the full amount of its costs through building inspection fees, which are expected to generate \$1.7 million in revenue in FY 2006-07.

20–Code Enforcement Program (MANDATED): **\$95,536**

The Code Enforcement Program function includes the equivalent of 1.5 FTE position and is responsible for the enforcement of codes related to building and construction, per California Building Code Section 104.2 and County Ordinance Code Section C1-73.

21–Stanford University Plan Check (MANDATED): **\$107,248**

The Stanford University Plan Check function includes the equivalent of 1.7 FTE positions and is responsible for the services described under the Building Plan Check function above for Stanford University in a manner consistent with County Ordinance Code Section C1-C11. The function recovers the full amount of its costs through building inspection fees, which are expected to generate \$650,000 in revenue in FY 2006-07.

22–Stanford University Inspection (MANDATED): **\$172,363**

The Stanford University Inspection function includes the equivalent of 2.8 FTE positions and is responsible for the services described under the Building Inspection function

above for Stanford University in a manner consistent with County Ordinance Code Section C1-C11. The function recovers the full amount of its costs through building inspection fees, which are expected to generate \$900,000 in revenue in FY 2006-07.

23–Corner Records (MANDATED) **\$4,285**

Business and Professions Code Section 8773.2 requires the County Surveyor to examine corner records for compliance with other code requirements.

24–Record of Survey (MANDATED) **\$12,042**

Business and Professions Code Section 8766 requires the County Surveyor to examine records of survey records for accuracy and compliance with other code requirements within 20 days of its submission. The Business and Professions Code also requires that the examination that the County provides by “performed by, or under the direct supervision of, a licensed land surveyor or registered civil engineer.” The Department reports that the equivalent of 0.2 FTE position is budgeted for this function.

25–LAFCO Annexations (MANDATED): **\$20,108**

The Local Agency Formation Commission (LAFCO) Annexations function includes the equivalent of 0.3 FTE position. The Department reports that as a mandated function, the County Surveyor is responsible for the review and approval of all legal descriptions and plans that accompany all city conducted annexations, LAFCO conducted annexations, including special district changes. The County Surveyor is required to give written certification that these legal descriptions and plans are definite and certain before they can become final. The function recovers its costs through annexation review fees. In FY 2006-07, revenue from these fees is budgeted at \$40,000, of which \$19,126 has been allocated to LAFCO Annexations.

26–City Conducted Annexations (MANDATED): **\$21,945**

The City Conducted Annexations function includes the equivalent of 0.5 FTE position and is responsible for the encouraging and facilitation of unincorporated urban pockets into their surrounding cities. Government Code Section 56757 mandates the County Surveyor to ascertain boundaries of city-conducted annexations. The Department currently charges these costs to the Local Agency Formation Commission at year-end. The function recovers its costs through annexation review fees. In FY 2006-07, revenue from these fees is budgeted at \$40,000, of which \$20,874 has been allocated to City Conducted Annexations.

27–Monument Preservation (MANDATED): **\$19,270**

The Monument Preservation function includes the equivalent of 0.3 FTE position and is responsible for the administration of the survey monument fund. The costs to perform this function are fully recovered as described in the ordinance code, which also establishes the fund, and therefore mandates its administration.

28–Habitat Conservation Plan (MANDATED): **\$1,049,400**

In June 2001, the Board of Supervisors agreed to participate with other local agencies in the preparation of a multi-species Habitat Conservation Plan/Natural Communities Conservation Plan (HCP/NCCP) covering the southeastern portion of the County. To facilitate this process, the County entered into a memorandum of understanding with the City of San Jose, Santa Clara Valley Water District (SCVWD), Valley Transportation

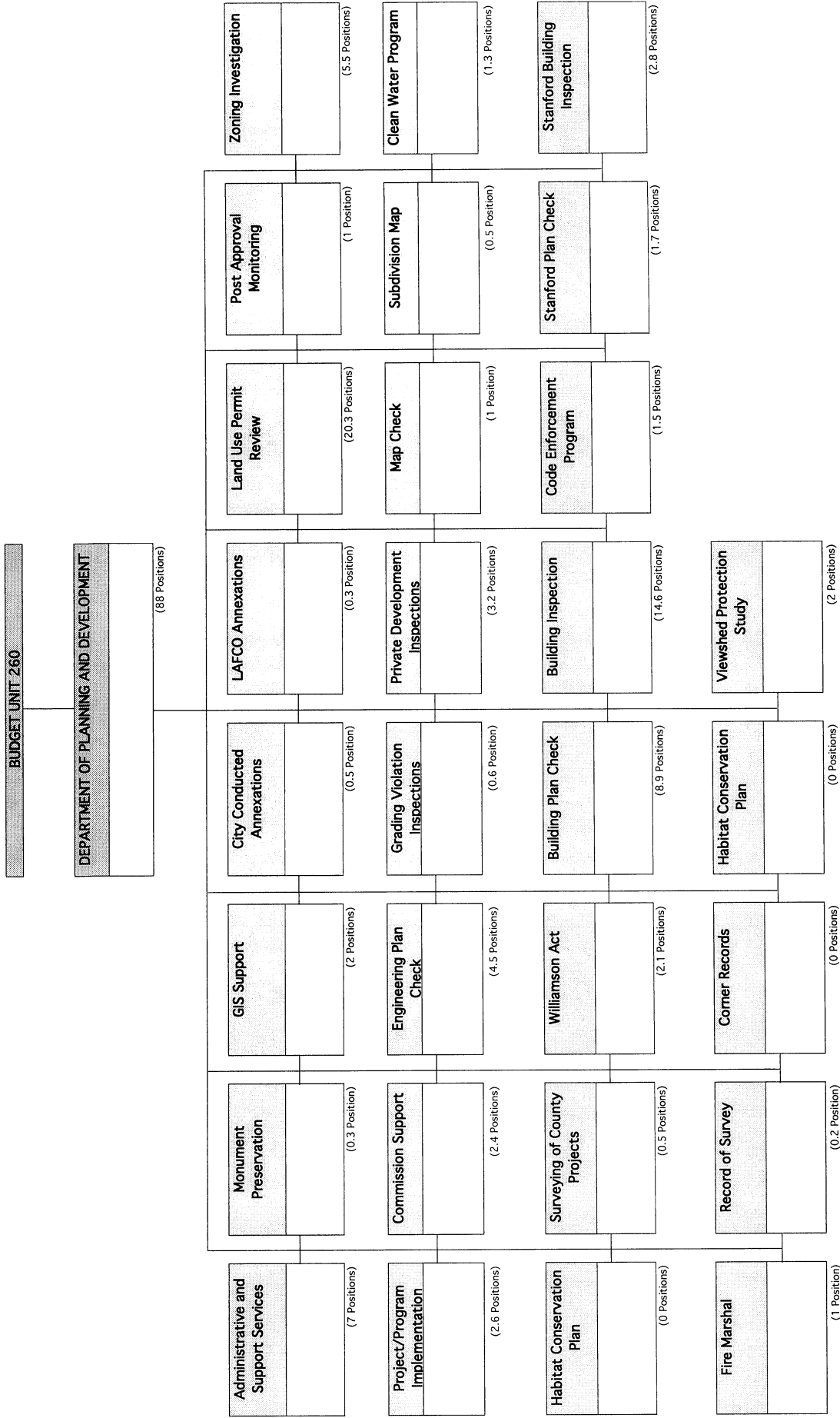
Authority (VTA). The Cities of Gilroy and Morgan Hill were later added as local partners. In addition, the County subsequently entered into a Planning Agreement with the aforementioned agencies as well as and the California Department of Fish and Game, and United States Fish and Wildlife Service.

The total cost of the HCP/NCCP is approximately \$3,300,000 plus the still to be determined costs of environmental review and obtaining state and federal permits. The costs are partially offset by three Federal Endangered Species Conservation Fund (Section 6) Planning Grants totaling \$923,248. The partners have applied for an additional grant amounting to \$315,000. The remaining costs are divided among the six local partners as follows: the City of San Jose, SCVWD, VTA and the County each are responsible for 20 percent of the local costs; and, the Cities of Gilroy and Morgan Hill are each responsible for 10 percent of the local costs.

Santa Clara County's current financial commitment is \$485,707, which represents 20 percent of the entire cost of the program once federal funding has been taken into account. There are additional costs for environmental review and permitting that have yet to be determined. In FY 2006-07, the Adopted Budget for the HCP/NCCP includes \$1,049,400 in expenditures and \$864,400 in revenues for a net cost of \$200,000.

Total Planning and Development FY 2006-07 Adopted Budget	\$13,079,238
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DEPARTMENT OF PLANNING AND DEVELOPMENT



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TO: Roger Mialocq, Management Audit Manager
FROM: Lizanne Reynolds, Deputy County Counsel *LR*
RE: Department of Planning and Development [Budget Unit 260]
DATE: August 4, 2006

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to Budget Unit 260 regarding the Department of Planning and Development. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by Planning and Development. This memo is intended to supplement our 2003 memo.

GIS

1. Legal Basis for Mandate

Although not expressly required by State law, preparing and maintaining accurate land use and zoning maps would likely be found to be an implied requirement of fulfilling the County's duties under the State Planning and Zoning Law, Gov. Code § 65000 *et seq.* However, such maps need not be maintained in GIS format. In fact, many jurisdictions still maintain paper maps.

With regard to the County's Williamson Act Program (discussed separately below), the State has required that the County provide various maps and data in GIS format for the purpose of verifying the accuracy of subvention payment requests submitted to the State. The Williamson Act program is discretionary, however.

Post Approval Monitoring

(a) General

1. Legal Basis for Mandate

This function includes monitoring projects for which the County has issued various permits and approvals for compliance with the various conditions and mitigation measures

imposed on those projects. Monitoring compliance with mitigation measures imposed pursuant to the California Environmental Quality Act ("CEQA"), Pub. Res. Code § 21000 *et seq.*, is mandated. (Pub. Res. Code § 21081.6; County Code § A33-29.1.) Although the County has the authority to monitor compliance with other types of conditions of approval, there generally is no legal mandate to do so. Exceptions to this general rule would include ensuring that conditions relating to stormwater protection in compliance with the County's NPDES permit are met.

3. Other Comments

The County has the legal authority to require landowners to pay fees covering the County's cost of monitoring compliance with mitigation measures and conditions of approval. (*See, e.g.*, County Code § A33-29.2)

(b) SMARA

1. Legal Basis for Mandate

The Surface Mining and Reclamation Act of 1975 ("SMARA"), Pub. Res. Code § 2170 *et seq.*, establishes requirements for the reclamation of surface mining operations. SMARA designates cities and counties as "lead agencies" for implementing the law. (Pub. Res. Code § 2728.) A lead agency's duties include reviewing and approving reclamation plans, inspecting mines at least once a year, reviewing and adjusting financial assurances for mine reclamation at least annually, and taking appropriate enforcement action.

SMARA gives the State Surface Mining and Geology Board ("SMGB") a lead agency oversight role. (Pub. Res. Code §§ 2755, 2774.4.) The SMGB may also assume the lead agency role within a jurisdiction if it finds that a city or county has failed to fulfill its statutory duties. (Pub. Res. Code § 2774.4.) However, the city or county would still retain land use authority over mines within its jurisdiction (*e.g.*, issuance of use permits). (Pub. Res. Code § 2715(f).)

In April 2006, the SMGB commenced procedures that could result in it assuming some or all of the County's lead agency duties. At present, the County is attempting to remedy all of the SMGB's concerns with the goal of retaining its lead agency status. The County could choose to allow the SMGB to assume the SMARA lead agency role.

2. Level or Requirement of Mandate

It is evident that the SMGB has significantly raised their standards and expectations for what constitutes sufficient lead agency compliance. These increased expectations and standards may result in substantial additional resources being required of the County if the County desires, and the SMGB allows the County, to maintain its lead agency role.

3. Other Comments

SMARA authorizes the County to charge the mines for the reasonable cost of their annual

inspections. (Pub. Res. Code § 2774(b).) We are evaluating whether it is possible to charge the mines for other costs associated with SMARA compliance.

Zoning Investigation/Grading Violation Investigations/Code Enforcement Program

These functions were generally addressed in our 2003 memo (pp. 4-5 (Planning); pp. 7-8 (Building/Development Services)) and our analysis remains unchanged.

Project/Program Implementation

(a) General

1. Legal Basis for Mandate

This function was generally addressed in our 2003 memo (pp. 1-2). Except for updating the Housing Element of the General Plan, most of the activities in this unit are discretionary and are based on policy directives from the Board of Supervisors. The Viewshed Protection Study function identified in the Department's memo is an example of a discretionary policy directive, and is not discussed separately in this memo.

3. Other Comments

As described in the Department's memo, the Board of Supervisors adopted a Comprehensive Planning Fee in May 2006. This new fee will provide partial cost recovery for activities such as reviewing and amending the General Plan, conducting special studies related to implementation of the General Plan, reviewing and amending the Zoning Ordinance to ensure it is consistent with the General Plan and meets the changing needs of the County, and reviewing, amending and adopting other types of ordinances related to development activities (*e.g.*, subdivisions, building site approvals, grading).

(b) Land Use Initiative

1. Legal Basis for Mandate

A privately-sponsored land use initiative has qualified to be placed on the November 2006 ballot. (*See* June 20, 2006 Board of Supervisors agenda, item #29.) If adopted, the Initiative would reenact certain existing General Plan provisions, revise other provisions, and adopt new provisions relating to a variety of land use issues, including subdivision and development of a significant percentage of land in the unincorporated area. The Initiative would also require the County to review all of its regulations and policies to determine whether they are consistent with the initiative and, if not, make conforming amendments.

Commission Support

1. Legal Basis for Mandate

Except for the Airport Land Use Commission, none of the commissions identified in the Department's analysis are County mandates pursuant to State or federal law. However, some commissions have developed into local mandates based on ordinances adopted by the Board of Supervisors.

As discussed in our 2003 memo (p. 3), State law does not require the County to establish a Planning Commission. The County has chosen to establish a Planning Commission and this is incorporated into the County Code. (§ A33-30 *et seq.*) So it is a local mandate that the Board of Supervisors could eliminate. However, the functions provided by the Planning Commission would still need to be provided by someone in the County's "planning agency." (Gov. Code § 65100.)

The Historical Heritage Commission is not mandated by State or federal law, but has been established by County ordinance. (§ A6-60 *et seq.*) Thus, it is a local mandate that the Board could eliminate.

The San Martin Planning Advisory Committee was established by official action of the Board of Supervisors. It is not codified in the County Code, but is part of the County's General Plan. Therefore, it is currently a local mandate that the Board could eliminate.

The South County Joint Planning Advisory Committee is a committee in which the County participates with other public agencies in South County, including the cities of Gilroy and Morgan Hill. We are not aware of any legal mandate requiring this participation.

LAFCO is a mandatory commission under State law, but is not a "County" commission. Rather, LAFCO is an independent entity to which the County provides certain services via contract. The only exception is certain services provided by the County Surveyor related to annexations, which are mandated. These services are discussed in the Department's memo under the "LAFCO Annexations" and "City Conducted Annexations" functions.

3. Other Comments

Since our 2003 memo, the ALUC has adopted fees to cover the cost of processing both mandatory and voluntary referrals. These fees do not cover all ALUC costs, such as staff time associated with amendments to the ALUC's Comprehensive Land Use Plan.

Williamson Act

1. Legal Basis for Mandate

As discussed in our 2003 memo, the County's participation in the Williamson Act is voluntary. In April-June 2006, the Board of Supervisors adopted comprehensive revisions to the County's Williamson Act, Gov. Code § 51200 *et seq.*, program. These revisions significantly increase the level of County oversight/administration of the program.

3. Other Comments

On June 13, 2006 the Board of Supervisors adopted new fees to recoup costs associated with implementing the components of the County's Williamson Act program that are landowner-generated. (*See* June 13, 2006 Board of Supervisors agenda, item #113.) The fees do not cover program costs.

City Conducted Annexations

3. Other Comments

To encourage cities to annex unincorporated pockets, the Board of Supervisors approved a one-time waiver of County fees (*e.g.*, to cover Surveyor costs) to process pocket annexations. The fee waiver is set to expire on January 1, 2007; however, there is a possibility that the Board may extend the fee waiver if State legislation extending the time period in which cities may annex pockets of less than 150 acres without voter approval is enacted.

HCP/NCCP

1. Legal Mandate

To facilitate the permitting of some VTA projects, in June 2001 the Board of Supervisors agreed to participate with other local agencies in the preparation of a multi-species Habitat Conservation Plan/Natural Communities Conservation Plan ("HCP/NCCP") covering the southeastern portion of the County. The County subsequently entered into an MOU with the City of San Jose, Santa Clara Valley Water District, and VTA for preparation of the HCP/NCCP. The Cities of Morgan Hill and Gilroy were later added as local partners in this effort.

The County's initial agreement to participate in the development of an HCP/NCCP was voluntary. However, the County has subsequently entered into a Planning Agreement with the U.S. Fish and Wildlife Service and California Department of Fish and Game and the other local partners to prepare the HCP/NCCP, and has also obtained federal grant monies. These actions arguably commit the County to completing the HCP/NCCP.

c: Val Alexeeff, Planning and Development Director
Ann Ravel

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MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Kathy Kretchmer, Deputy County Counsel 

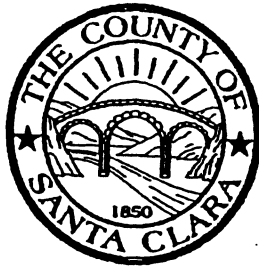
RE: Fire Marshal Mandates
Department of Agriculture and Resource Management

DATE: August 30, 2004

This memorandum supplements the Fiscal Year 2005 Mandate Narrative Revision prepared by the Department of Agriculture and Resource Management. It is specific to the Fire Marshal mandates.

The County has adopted by ordinance the California Fire Code and the Uniform Fire Code. Once adopted, the County is responsible for the enforcement of this ordinance in the unincorporated areas. The enforcement is provided through contract with the Santa Clara County Central Fire Protection District. The contract was recently renewed effective July 1, 2004.

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MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Lizanne Reynolds, Deputy County Counsel *LR*

RE: Legal Mandate Analysis: Environmental Resources Agency – Planning Office, Office of Development Services (Budget Unit 260)

DATE: September 15, 2003

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to the Planning Office and Office of Development Services departments of the Environmental Resources Agency (Budget Unit 260). Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by these departments.

I. Planning Office

The primary functions of the Planning Office are: (A) maintaining the County's General Plan; (B) reviewing and processing applications for land use/development permits and approvals; (C) providing staff support/analysis related to various Board of Supervisors directives; and (D) conducting monitoring and enforcement activities.

A. *Maintaining County General Plan*

1. Legal Basis for Mandate

State law requires the County to have a General Plan ("GP"), specifies the mandatory elements to be included in the GP, and establishes basic requirements for each element. (Gov. Code § 65300 *et seq.*) The County GP is the blueprint that guides development in the unincorporated area. All other land use regulations and actions (*e.g.*, zoning ordinances, building permits) must be consistent with the GP.

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Regarding amendments to the GP, state law only expressly requires local jurisdictions to periodically amend the Housing Element. (Gov. Code § 65588.) Per *Garat v. City of Riverside* (1991) 2 Cal.App.4th 259, 295-296, state law does not require local jurisdictions to keep any other aspects of their GPs current. So, aside from the Housing Element updates, other amendments to the County GP are discretionary. [note: State law is occasionally amended to require local jurisdictions to revise their GPs to incorporate some new aspect. These mandated amendments are usually of limited scope, however.]

2. Level or Requirement of Mandate, If Applicable

Except for the Housing Element of the GP, for which state law establishes detailed requirements (*Id.*, §§ 65580-65589.8), the County has broad discretion to determine the format, content and level of detail in the GP.

3. Cost Recovery Mechanisms

Gov. Code § 66014 was amended effective 1/1/03 to expressly authorize local jurisdictions to “include the costs reasonably necessary to prepare and revise the plans and policies that a local agency is required to adopt before it can make any necessary findings and determinations” in the fees they charge for various land use and building permits and approvals. Such fees “may not exceed the estimated reasonable cost of providing the service for which the fee is charged.” So the County could incorporate costs associated with legally required General Plan maintenance activities into the fee structure for permits for those types of development approvals for which a General Plan conformity analysis is a component.

B. Reviewing/processing applications for land use/development permits and approvals

As discussed in Part A, the County is required to have a GP to guide land use and development. Because GPs are usually policy documents, most, if not all, cities and counties have also adopted zoning ordinances, which contained more detailed regulations and requirements for land use and development. The adoption of a zoning ordinance is discretionary, however. (Gov. Code § 65850.) If a local jurisdiction adopts a zoning ordinance (as the County has), that ordinance must comply with state law. (Gov. Code § 65800.) The County completed a comprehensive revision of its zoning ordinance in the first quarter of 2003.

The County zoning ordinance is quite lengthy and establishes detailed standards and regulations governing development in the unincorporated area. Some land uses are allowed by right, while others require a variety of permits and approvals (e.g., use permit, special permit, architecture and site approval, design review). These permits and approvals typically involve review by staff in various County departments, and approval by either staff, the Architecture and Site Approval (“ASA”)

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Committee, the Planning Commission and/or the Board of Supervisors. There are also other County ordinances that apply to land use and development (*see* Title C).

1. Legal Basis for Mandate

The County is legally required to have a General Plan and has adopted fairly detailed land use regulations by ordinance. Therefore, it must process applications for land use and development approvals in accordance with the procedures set forth in the GP, zoning and other ordinances and in accordance with state law. The state planning and zoning law contains numerous procedural requirements that must be followed for individual permit applications. The requirements of the California Environmental Quality Act ("CEQA"), Pub. Res. Code § 21000 *et seq.*, also apply to discretionary land use approvals.

The Subdivision Map Act, Gov. Code § 66410 *et seq.*, also imposes detailed requirements on the County related to subdivisions, lot line adjustments and certificates of compliance. The Planning Office plays a major role in processing these applications.

2. Level or Requirement of Mandate, If Applicable

Theoretically, the County could employ a more minimalist approach to regulating development. It could amend its GP to contain the bare essentials required by state law and eliminate or severely pare down its zoning and other ordinances to eliminate the number of discretionary permits and approvals. This would likely involve allowing certain uses by right and prohibiting other uses. The County could also eliminate the ASA Committee and the Planning Commission. [note: There is no legal requirement to have a Planning Commission. The County could assign its responsibilities to the "planning agency." (Gov. Code §§ 65100-65101.)]

The County could also make subdivision more difficult (*e.g.*, establish larger minimum lot sizes), which could reduce the number of subdivision applications filed with and processed by County staff and the Board.

3. Cost Recovery Mechanisms

State law expressly authorizes the County to impose fees for processing development permits and approvals. (Gov. Code §§ 66016-66017.) These fees may not exceed the estimated reasonable cost of providing the service. The Board has adopted fees applicable to almost all types of land use and development approvals. CEQA also authorizes the County to collect reasonable fees for costs incurred complying with CEQA compliance (Pub. Res. Code § 21089(a)), and the Board has adopted such fees.

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C. Providing staff support/analysis for Board directives

Because land use and development and its related environmental impacts are often important issues to the public, the Board often directs the Planning Office to undertake special studies of various topics. These topics can vary widely (e.g., how to better protect important viewsheds; whether our riparian protection policies are adequate or should be improved; whether the Williamson Act is being adequately administered).

1. Legal Basis for Mandate

While these directives are sometimes related to legal mandates, they are generally discretionary in nature. There are exceptions, however. For example, the Board directive to evaluate the County's Williamson Act program involved a comprehensive review of whether the County was complying with the Act and, if not, how to bring the County into compliance.

2. Level or Requirement of Mandate, If Applicable

The level of mandate depends on the particular Board directive at issue.

3. Cost Recovery Mechanisms

Because these items generally are not applicant driven, there is no ability to collect fees for this work.

D. Monitoring/Enforcement Activities

1. Legal Basis for Mandate

Local jurisdictions generally have broad discretion regarding enforcement (or lack thereof) of laws and regulations that they administer. It is extremely rare for the state to impose mandatory enforcement duties on local jurisdictions to enforce land use/development laws and regulations.

The extent of the County's duty to ensure that mitigation measures adopted pursuant to CEQA is unclear. CEQA requires public agencies to ensure that mitigation measures are made enforceable through permit conditions and other means (Pub. Res. Code § 21081.6), but does not expressly address whether a public agency must take any further action if the developer fails to comply with the conditions. An environmental group sued Monterey County over this issue a few years ago, but the County agreed to start enforcing mitigation measures and the case was settled before it went to trial.

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2. Level or Requirement of Mandate, If Applicable

If the County wholly refused to enforce the laws and regulations under its jurisdiction and serious, widespread land use/development violations went unabated, a member of the public might sue the County claiming abuse of discretion. Whether and under what conditions such a lawsuit would be successful are unclear. The County could also face a lawsuit similar to Monterey County if it blatantly failed to address situations where developers clearly were not complying with their CEQA mitigation measures.

3. Cost Recovery Mechanisms

The County Ordinance Code provides for certain fees for zoning ordinance violations (Zoning Ord. § 5.80.090), which the Board has adopted. The zoning ordinance was also recently amended to authorize courts to award enforcement costs to the County in civil suits brought to enforce the zoning ordinance. (*Id.*, § 5.80.100.)

E. Miscellaneous

1. ALUC Staff Support

The County is required by law to provide the Airport Land Use Commission ("ALUC") with "staff assistance." (Pub. Util. Code § 21671.5(c).) The type and level of staff assistance that is required is unclear. The examples provided in the statute are "the usual and necessary operating expenses" and "the mailing of notices and the keeping of minutes and necessary quarters, equipment, and supplies." (*Ibid.*)

The Planning Office currently provides planning staff support to the ALUC, which involves reviewing projects referred to the ALUC by the County and cities for consistency (or lack thereof) with the ALUC's comprehensive land use plan, preparation of staff reports analyzing such projects and other issues, and attending ALUC meetings. [*note: The County Counsel's Office, Clerk of the Board, and Roads and Airports Department also provide staff support to the ALUC.*]

State law allows ALUCs to adopt fees to cover the cost of processing project referrals. The County's ALUC has not yet adopted such fees; however, Planning Office staff has been coordinating an effort to develop a fee structure that will be presented to the ALUC for potential adoption in late-2003.

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2. HHC Staff Support

Planning Office staff also provide staff support to the Historical Heritage Commission ("HHC"), which is a commission established by the Board of Supervisors pursuant to Ordinance Code Division A6. There is no legal mandate for the County to have an HHC.

3. Williamson Act

The Williamson Act, Gov. Code § 51200 *et seq.*, allows local jurisdictions to enter into rolling 10-year contracts with property owners whereby the property owners agree to restrict the use of their lands to agricultural, open space, or recreational use in exchange for significant property tax reductions. The County has participated in this voluntary program for over 30 years, and there are over 3,000 existing contracts. Staff support for the Williamson Act program is provided by the Planning Office, Clerk of the Board, Assessor, Surveyor and County Counsel.

Participation in the Williamson Act program is voluntary. But once a jurisdiction enters into contracts with landowners, the jurisdiction is committed to the program for as long as the contracts are in place. If the County elected to stop participating in the Williamson Act program and issued notices of non-renewal for all contracts, it would take 10 years for the program to end.

The Williamson Act authorizes local jurisdictions to establish certain fees associated with implementing the Act. The Board has adopted fees for processing contract applications, but the current fee structure covers only a fraction of the cost of processing the applications. The County does not currently have any mechanism for recovering costs associated with monitoring and enforcing the contracts once the contracts are in place.

II. Office of Development Services

The primary functions of the Office of Development Services ("ODS") are: (A) reviewing and processing applications, plans and specifications for building permits and other development approvals (e.g., grading permits, subdivision maps); and (B) enforcing building and housing codes.

A. Reviewing/processing applications for building permits and other development approvals

1. Legal Basis for Mandate

With regard to building permits (which collectively refers to building, plumbing, electrical, and mechanical permits), state law requires the County to ensure that new construction complies with the various building codes adopted by the state and local jurisdictions. These mandatory duties include plan review, permit issuance, and inspections.

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The other types of development permits and applications that ODS processes include subdivisions, grading permits and various other applications submitted to the Planning Office. As discussed in Part I, the Subdivision Map Act imposes detailed requirements on the County related to subdivisions. The County Surveyor and engineering staff in ODS play a key role in processing subdivision applications.

The County has adopted an ordinance requiring grading permits for grading over a certain quantity. (Ord. Code § C12-400 *et seq.*) These applications must be processed by ODS staff, in conjunction with the Planning Office and other departments (*e.g.*, Environmental Health, Roads & Airports).

2. Level or Requirement of Mandate, If Applicable

As discussed in Part I, the County could make subdivision more difficult, thereby reducing the number of subdivision applications. The County could also restrict the scope of, or eliminate, its grading ordinance requirements; however, any such proposal would first require an evaluation of whether this could lead to a violation of the County's NPDES (stormwater discharge) permit.

3. Cost Recovery Mechanisms

State law (Gov. Code §§ 66016-66017, 66451.2; Health & Saf. Code § 19132.3) and the County Ordinance Code authorize the County to establish fees to cover the estimated reasonable cost of providing these services, and the Board has adopted such fees.

B. Enforcement

1. Legal Basis for Mandate

ODS enforces the building codes, housing code, and the grading ordinance. As discussed in Part I, local jurisdictions generally have broad discretion regarding enforcement (or lack thereof) of laws and regulations that they administer. It is extremely rare for the state to impose mandatory enforcement duties on local jurisdictions to enforce land use/development laws and regulations. This is generally true for building code and grading ordinance enforcement. But the state Housing Code requires the County Building Official to issue notices and orders for housing code violations related to "substandard" buildings (*i.e.*, buildings that pose an immediate health and safety threat). (Uniform Housing Code § 1101.2.)

2. Level or Requirement of Mandate, If Applicable

If ODS wholly refused to do code enforcement despite evidence of egregious violations, a

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member of the public might sue the County claiming abuse of discretion.

3. Cost Recovery Mechanisms

The various building codes incorporate a violation fee for building code violations. The existing flat-fee structure may provide full cost recovery in most cases, but probably not for complex cases that result in litigation. The criminal courts have sometimes ordered defendants to reimburse the County for its enforcement costs, but these cases rarely go to trial. The County does attempt to obtain enforcement cost reimbursement from violators through settlement agreements (civil and criminal).

C. Miscellaneous

1. LAFCO and City-Conducted Annexations

The County Surveyor's Office provides services to LAFCO and cities related to annexations. The County Surveyor has no legal mandate to do this work; rather, the work is done under contract to LAFCO and by fee to the cities.

2. Non-point Source Program

The ODS provides staff support for the County's Non-Point Source Program. This program is undertaken pursuant to the federal Clean Water Act and permits issued jointly to the County and other South Bay entities. There is no legal mandate, *per se*, to provide this staff support. But penalties for violating the County's permit are quite high (\$25,000/day).

3. Pajaro River Watershed Flood Prevention Authority

ODS provides some staff support for the Pajaro River Watershed Flood Prevention Authority, which was created pursuant to A.B. 807 (1999). The County is one of the designated local entities required to participate in the Authority. This participation includes a requirement to help fund the administrative costs associated with the Authority. There is no legal mandate to provide staff support to the Authority, but our understanding is that each participating entity provides some level of staff support to help control "outside" administrative costs.

c: W. T. Chow
Ann Miller Ravel

262 Department of Agriculture and Environmental Management

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Non-Mandated	1	135,807	2%	125,807	93%	1.0	2%
Mandated	9	4,621,544	71%	1,359,670	29%	38.5	71%
Admin/Support	-	1,745,802	27%	1,745,802	100%	14.5	27%
Total	<u>10</u>	<u>6,503,153</u>	<u>100%</u>	<u>3,231,279</u>	<u>50%</u>	<u>54.0</u>	<u>100%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=percent of total staffing

Departmental Description

The Food and Agriculture Code Section 2001 requires the County to have a Department of Agriculture. The Food and Agriculture Code Section 2002 mandates the County to place the Department of Agriculture under the control of the Agriculture Commissioner. With this mandate comes a variety of other duties and responsibilities that the County must perform. The County Department of Agriculture and Environmental Management (AEM) is entrusted with the mission of carrying out these mandates. The mission of AEM is to promote and protect the agricultural industry of the County and its environment, to ensure the health and safety of the County's citizens and to foster confidence and equity in the marketplace. This is accomplished through education and the fair and uniform enforcement of laws, regulations, and ordinances enacted by the people of the State of California and the County of Santa Clara. The AEM consists of General Fund and Non-General Fund divisions. The Non-General Fund divisions include the Department of Environmental Health (budget unit 261), Vector Control District (budget unit 411), Integrated Waste Management (cost center

1187), and the Weed Abatement Program (cost center 1188). The AEM operates four major General Fund Divisions: Agriculture, Weights and Measures, Animal Care and Control, and U.C. Cooperative Extension.

The Agriculture Division serves as the local enforcement authority for the California Department of Food and Agriculture, the California Department of Pesticide Regulation, and the California Structural Pest Control Board. The primary purpose and objective of this office is the promotion and protection of Santa Clara's agricultural industry, the environment, and local citizens. These functions protect the agricultural industry of the County and its environment from the spread of destructive pests, promote the safe and responsible use of pesticides in both urban and rural areas, and protect human health and the environment.

The Weights and Measures Division is responsible for consumer protection and merchant protection through the regulation of all weighing or measuring devices used in commercial transactions. This includes, but is not limited to, gas pumps, grocery store scales, propane meters, and water dispensers. Packaged goods are inspected for proper labeling and accurate quantity, scanners are tested for errors and overcharging, and oversee weighmasters.

The Division of Animal Care and Control is mandated under State laws and County ordinances to protect the public from diseased and vicious animals. They also provide adoption services for homeless animals. The division currently operates two main program elements – field services and shelter services - to promote a healthy animal population in the County.

The AEM Agency performs 10 distinct functions:

FY 2006-07 General Fund Budget by Program/Function

<u>Function</u>	<u>FY 2006-07 Adopted Budget</u>		<u>Departmental Revenue*</u>	<u>General Fund Subsidy</u>	<u>Percent</u>
	<u>Amount</u>	<u>Staffing</u>			
<i><u>Non-Mandated Activities</u></i>					
01 U.C. Cooperative Extension	<u>135,807</u>	<u>1.0</u>	<u>10,000</u>	<u>125,807</u>	<u>93%</u>
Subtotal	<u>135,807</u>	<u>1.0</u>	<u>10,000</u>	<u>125,807</u>	<u>93%</u>
<i><u>Mandated Activities</u></i>					
02 Pest Mgmt/ Control	696,021	7.0	652,460	43,561	6%
03 Pesticide Use Enforce.	1,237,372	8.0	968,167	269,205	22%
04 Pest Exclusion	515,572	4.7	420,942	94,630	18%
05 Various Agriculture	128,893	0.8	63,141	65,752	51%
06 Device Inspection	551,863	5.6	472,400	79,463	14%
07 Quantity Control Insp.	197,943	2.0	194,600	3,343	2%
08 Weights & Measures	41,964	0.4	25,100	16,864	40%
09 Animal Field Services	522,254	4.8	120,000	402,254	77%
10 Animal Shelter Services*	<u>729,662</u>	<u>5.2</u>	<u>345,064</u>	<u>384,598</u>	<u>53%</u>
Subtotal	<u>4,621,544</u>	<u>38.5</u>	<u>3,261,874</u>	<u>1,359,670</u>	<u>30%</u>
<i><u>Required</u></i>					
Admin/Support	<u>1,745,802</u>	<u>14.5</u>	<u>0</u>	<u>1,745,802</u>	<u>100.0%</u>
Total	<u>6,503,153</u>	<u>54.0</u>	<u>3,271,874</u>	<u>3,231,279</u>	<u>50%</u>
* Departmental Revenue for the Animal Shelter Services function includes \$182,064 of SB 90 Revenues for Animal Adoption pursuant to Chapter 752/98.					

Description of Programs and Functions

Administration and Support (REQUIRED): **\$1,745,802**

The administration and support function includes a Director of Agriculture and Environmental Management who is also the Agricultural Commissioner and the Sealer. Supporting the Director is an Administrative Services Manager, Information Systems Manager, Office Management Coordinator, Associate Management Analyst, Accountant and 8.5 clerical staff. These positions are responsible for oversight and management of the Department of Agriculture and Environmental Management and provide budgeting, accounting, information systems support, and clerical and administrative support to the Department. The direct services performed by the Department of Agriculture and Environmental Management are mandated. Consequently, the County must also provide adequate administrative oversight and support services to fulfill these mandates. The amount of staff and other resources

necessary to provide an 'adequate' level of funding is subject to determination by the Board of Supervisors pursuant to Government Code Sections 29063 and 29088.

NON-MANDATED PROGRAMS AND FUNCTIONS

01 – University of California Cooperative Extension (NON-MANDATED): \$135,807
The Department of Agriculture and Environmental Management includes 1.0 FTE authorized clerical support position for the University of California Cooperative Extension (UCCE) as part of a cooperative partnership. Although the entire program was recommended for deletion by County Administration in FY 2005, the Board restored the FY 2005 program at \$295,917, which included \$175,917 one-time funding for rent and moving costs, while the UCCE provided educational services valued at approximately \$1.2 million to the program. The Department took action to move the program from a rented facility to a County owned facility at the Berger Drive Complex, to reduce the on-going cost of the program. The program was able to obtain commitments for donations totaling \$40,000; however, a total of \$8,000 was received. This brings the net FY 2005 cost to the General Fund to \$287,917. The Board of Supervisors stipulated that this funding would be for FY 2005 only, and the program would be required to find private contributions and donations to cover the full county cost of the program in FY 2006. The County General Fund provided \$123,115 in FY 2006, with no private contributions or donations received during the fiscal year.

Services offered by the program include education on nutrition, diet, health and food safety to low-income families and the elderly. Also offered is technical assistance in science and economic literacy and facilitation, 4-H services, and services learning to youth and family community-based agencies. The public can receive information on gardening and integrated pest management as well as education on proper watershed management techniques in open space rangeland.

MANDATED PROGRAMS AND FUNCTIONS

02 – Pest Management Control (MANDATED): \$696,021
 The Pest Management/Control function includes 7.0 authorized positions and is responsible for identifying insects, plant diseases, and other maladies of plants and making recommendations for their control. Approximately 4.7 of the authorized positions are dedicated to the County contract with the State (fully reimbursable) for the Glassy-winged Sharpshooter. The County also offers the public cost-recovery service programs such as the Certified Weed-Free Forage Program to enhance growers' marketing opportunities. This function is performed in accordance with F&A Code Sections 2001, 2274, 2276, 2278, 5101, 5205, 5253, 5403, 5571, 6022, 6024, and GC 25842, and F&G Code Section 3801.5.

03 – Pesticide Use Enforcement (MANDATED): \$1,237,372
 The Pesticide Use Enforcement function includes 8.0 authorized positions and is responsible for regulating the use of pesticides by pest control companies, agricultural operations and other pesticide handlers. The Department enforces laws and regulations

Management Audit Division

pertaining to pesticides and their use, storage, disposal, environmental impacts, and effects on the health and safety of employees and the general public. The regulatory service is designed to ensure the legal and responsible use of pesticides and to prevent the introduction, establishment, and spread of destructive insects, plant diseases and weeds. Staff Biologists monitor pesticide applications to ensure they are performed in a safe and effective manner and that worker safety requirements are followed. The Department inspects application equipment, pesticide storage sites, employee training documents and business use records, and investigates complaints and pesticide-related illnesses. The Department performs this function in accordance with F&A Code Sections 2001, 2274, 2276, 2278, 2281, 11501, 11501.5, 11503, 11731-11741, 11761, 11791, 11792, 12002, 12031, 12052, 12671, 12976, 12977, 12982, 14004, 14006.5, and CA Code of Regulations; Title 3.

04 – Pest Exclusion (MANDATED):**\$515,572**

The Pest Exclusion function includes 4.7 authorized positions and is responsible for inspecting all incoming and outgoing shipments of agricultural products and other plant material for the presence of quarantined pests. The Department also certifies industry and homeowner plant and produce shipments destined to other states and countries. Staff Biologists inspect plants and produce entering California at various county locations, mail facilities, San Jose International Airport (SJO), and nurseries. Pest Exclusion is provided in accordance with F&A Code Sections 403, 2001, 2274, 2281, 5101, 5102, 5205, 5253, 5305, 5701, 5721, 5741, 6341, 6401, 6501, 6921, 7205, 7531, 7571, 7601, and CA Code of Regulations Title 3.

Funding for Pest Exclusion is provided through High-Risk Pest Exclusion Programs and Sudden Oak Death Programs that operate under contractual obligations through the State contracts. If the County declined the contract, plant shipments would not be inspected for serious agricultural pests upon entry to the county. Pests, if established, would necessitate eradication and control measures according to state protocols.

05 – Various Agricultural (MANDATED):**\$128,893**

The Agricultural function includes 0.8 authorized positions responsible for conducting a variety of other regulatory and service functions required by California law or authorized by county ordinances. These include enforcement of the County Apiary Ordinance pertaining to commercial beekeepers. The Department also enforces laws and regulations relating to Pest Detection, Pest Eradication, Seed Inspection, Nursery Inspection, Fruit and Vegetable Quality Control, Egg Quality Control, and provides Crop Statistics. These functions and their associated mandates are described in further detail below:

Pest detection services include placement and servicing of insect traps and surveys to detect exotic pests such as Medfly, Apple Maggot and Japanese Beetle. Early detection and eradication protect California's agriculture industry and home gardens by reducing the amount of pesticides used and the cost to the consumer. This function is provided in accordance with F&A Code Section 403, 2001, 2274, 2281, 5253 and 6024.

Pest eradication is intended to eliminate certain pests with particularly destructive potential to agriculture, timber, landscape plantings, and natural habitats throughout

the country. This is provided in accordance with F&A Code Sections 2001, 2274, 2281, 5253, 5305, 5322, 5403, 5763 and California Code of Regulations; Title 3, Sections 3586 and 3591.

Seed Inspection includes inspecting seed commodities and operating an inspection program at companies that process and package agricultural and vegetable seeds. This is fully funded by the State and performed in accordance with F&A Code Sections 2001, 2281, 7531, 52282, 52285, 52361, 52421, 52901, and CA Code of Regulations; Title 3.

Nursery Inspection is provided in accordance with F&A Code Sections 2001, 2281, 5101, 6902, 6903, 6904, 53361, and CA Code of Regulations; Title 3. Production nurseries are inspected for pests and diseases. The State has entered into a contract with the County that fully reimburses the cost to inspect these producers.

Fruit and Vegetable Quality Control involves the inspection of wholesale produce to enforce standards for quality, maturity and container labeling. The County certifies agricultural producers and regulates Farmers' Markets and organic producers through its Direct Marketing program. This function is provided in accordance with F&A Code Sections 2001, 2281, 29441, 29446, 42791, 42822, 42941, and CA Code of Regulations; Title 3.

Egg Quality Control includes inspection of eggs at production for size requirements, cleanliness, and a variety of internal and external defects including shell fractures and the presence of bacteria. Investigations of consumer complaints concerning retail eggs are performed as needed. This function is provided in accordance with F&A Code Sections 2001, 2281, 27561, 27562, 27563, 27631, and CA Code of Regulations; Title 3.

Apiary Inspection is provided in accordance with F&A Code Sections 2001, 2281, 5253, 29021, 29154, and CA Code of Regulations; Title 3. Biologists collect annual apiary registration information and fees and enforce local ordinances based upon citizen complaints. Funding is provided through beekeeper registration fees.

Crop Statistics are compiled and published annually for use by governmental agencies, the agricultural industry and other interested parties. This function is provided in accordance with F&A Code Sections 406, 2001, 2272, and 2279. Revenue is provided through sales of the crop report to private business interests.

06 – Device Inspection (MANDATED):

\$551,863

The Device Inspection function includes 5.58 authorized positions and is responsible for inspecting and testing various commercial devices including scales, gasoline pumps, taximeters, liquefied petroleum gas dispensers and electric meters. Protection of both buyers and sellers is accomplished by checking to see that commercial weighing and measuring equipment and practices are accurate and correct. By inspecting different types of devices such as grocery scales, gasoline pumps, taximeters, mobile home electric and water meters, and fuel vapor meters consumers are ensured to get what they pay for. Truck scales and other business devices are inspected as well. Price scanning equipment is inspected for consistency with marked and advertised prices in grocery, department and other retail stores. Most inspections are performed annually,

but less frequent inspections are performed on those with good compliance histories. Device inspection fees are authorized by State law. This function is performed in accordance with B&P Code Sections 12013, 12015, 12103.5, 12206, 12209, 12540, 12723, and CA Code of Regulations; Title 4.

07 - Quantity Control Inspection (MANDATED): **\$197,943**

The Quantity Control Inspection function includes 2.00 authorized positions and is responsible for the inspection of packaged commodities to ensure they contain the stated weight, measure or count. Inspections are performed on a complaint basis and the County works with the State and other counties on multi-jurisdictional investigations. State law also provides the authority to regulate price verifications systems (scanners) in business locations. Businesses with scanners or price lookup systems are required to register annually. This function is performed in accordance with B&P Code Sections 12013, 12015, 12024.12, 12025.5, 12027, 12103.5, 12211, 12540, 12609, and 12736.

08 – Various Weights & Measures (MANDATED): **\$41,964**

The Weights & Measures includes an additional 0.42 authorized positions that is responsible for petroleum inspection, weighmaster inspection, and administering service agency programs.

Petroleum Inspection. The County, in partnership with the California Division of Measurement Standards, inspects motor fuel for quality, proper octane, and contamination. The quality of other products such as brake fluid, motor oil, and anti-freeze is also checked. Product labeling, fuel dispenser labeling, and gasoline price signs are regulated as well. This function is performed in accordance with B&P Code Sections 12013, 12013.5, 12015, 12027, 12103.5, 12206, 12209, 12211, 12609, 12723, 12736, 13531, 13590, 13591, 13596, and 13730.

Weighmaster Inspection. Many materials ranging from concrete to agricultural commodities are sold in large bulk quantities. These products are sold or bought by certified weights. This program both prescribes the manner in which many of these commodities are sold and the method by which records of the quantities are recorded and maintained. The company that ascertains the quantity must be licensed by the California Division of Measurement Standards as a Weighmaster, thus, assuring an accurate measurement. This function is performed in accordance with B&P Code Sections 12013, 12015, 12027, 12103.5, 12209, 12717, 12723, 12735, and 13730.

Service Agency Program is performed in accordance with B&P Code Sections 12013, 12015, 12027, 12103.5, 12209, 12540 and CA Code of Regulations; Title 4.

09 – Animal-Field Services (MANDATED): **\$522,254**

The Field Services function includes 4.8 authorized positions responsible for licensing and impounding stray animals to help prevent and control rabies. This function enables them to control “potentially dangerous” or “vicious” dogs for public safety and protection of livestock. This function is performed in accordance with H&S Code

121690, CA Code of Regulation 2606, F&A Code 31105, 31601, 31621, 31641 and Penal Code 597f, 597.1, and 599aa.

10 – Animal-Shelter Services (MANDATED): **\$729,662**

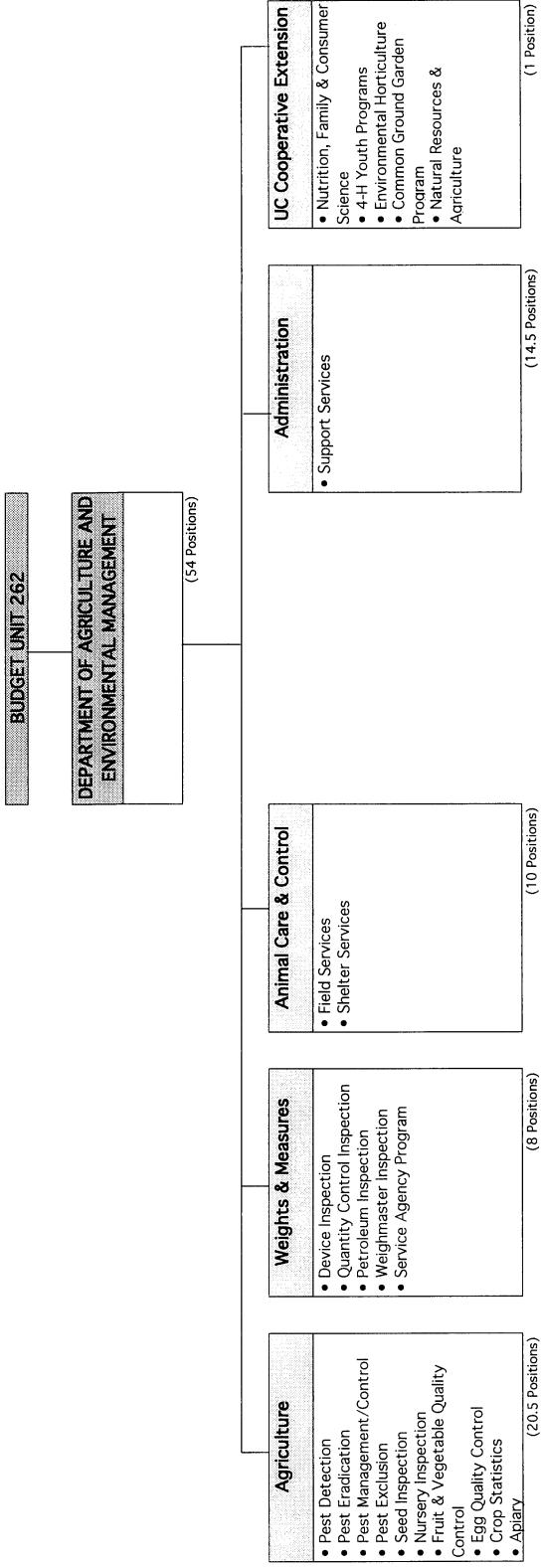
The Shelter Services function includes 5.2 authorized positions responsible for caring for impounded animals that are sick or injured. The State mandates that these animals receive proper care, including shelter and medical care, until the animal is either retrieved by its owner or is humanely destroyed. This function is provided in accordance with PC 597.1 and 597f, F&A Code 31105, 31251, 31253, 32001, 32003 and H&S Code 1920.

Animal Field and Shelter services enable the county to meet two primary mandates – to control rabies and provide shelter and medical care to impounded animals. The Department of Agriculture and Environmental Management has four Animal Control Officers who are responsible for providing these services to the 104,280 residents of the unincorporated area of Santa Clara County, or 26,070 residents per Animal Control Officer.

The County receives SB 90 revenue from the State pursuant to Chapter 752/98 for Animal Adoption. In FY 2006-07 this SB 90 revenue is estimated to total \$182,064.

Total Agriculture & Environ Management FY 2006-07 Adopted Budget	\$6,503,153
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DEPARTMENT OF AGRICULTURE AND ENVIRONMENTAL MANAGEMENT



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MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: *for* Kathy Kretchmer, Deputy County Counsel *Bob Campbell*

RE: Department of Agriculture and Environmental Management Mandate Analysis,
Budget Unit 262

DATE: August 1, 2006

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written update to the analysis of the legal mandates applicable to Budget Unit 262 regarding the Department of Agriculture and Environmental Management.

The analysis remains the same as of today's date with one change. This change is to department organization only. The Office of the Fire Marshal no longer resides within the Department of Agriculture and Environmental Management. The Fire Marshal mandates will be updated through the Planning and Development Department. The mandates for the remaining functions within the Department of Agriculture and Environmental Management have not changed.

c: Greg Van Wassenhove
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MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Kathy Kretchmer, Deputy County Counsel 

RE: Revised Mandates of the Department of Agriculture and Resource Management

DATE: September 22, 2003

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to the Department of Agriculture and Resource Management. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the Department.

Agriculture - General

1. Legal Basis for Mandate: Food and Agriculture Code sections 2001, 2002, 2281.
2. Level of Mandate: Establishes the County Department of Agriculture, establishes that the Department is under the Agriculture Commissioner, establishes enforcement responsibilities.

Agriculture - Pest Management Control

1. Legal Basis for Mandates: Food and Agriculture Code sections 2272 (annual report on agriculture and the eradication of pests); 2274 (mandate to learn about pests); 2276 (consult with US Dept of Agriculture and other officials); 5101 (enforce all laws preventing the spread of pests); 5253 (provide notice of the possible presence of pests); 5401 et seq. (abate public nuisances involving pests); 5571 (report nuisances to the DA); 6021 et seq. (suppression of field rodents carrying disease).
2. Optional Duties: Government Code section 25842 (Board of Supervisors may provide for control/destruction of wild animals, noxious weeds, plant diseases, some insects).

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Re: Mandate Analysis
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3. Comment: Government Code 65331 referred to on Department chart has been repealed

Pesticide Use Enforcement

1. Legal Basis for Mandate: Food and Agriculture Code sections 11501.5 (Commissioner to enforce Division 6. Pest Control Operations which includes registration of pest control providers and advisors, enforcing violations); 12982 (Commissioner to enforce provisions of Article 10.5, Chapter 2, Division 7 on Pesticides and Worker Safety); 14004 (Commissioner to enforce Chapter 3, Division 7 on Restricted Materials)

2. Comment: Government Code 65331 referenced in the Department chart has been repealed.

Pest Exclusion

1. Legal Basis for Mandate: Food and Agriculture Code sections 403 (prevent introduction of pests and noxious plants); 5024 (inspections of quarantined areas); 5253 (provide notice of possible presence of pests); 6401 (inspections if quarantine in place); 7571 (inspect seed cleanings and processings); 7601 (permit portable seed cleaners).

2. Comment: Food and Agriculture Code section 7511 referenced in the Department chart does not exist, and section 7511 pertains to the optional adoption of regulations.

Pest Detection

1. Legal Basis for Mandate: Food and Agriculture Code sections 2274 (mandate to learn about pests); 5253 (disseminate information).

2. Comment: Food and Agriculture Code section 5243 referenced in the Department chart does not exist.

Pest Eradication

1. Legal Basis for Mandate: Food and Agriculture Code sections 2272 (annual report); 2274 (mandate to learn about pests); 5401 et seq. (abate public nuisances involving pests); 5253 (disseminate information); 5301 et seq. (quarantine procedures as necessary).

2. Comment: Food and Agriculture section 5986 referenced in the Department chart does not exist.

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Seed Inspection

1. Legal Basis for Mandate: Food and Agriculture Code sections 52282 (Commissioner to enforce provisions of Chapter 2, Division 18 California Seed Law); 52285 (Enforcement provisions); 52361 (Seed inspections)

Nursery Inspection

1. Legal Basis for Mandate: Food and Agriculture Code sections 6903 (inspect nurseries), 6904 (issue orders regarding standards of cleanliness); 53361 (Commissioner to enforce provisions of Chapter 5, Division 18 Nursery Stock Grades and Standards).

Fruit and Vegetable Quality Control

1. Legal Basis for Mandate: Food and Agriculture Code sections 29441 (Commissioner to enforce provisions of Chapter 2, Division 13 on Honey); 29446 (Enforcement); 42651 (Commissioner to enforce Division 17 on Fruit, Nut & Vegetable Standards); 42822 (Enforcement).

2. Comment: Food and Agriculture Code section 42791 regarding the issuance of certificates of inspection compliance is not a mandate.

Egg Quality Control

1. Legal Basis for Mandate: Food and Agriculture Code section 27561 (Commissioner to enforce provisions of Chapter 1, Part 4, Division 12 on Eggs).

Apiary Inspections

1. Legal Basis for Mandate: Food and Agriculture Code section 29300 (Commissioner to enforce provisions of Chapter 1, Division 13 pertaining to Bees).

2. Other: Food and Agriculture Code sections 29115, 29161, 2924 referenced in the Department chart do not exist.

Crop Statistics

1. Legal Basis for Mandate: Food and Agriculture Code section 2272 (annual report) and 2279 (compile reports).

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Weights and Measures: Device Inspection, Quality Control Inspection, Petroleum Inspection

1. Legal Basis for Mandate: Business and Professions Code sections 12024 (Sealer to adopt rules to standardize measurements of wood sold for fuel), 12103.5 (State and County Sealer to enforce provisions of Division 5 pertaining to Weights and Measures), 12200 (There is in each county the office of county sealer of weights and measures).

Animal Care and Control

1. Legal Basis for Mandate: Business and Professions Code section 31683 (Instead of following state mandates, County may adopt its own program for the control of potentially dangerous dogs); Santa Clara County Ordinance Code sections B31-42, B31-43 (County provisions on registration and hearing process for potentially dangerous and vicious dogs); Penal Code section 597(f) (duty to take possession of abandoned or neglected animals, treatment); Food and Agriculture Code sections 31105 (impound dogs running at large, holding and disposition), 30503 (spay or neuter dogs); 31751.3 (spay or neuter cats); Health and Safety Code sections 121690 (a), (e) and (f) (licensing, animal pound and rabies control, and rabies vaccination program).

2. Other: Health and Safety Code section 1920 referenced in the Department chart does not exist.

Fire Marshal

1. Legal Basis for Mandate: No legal mandates were identified.

As the State Fire Marshal adopts and enforces building standards unless the county chooses to adopt and enforce substantially equivalent building standards for fire safety -there is no mandate for the County. Health and Safety Code sections 13143.1, 13143.2. If the County does adopt, it must enforce. Health and Safety Code section 13143.2(d). County may by ordinance adopt stricter standards than the California Building Standards Code. 13143.5. If an ordinance relating to fire and panic safety is adopted by the county, the enforcement shall be delegated to either the chief of the fire authority (a nonmandated position) or the **chief building official** of the county. 13143.5(f). Enforcement of building standards adopted by the State Fire Marshal relating to fire and panic safety in R-3 dwellings shall be enforced by the chief of the fire authority of the county (a nonmandated position) or the **chief building official** for the county. 13146(a). Other building standards and other regulations adopted by the State Fire Marshal are to be enforced by the chief of the county fire department (a non mandated position) or **fire protection district**. 13146(b). The State Fire Marshal enforces building standards of the State Fire Marshal in areas outside of cities and districts providing fire protection services. (So districts enforce in their areas, and the state enforces in unincorporated areas outside

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the districts.) 13146(c). Inspection of schools is done by district or the State Fire Marshall for areas outside districts. 13146.3.

263 Facilities Department

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Non-Mandated	8	9,294,344	8%	1,008,896	11%	18.7	7%
Mandated	14	93,735,122	87%	58,438,239	62%	219.2	81%
Admin/Support	-	<u>5,135,421</u>	<u>5%</u>	<u>4,399,421</u>	<u>86%</u>	<u>32.1</u>	<u>12%</u>
Total	<u>22</u>	<u>108,164,887</u>	<u>100%</u>	<u>63,846,556</u>	<u>59%</u>	<u>270.0</u>	<u>100%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=percent of total staffing

Departmental Description

Budget Unit 263 of the Facilities and Fleet Department (FAF) performs 22 functions, 14 of which are mandated by federal and State law and regulation and County ordinance. The Department includes both BU 263 (Facilities) and BU 135 (Fleet). FAF consists of three divisions: Intragovernmental Support Services, Building Operations and Capital Programs. Most units within FAF include a blend of mandated and non-mandated functions.

Intragovernmental Support Services (ISS) division includes three support organizations for the Facilities and Fleet Department: Fiscal, Information Technology, and Human Resources, and two county-wide support organizations: Property Management and Fleet Management. The Intragovernmental Support Services division provides services to other County agencies that are its clients. The Property Management unit has responsibility for property acquisition and disposal, manages all General Fund and some non-General Fund owned and leased properties, in addition to cafeteria contract management and Civic Center Parking Garage contract administration. The Fiscal unit provides fiscal and information support services for all of Facilities and Fleet, including budget coordination with the Office of Budget and Analysis and for all County agencies that are Department clients. The Human Resources unit supports both FAF and Procurement Departments. In addition, FAF also supports the Office of Emergency

Services and the Public Health Department Emergency Medical Services with emergency operations and logistics planning functions for disaster preparedness.

The Building Operations division maintains County owned and some leased buildings, parking lots and associated utilities infrastructure. Since the 2003 Mandate Study, Building Operations was reorganized. New responsibilities include the Utilities and Energy Conservation programs, the Morgan Hill Courthouse maintenance, and the maintenance care for the new Valley Health Center at Tully. Building Operations will also maintain facilities and grounds for the Valley Health Centers at Gilroy and Fair Oaks, and the Crime Laboratory upon completion of construction in FY 2009. The Health Clinics present new mandate challenges for Building Operations associated with the FY 2007 implementation of the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) standards.

The Capital Programs division manages the County's capital construction and major renovation programs for buildings and associated building utility infrastructure. Capital Programs currently manages over \$580 million in capital projects. These include two categories of projects: new construction, and renovation/life-cycle. The nine bond projects constitute the new construction capital projects. Major renovation and technically complex life cycle projects are also managed by the Capital Programs division.

BU 263 of the Facilities and Fleet Department performs 13 functions that are mandated by federal and State laws and regulations and County ordinances. Governing State laws and regulations are principally the California Labor Section 6400, which states: "Every employer shall furnish employment and a place of employment that is safe and healthful for the employees therein." The Department cites various sections of the California Health and Safety Code, such as Section 114140, which requires proper ventilation in dining facilities such as those provided in the County's correctional facilities. More generally, the Department's Building Operations Division, which is responsible for normal maintenance and cleaning of County facilities, and the Backlog and Lifecycle Infrastructure Investment programs, cites California Building Code mandates for periodic inspections and maintenance of County buildings and building systems. The California Building Code is a set of regulations established by a State commission empowered under the Health and Safety Code. Similar mandates are cited for the Capital Programs Division, which is responsible for managing construction projects, including renovation and alteration projects that constitute extraordinary maintenance to keep buildings in proper repair.

The Property Management Section of the Intragovernmental Support Services Division is responsible for property acquisition, disposal and negotiating and supervising leases of private property for County and other entities use. Property Management in its entirety does not appear to be a legally mandated function; however the functions it carries out have associated mandates. The previous mandate study argued that although there was no mandate for a separate Property Management department, specific functions performed by Property Management were mandated. Each of these functions needs to be considered separately. Government Code Sections 25515, 25520 and 54220 all describe legal requirements that the County must comply with when buying, selling or leasing County property. Given the necessity and taxpayer benefit of

coordinating real property transactions Countywide, the need for extensive interaction with the real estate industry, and specific knowledge about building systems design, the Department believes it is more efficient to operate Property Management as a centralized service function from within the Facilities and Fleet department.

FY 2006-07 General Fund Budget by Program/Function

<u>Function</u>	<u>FY 2006-07 Adopted Budget</u>		<u>Departmental Revenue</u>	<u>General Fund Subsidy</u>	<u>Percent</u>
	<u>Amount</u>	<u>Staffing</u>			
<i><u>Non-Mandated Activities</u></i>					
01 Reimb. Maint.-Client Depts.	706,673	3.0	706,673	0	0%
02 Energy Conservation*	0	0.0	0	0	0%
03 Parking Patrol	162,042	2.0	0	162,042	100%
04 Event Set-Up/Furn. Moves	35,000	0.5	0	35,000	100%
05 Property Mgt.-Lease Mgt.	300,992	1.9	1,762,218	(1,461,226)	(485%)
06 Cafeteria Contract Mgt.	67,546	0.3	0	67,546	100%
07 Capital Prog.-New Constr.	5,138,715	11.0**	2,933,181***	2,205,534	60%
08 Fuel Cell Energy Project	<u>2,883,376</u>	<u>0.0</u>	<u>2,883,376</u>	<u>0</u>	<u>0%</u>
Subtotal	9,294,344	18.7	8,285,448	1,008,896	11%
<i><u>Mandated Activities</u></i>					
09 Property Lease Payments	45,179,563	0.0	29,015,540	16,164,023	36%
10 Utilities	14,824,697	1.0	176,004	14,648,693	99%
11 Corrective Maintenance	8,606,650	61.5	721,558	7,885,092	92%
12 Preventive Maintenance	8,331,873	57.5	30,537	8,301,336	99%
13 Safety	430,000	3.0	0	430,000	100%
14 Environmental Compliance	140,000	1.0	0	140,000	100%
15 Lifecycle/Backlog—LIIP	5,000,000	12.0	2,259,844***	2,740,156	55%
16 Bldg. Clean/Pest Control	4,547,976	58.5	308,703	4,239,273	93%
17 Emergency Biohealth	68,803	0.5	0	68,803	100%
18 Landscp. Maint./Fire Prot.	608,667	7.0	0	608,667	100%
19 Capital Prog. Renovation	4,463,771*	10.9****	2,058,181***	2,405,590	60%
20 Prop. Acquis. & Disposit.	887,794	4.7	0	887,794	100%
21 Civic Center Garage	410,658	0.3	726,516	(315,858)	(87%)
22 Emergency Ops. Support	<u>234,670</u>	<u>1.3</u>	<u>0</u>	<u>234,670</u>	<u>100%</u>
Subtotal	93,735,122	219.2	35,296,883	58,438,239	62%
<i><u>Required</u></i>					
Admin/Support	<u>5,135,421</u>	<u>32.1</u>	<u>736,000</u>	<u>4,399,421</u>	<u>86%</u>
Total	<u>108,164,887</u>	<u>270.0</u>	<u>44,318,331</u>	<u>63,846,556</u>	<u>59%</u>
*Function reported by Department for purpose of reporting potential savings not achieved.					
**Staff required to manage \$56.7 million in construction projects, including projects budgeted in FY 2006-07, and projects budgeted in prior years, but still under construction.					
***General Fund money expended on Department salaries, services and supplies shown as revenue to avoid double-counting. Also includes \$875,000 from Morgan Hill in new construction.					
****Staff required to manage about \$32 million in renovation projects, including projects budgeted in FY 2006-07, and prior-year projects still under construction.					

Description of Programs and Functions

Administration and Support (REQUIRED):

\$5,135,421

The Administrative and Support function in the Facilities and Fleet Department includes the Department director and his support staff, as well as the managers of the three divisions of the Department and their support staff. This includes a portion of the former General Services Agency financial and information services staff that are now part of the Intragovernmental Support Services Division. BU 263 staff provides administration support for both BU 263 (Facilities) and BU 135 (Fleet) departments. A portion of the fiscal staff functions are considered mandated due to the combination of GASB 34 and SAP implementation requirements.

Some portion of the Fiscal administrative staff may be mandated as a result of new accounting standards. The combination of new accounting standards and SAP implementation has impacted fiscal staff functions regarding accounting methods, capital lease obligations and capital assets; such as fleet vehicles. The switch to direct method accounting requires additional support personnel. More time is required reconciling General Ledger balances to lease obligations, and other fund analysis activities. The majority of FAF fiscal staff support mandated functions but were not allocated to each functional area due to time constraints.

Building Operations reorganized in FY 2006 such that managerial and supervisory staff now have programmatic responsibilities in addition to supervisory responsibilities. Budget reductions of the previous three years have necessitated the addition of programmatic responsibilities to management positions. Also, Building Operations has added, (through the add-delete process) engineering and technical expertise to its staff because of the need for programmatic management of life cycle repair and replacement projects, on the spot engineering technical support, and the need to manage ever changing code regulations that drive new maintenance requirements and create new facility deficiencies. This was done in an effort to expedite work that would normally be delayed because of architectural or engineering design requirements. Given that Building Operations organizational structure doesn't match the categories for mandated and non-mandated functions, the allocation of staff is an approximation.

Finally the FAF Director and Manager of Intragovernmental Support Service also support mandated functions under SB 1732 Trial Court Facilities legislation. This legislation requires the County to transfer Court facility assets to the Courts.

Because the direct services performed by the Facilities Department are mandated, the County must also provide adequate administrative oversight and support services to fulfill these mandates. The amount of staff and other resources necessary to provide an "adequate" level of funding is subject to determination by the Board of Supervisors pursuant to Government Code Sections 29063 and 29088. That assessment should also consider the aforementioned functions cited by the Department as mandated functions carried out by administrative staff, which have not been separately costed out as functions by the Department in this analysis, and should also consider the revised status of managers and supervisors that have programmatic as well as supervisory responsibilities.

NON-MANDATED PROGRAMS AND FUNCTIONS

01 – Reimbursed Maintenance—Client Depts. (NON-MANDATED): \$706,673

Building Operations executes some small alteration and construction type projects paid for by non-General Fund agencies such as the Department of Roads and Airports, the County Library, Social Services, and the Courts, and some by General Fund departments out of their operating budgets. According to the Department, this work is fully revenue offset by the reimbursements received. The Department estimates that approximately 3.0 FTE crafts positions will carry out this function in FY 2007, based on the estimated funding for this function as a portion of the total budgeted reimbursement expected by the Department.

02 – Energy Conservation (NON-MANDATED): \$0

As a result of changes in Board Policy and State regulations, the Department had previously received funding to carry out energy conservation projects in various County facilities. Currently, in the FY 2007 Final Budget there are no funds devoted to Energy Conservation projects, and as a result a holistic energy conservation program does not exist and opportunities for long-term utilities cost savings are likely being missed.

However, the Facilities and Fleet Department implements the following State Codes and Board Policies when constructing new facilities, executing a backlog maintenance project, or performing routine day-to-day maintenance and repair operations:

- ✓ Title 24, Part 6, of the California Code of Regulations: California's Energy Efficiency Standards for Residential and Nonresidential Buildings establishes requirements for energy conservation for new facilities and replacement of existing building systems
- ✓ 7.10 Policy on Energy Efficiency Standards for new building designs, facility leases, equipment and exploration of solar energy and other renewable resources.
- ✓ 7.14 Green Building Policy

The codes and policies require staff to procure only energy efficient equipment and parts (i.e., components that are energy star rated, or that exceed California Title 24 by 10%), which are usually more costly. The cost of compliance with these Codes and policies are planned and budgeted as part of the specific capital, backlog, or repair project.

03 – Parking Patrol (NON-MANDATED): \$162,042

Parking Patrol issues parking passes to County employees, and patrols County parking lots to ticket illegally parked vehicles. According to the Department, State law prohibits directly crediting revenues from parking tickets back to the Parking Patrol budget, because it would provide an improper incentive to write tickets. Instead, the monies received are General Fund discretionary revenues. However, the Department estimates

that Parking Patrol tickets generate approximately \$195,000 in fine collections annually, which approximately offsets the cost of this function. Staffing for this function is 2.0 FTE positions.

04 – Event Set-Up/Furniture Moving (NON-MANDATED): **\$35,000**

The Custodial and Grounds Unit provides set-up of tables, chairs and other equipment for special events, and furniture moving for Departments within facilities. This function is not mandated, and has already been sharply reduced by previous budget reductions. Staffing equivalent to 0.5 positions is assigned to this function, and its cost was allocated based on that staffing as a percentage of the entire field staff.

05- Property Lease Management (NON-MANDATED): **\$300,992**

This function is carried out by the Property Management Section of the Intragovernmental Support Services Division with approximately 1.9 FTE positions. The Property Management unit has responsibility for negotiating and supervising leases of private property for County and other entities use.

Property Management has responsibility for managing over 115 leases covering 1,651,502 square feet of leased facilities. The department goal is to reduce the use of leased space countywide. Countywide space planning goals are established and managed by the department with approval of the County Executive. As such Property Management provides essential information to the County Executive on County department's space needs and requests; coordinates department moves from leased to County owned facilities; collects rent payments from County departments to use leased facilities; and remits these payments to the facility owner. In fact, the Section's costs are mostly offset by expenditure transfers it receives from other departments.

The Department considers the function of negotiating and supervising leases a mandated activity. As discussed later in this report, the Department bases this argument on the contention that contract law regarding obligations between property owners and the County, as a tenant, has equally severe penalties and should be considered on a par with other mandates imposed by the State or federal governments on the County. As noted in the latter discussion, County Counsel has not indicated its agreement with the Department's view.

There is no legal mandate for requiring lease management to be conducted by a separate, dedicated department, as opposed to decentralizing that function. The department argues that regardless of whether lease management is accomplished by each individual agency/department or a centralized property management section, there will be a requirement to provide funding for having staff to manage these leases. The department argues that having a centralized countywide property management section is financially more efficient than having multiple departments or agencies managing property. Having a centralized property management function also enables the County to have a centralized space planning system.

The risk of either eliminating or contracting out a centralized property management function is that the contractual obligations to landlords may be performed in violation of the lease agreements, less consistently, and with less knowledge of overall County goals. For example, decentralization could result in missed lease payments, resulting in

financial penalties, or in improperly maintained leased facilities. In addition, the ability to constantly review the significant lease appropriation and to balance the inevitable changes to payments and other financial responsibilities, due to repairs, common area maintenance charges, and lease adjustments and so on, would be lost.

06– Cafeteria Contract Management (NON-MANDATED): **\$67,546**

The Property Management Section of the Intragovernmental Support Services Division is responsible for cafeteria contract management. This is a non-mandated function. The County is not required to provide cafeteria services at County facilities. Previous mandate reports did not describe this function performed by Property Management.

07 – Capital Programs Division, New Construction (NON-MANDATED):

\$5,138,715

New construction projects managed by the Capital Programs Division are approved by the Board of Supervisors, either as a result of a need for facilities identified by the Board itself, or as a result of a request made by another County department. While the Department states that construction of new facilities is not itself mandated by law, the facilities may be needed to carry out mandated functions of the departments that will use them. However, the identification of which new facilities support mandated functions, and which do not, is beyond the scope of this report.

The FY 2007 budget allocated \$5,138,715 to this function. However, the 11 FTEs responsible for this function are currently overseeing new construction projects totaling about \$57.6 million, including the \$2.1 million budgeted in FY 2006-07, and amounts budgeted in previous years that are now being expended on multi-year construction projects. The 11 FTEs includes administrative and analyst staff, project managers and capital programs management. This function also includes \$105,000 in interest costs for the department.

08 – Fuel Cell Energy Project (NON-MANDATED): **\$2,883,376**

In September 2004, the Board of Supervisors approved an initiative to develop a pilot project using fuel cell technology to generate power for selected County facilities. This project is funded by a combination of federal grant monies, and funds received by the County in a legal settlement over energy costs that must be used for alternative energy projects. This function recognizes funds budgeted for this multi-year project in FY 2006-07.

MANDATED PROGRAMS AND FUNCTIONS

09 – Property Lease Payments (MANDATED): **\$45,179,563**

This function is carried out by the Property Management Section of the Intragovernmental Support Services Division. The Property Management unit has responsibility for negotiating and supervising leases of private property for County and other entities use. The costs reported here represents reimbursements provided to the Property Management Section by other departments who use leased space. The Property Management Section then uses these reimbursement funds to make lease payments on the facilities.

Property Management has responsibility for managing over 115 leases covering 1,651,502 square feet of leased facilities. The department considers the function of negotiating and supervising leases, including handling the lease payments, a mandated activity. The 115 leases managed by Property Management unit are contractual obligations between the landlord and the County of Santa Clara. Although leases can be terminated, in the opinion of the Department, there is a significant body of law that describes the nature of the contractual obligations between the owner of property assets and the tenants of that property. The County has contractual obligations both for monetary reimbursement and custodial stewardship relating to the use of landlords real property assets. The department argues that the function of ensuring appropriate reimbursement and stewardship to landlords is a mandated function given contract law. Litigation would likely result if the County were to abrogate responsibilities as defined in leases contracts. According to the Department, the risks entailed by failure to follow these leases, in terms of the potential financial penalties that could occur through litigation, are as great as the potential penalties from violating any State or federal laws or regulations that are specifically imposed on the County.

The Facilities Department is the only department that is arguing that contractual obligations constitute a legal mandate of the County. As stated by Department management in an e-mail to Management Audit Staff: "The County will incur a significant negative fiscal impact for early termination of leases. We will not incur the same penalties for terminating a service contract. In this respect the Board has more discretion with contracts for services."

County Counsel has not issued an opinion endorsing the Department's view. Given the wide variety of County obligations that are contractually based, including labor contracts, service contracts, construction contracts and others, the County Executive and the Board of Supervisors may want to direct County Counsel to issue a written analysis as to whether it believes certain types of contracts should receive primacy over other types of contracts as the Board and County Executive consider potential expenditure reductions, and whether the County needs to make further changes in its contracting processes as a result.

There is no specific mandate that the County lease properties for its functions. However, many of the functions carried out in these facilities are mandated by specific State, federal and local laws related to the specific programs or services carried out in leased facilities, while other functions are not mandated. The identification of which leased facilities are used for mandated functions and which are not is beyond the scope of this project. The cost for this function represents money received from departments who use leased facilities, which is then passed on to the facility owner. Since the County does not own sufficient property in which to locate all existing departments, the need to continue leasing facilities is a given, it is also assumed that lease payments must continue, unless County service reductions no longer require the leased facilities, at which point the risk of seeking renegotiation or abrogating a lease must be assessed. Of the \$45.2 million in lease reimbursements the Department receives, about \$29 million come from non-General Fund departments, or departments whose revenue comes from restricted sources that are not considered General Fund subsidy monies.

10 – Utilities (MANDATED): **\$14,824,697**

The Utilities function is staffed within both Building Operations and ISS Fiscal. The Utilities function consists of the processing of approximately 92 percent of the County's \$24 million in electricity, gas, garbage, sewage and water utility bills. Of this amount, approximately 61 percent, or \$14.7 million, is funded directly within the Facilities and Fleet Department. The remaining 39 percent, or \$9.3 million, is paid by individual departments from their own budgets, based on billing information they receive from the utilities staff in Facilities and Fleet. The staffing assigned to this function processes and pays utility bills, collects and analyzes usage and cost data, monitors budgeted expenditures, analyzes compliance of utility vendors with billing rates, analyzes the effectiveness of County energy conservation compliance activities, processes rebates and conducts other utility related work. Staffing to perform all of these tasks is augmented by Building Operations; the listed functions are not performed solely by the position currently budgeted in CC 2309.

While this function theoretically could be decentralized to individual departments, eliminating the need for the position and FAF support, lost rebates, penalties for late payments, etc., would more than likely exceed the position cost if the function were decentralized. Furthermore, the efficiency of a decentralized system would be significantly below the current arrangement. The utilities program, particularly in matters relating to natural gas and electricity, have become complicated because of evolving regulations and because of the many outside factors that influence the economics of utilities.

11 – Corrective Maintenance (MANDATED): **\$8,606,650**

Corrective Maintenance is building system repairs that are required when facilities are not working properly, such as plumbing leaks or stoppages, electrical problems, leaky roofs, etc. This function is mandated under Labor Code Section 6400, requiring the County to provide a safe workplace for employees, and under Section 6401, which states, in part: "Every employer shall do every other thing reasonably necessary to protect the life, safety, and health of employees." This function is carried out with staffing equivalent to 61.5 FTE crafts and contract support positions, and the cost of this function was allocated based on staffing as a portion of the entire crafts staff.

12 – Preventive Maintenance (MANDATED): **\$8,331,873**

Building Operations manages the Preventive Maintenance program. Preventive maintenance includes the scheduled service of building infrastructure equipment and the replacement of wearable parts necessary to sustain building equipment operation at levels that meet required performance standards. These functions are required by mandates established through the California Building Code, a plethora of Federal and State environmental and safety regulations, the National Electric Code, the National Fire Protection Authority regulations, and through Board policies. This figure appears higher than in prior year mandate reports; this is due to organizational changes (i.e., consolidation of work groups) and the resulting combination of budgets, and not due to budget augmentations. This particular mandate has taken on fire, building system, and security alarm monitoring functions, which enhance both the preventive maintenance and corrective maintenance efforts. The number of FTEs required under this mandated category is 57.5, and includes crafts and contract management staff.

Various regulations that are part of the California Building Code require periodic inspection and testing of various systems, and require that buildings meet specific performance requirements. As noted previously, the California Building Code is a set of regulations promulgated by a State commission, under authority of State law. To provide an obvious example, California Building Code Section 1401.1 requires that the exterior wall covering of a building "shall provide weather protection for the building at its exterior boundaries, and Section 1503 establishes a similar requirement for roofs. Another example is regulations regarding how doors in correctional facilities are operated, which the Department argues require a specific level of door maintenance that cannot be reduced. Similarly, State regulations invoke elevator maintenance standards from the American Society of Mechanical Engineers, requiring inspections and testing of elevators (monthly, semi-annual, annual and 5 years), and strict record keeping requirements for maintenance of elevator equipment. Recommended maintenance schedules from suppliers of various building systems the County has installed, state that the failure to meet these schedules could void warranties, or result in systems performing below that promised by suppliers. Further reductions in preventive maintenance funding will compromise the ability of the department to meet mandated requirements as specified in the CA Building Code.

In addition to mandates resulting from the state Building Code, the Board of Supervisors has established policy relating to investment in preventive maintenance. Board of Supervisors Policy 4.11.2 states:

"The Board has adopted a policy to determine a level of allocation for preventative maintenance based on the value of County-owned buildings. The preventative maintenance standard shall be 2 percent of the facility value."

The budgeted level of preventive maintenance, according to the FY 2006-07 Recommended Budget, represents 1.06 percent of Current Replacement Value for County facilities. Actual preventive maintenance expenditures from FY 2003-04 through FY 2005-06 averaged 1.18 percent of Current Replacement Value.

According to the Department, in FY 2006, the correlation between four years of reduced routine preventative maintenance investment and increased emergency repairs became more evident. These trends were described in the department FY 2006 Budget presentation to the Office of Budget and Analysis, the County Executive, and the Board of Supervisors. According to that presentation, the number of high priority maintenance work orders is increasing by approximately 5 percent per year as a result of reducing completed preventive maintenance work orders by 30 percent due to continued budget reductions since FY 2003-04.

The issue that must be assessed by the Board of Supervisors and County Executive regarding preventive maintenance, is whether funding this function at the current low level, or at lower levels, risks system or structural failures so severe that they would render County facilities uninhabitable, or create situations where County functions that take place in those facilities would be significantly disrupted by the failures themselves, or by the disruption of emergency repairs. An excellent example of the risks involved was the flooding that occurred on the ninth and 10th floors of the East Wing of the County Government Center in 2005, due to a burst pipe. This incident resulted in

damage to numerous County documents, some of which were disposed of and some of which required special handling to be preserved, replacement of carpeting and furniture, and significantly reduced productivity as staff in the two floors attempted to work amidst the din of dehumidifiers and fans. It would be helpful if the Facilities Department could provide additional information or assessments of the impact of various levels of preventive maintenance spending on the likelihood of structural or system failures, and the consequent need for emergency repairs.

13 – Safety (MANDATED):

\$430,000

The Safety function ensures that Department staff take steps to carry out maintenance activities in a safe and healthful manner. This function is mandated under Section 6400 of the Labor Code, as previously cited, and is enforced primarily through regulations found in Title 8 of the California Code of Regulations. These include, for example, requirements that employees be informed regarding hazards associated with any chemicals they may use on the job, requirements for use of respirators during certain maintenance activities, and requirements for hearing protection during maintenance activities exceeding certain noise levels. The Department carries out this function with the equivalent of 3.0 crafts positions, and this cost was allocated based on that staffing as a percentage of the entire crafts staff.

New mandates relating to Safety functions exist, but these have not substantially impacted staffing requirements.

14 – Environmental Compliance (MANDATED):

\$140,000

The Environmental Compliance function is mandated primarily by portions of the California Health and Safety Code and associated regulations. These include, for example, requirements for underground water testing at County-owned sites of previous hazardous materials releases; mandated procedures for identification, notification, maintenance and abatement of building locations with building materials that contain asbestos; and periodic testing of underground fuel tanks maintained by the County; and water damage and mold remediation. In addition to these examples, many routine maintenance tasks require some level of environmental compliance. Tasks such as replacing fluorescent lamps, evacuating refrigerant gas from cooling units, disposing of hydraulic oil for elevators, disposing of engine coolant, are some examples of regular maintenance tasks that require proper disposal of materials and thus some level of environmental compliance effort. This function is staffed with the equivalent of 1.0 FTE crafts positions, and its cost was allocated based on that staffing as a percentage of the entire crafts staff.

New mandates relating to Environmental Compliance functions exist, however these have not substantially impacted staffing requirements.

15 – Lifecycle Infrastructure Investment/Backlog Maintenance Program—LIIP (MANDATED):

\$5,000,000

Building Operations manages the Lifecycle Infrastructure Investment and Backlog Maintenance Program. This Program includes major repair and replacement of building and utility systems for existing facilities and infrastructure in order to restore a facility to adequately support a County function or program. The development of the Backlog Program is based on using the predicted life expectancy of buildings and utility systems,

analysis of corrective maintenance data trends, and use of engineering expertise. The risk of deferring such work is that a critical system may fail, creating a need to complete the renovation on an emergency basis at higher costs, and disrupting the County's delivery of critical services to the public. The FY 2007 budget allocated \$5,000,000 to this function.

This work is mandated under the maintenance requirements previously discussed. Currently, the equivalent of 12.0 FTE positions, costing about \$2,259,844 million in salaries, are responsible for managing and executing the Backlog Program. Because of the technical complexity of the Program, Building Operations saw the need add engineering and technical staff positions (through an add/delete process). In addition to managing the Program and assessing County facilities and building systems, these engineering and technical positions provide on-the-spot architectural and engineering needs that often are required as a result of emergency repair projects. This staff can provide engineering calculations, code compliance direction, and some project design that can help expedite emergency repairs.

The projects are executed through in-house Building Operations staff or through contract support, e.g. Job Order Contract, individual Procurement contracts, or via Capital Programs. Capital Programs executes projects that require extensive plans and specifications and are longer in duration. The Department views these repairs as a mandated function, based on the same mandates for maintenance of building structures and systems discussed regarding preventive maintenance, and therefore requires the same assessment of potential risks for reduced expenditures as is described in that discussion.

16 –Building Cleaning/Pest Control (MANDATED): \$4,547,976

Building Operations performs cleaning and pest control functions to maintain healthy environments for County employees. Various new mandates cited by the Department in support of the Building Cleaning/Pest Control function include:

- OSHA –California OSHA standards Subchapter 7, Group 1-27, Sections 3200-6200 of Title 8 Code of California Regulations (T8 CCR) have changed.
- Integrated Pest Management Ordinance – No. N5-517.70 – Implementation of the IPM originally approved 5-21-02, has created additional burden on custodial and grounds staff, as new methods of weed eradication require multiple spray sessions of approved non-conventional products that are less effective. There is an increased need for hand weeding, which is a significantly slower method of weed abatement. Also, even when exemptions are granted, it usually requires time for such exemptions to be processed.

According to the Department, previous budget reductions have cut services to barely sufficient levels. Further reductions will compromise the condition of facilities as is already becoming evident. New mandates relating to Building Cleaning and Pest control exist. These mandates are carried out by 58.5 staff positions, which include Custodial, Utility Workers, and contract support staff.

17 – Emergency Biohealth (MANDATED): \$68,803

Special cleaning and disinfection procedures are required when cleaning up materials that may contain disease hazards, including blood and other bodily fluids that may be spilled or otherwise deposited in correctional facilities and other locations, and bird droppings that are cleaned from public locations. Many state regulations govern workplace safety. California Code of Regulations Title 8, Section 5193 provides a list of procedures to avoid exposure of employees to blood-borne pathogens, and record-keeping requirements for exposures. These procedures apply to the clean-up of contaminated surfaces, and requirements for use of protective clothing during clean-up, are applicable to Custodial and Grounds personnel. A separate section of this regulation also requires the department to provide annual hepatitis B vaccinations to employees who may be exposed to blood-borne pathogens, as well as HIV testing when exposures occur, and to maintain records of exposures and of treatment provided to employees as a result.

New mandates relating to Emergency Biohealth exist. OSHA has been particularly active in this area in the past three years. The new mandates relating to health will apply to all facilities maintained by Building Operations. However, these requirements will particularly impact staffing as the department becomes responsible for the maintenance, and grounds support of the Crime Laboratory and the Valley Health Centers at Tully, Gilroy, Fair Oaks and Milpitas. These new medical facilities require JCAHO certification. JCAHO standards will require higher levels of building maintenance by Facilities, and Custodial support by SCVHHS, than other County buildings resulting from facility standards, patient and infection control standards, and ongoing accreditation processes.

The Department estimates that the equivalent of 0.5 FTE custodial and grounds field positions is required for this function, and its cost was allocated based on that staffing as a percentage of the entire custodial and grounds field staff.

18 – Landscape Maintenance & Fire Protection (MANDATED): \$608,667

Landscape maintenance is required for fire protection of County buildings, specifically by California Code of Regulations Title 19, Section 3.19, which requires that buildings “shall be maintained in a neat orderly manner, free from any condition that would create a fire or life hazard or a condition which would add to or contribute to the rapid spread of fire.” More specifically, subsection (e) of the regulation states: “No dry vegetation shall be permitted to exist within 20 feet of any building or occupancies subject to these regulations.”

Based on this mandate to provide landscape maintenance in the first place, the Department also reports that other regulations govern how landscape maintenance is conducted, such as requirements for employees to use respiratory equipment to protect against dusts and fumes connected with landscaping activities, and to provide hearing protection during use of mowers and other loud equipment.

The Department has assigned the equivalent of 7 FTE custodial and grounds field positions to this function, and its cost was allocated based on that staffing as a percentage of the entire custodial and grounds field staff. The identified funding also covers contracted landscaping and weed abatement/fire barrier contracted services.

19 – Capital Programs Division, Renovation and Alteration**(MANDATED):****\$4,463,771**

The function of the Capital Programs Division is to manage the planning, design and construction of capital projects for the County; not including projects managed by the Roads & Airports Department, the Parks and Recreation Department (non-General Fund), and the Valley Medical Center Facilities Division (OSHPD facilities). Capital projects may include major renovations of existing facilities, major alterations of existing facilities, and construction of new facilities along with associated infrastructure. This includes inspecting the construction of these projects as it occurs and performing project close-outs.

Renovation and alteration projects include major renovations such as seismic and fire protection systems upgrade of Berger Drive Building 1 Warehouse, Elmwood Central Control Expansion, Muriel Wright Center Water Tank Upgrade, etc. Lifecycle maintenance projects are necessary to keep systems operating at levels mandated by the California Building Code. Examples of lifecycle maintenance projects include Replace Transfer Switch at County Communications; Elevator Remodel at Main Jail South and Probation Buildings; Renovate Air Handling Units at Main Jail South, etc.

Funding for these projects comes from two General Fund sources. The first source is the Lifecycle Infrastructure Investment/Backlog Maintenance Program (LIIP) previously described, which includes technically complex projects managed by Capital Programs. The Board of Supervisors also establishes single Board Identified Capital Projects (BICP) for renovation and alteration of existing facilities, generally by contractors overseen by Capital Programs staff. These BICP projects are the projects described in this discussion section.

According to the Department, most alteration projects also result from mandated requirements for facilities to operate in a certain way or at a certain performance level. For example, Federal and State laws requiring prevention of asbestos exposure require alterations to existing buildings to occur in conjunction with renovations of certain building systems or seismic upgrades. Access requirements for the disabled under the Federal Americans with Disabilities Act also require many alterations. In that regard, the basis for this mandate as expressed by the Department is the same as that for the preventive maintenance expenditures previously discussed, that reduced funding for these renovation and alteration projects would compromise the performance of County structures and systems to levels below the levels required by the California Building Code and other State and federal laws and regulations, thereby running the risk of severe failures to these structures and systems that would necessitate more expensive emergency repairs, and disrupt County functions within the damaged facilities, both due to the failures themselves, and due to the disruptions caused by the emergency repair process. The Department submits an annual report to the Board that recommends specific renovation and alteration projects for funding, and an evaluation is conducted on each project against various criteria established by Board Policy, including legal mandates, health and safety effects of not constructing the project, and preservation of existing capital facilities necessitating the project.

The FY 2007 budget allocated \$2,406,125 to this function. In total, the 10.9 FTEs assigned to this function are managing approximately \$32 million in funding for the current fiscal year, and funding from prior fiscal years that is now being expended on renovation projects. This staffing includes administrative and analyst staff, project managers and capital programs management. The County Executive and the Board may want to request that the Department provide additional information or assessments as to whether renovation/alteration projects encompassed by this function can be delayed due to budget constraints, and what the potential risks for building systems performance would be. The Department believes that such information was provided as part of the annual report previously discussed.

20 – Property Acquisition/Disposal (MANDATED): \$887,794

This function is carried out by the Property Management Section of the Intragovernmental Support Services Division with approximately 3.5 FTE positions.

State law identifies a number of specific requirements for the County to follow in leasing or purchasing real property, including noticing requirements for property acquisition and disposal. In addition to those mentioned in previous studies there are also Government Code sections 25515 Development of Public Property, 25520 Sale or Lease of Real Property, and 54220 Surplus Property. In addition there are notification requirements to the State Controller if the County wants to use State revenues it receives to guarantee lease or lease-purchase transactions using bonds. Also Property Management may be mandated by real property purchases financed through bonds secured by lease revenues due to the obligation to repay bond holders. The department argues that the body of law relating to the contractual obligation to bond holders is essentially the same as the body of law relating to the contractual obligation to property owners. However, County Counsel has declined to endorse this view.

These requirements, and other legal requirements related to land transactions, suggest that using a separate department within Facilities and Fleet to coordinate this property leases and acquisitions countywide is advisable.

There are also a number of mandates related to disposition of County property via lease or sale. County Counsel advises that counties are governmental agencies of the State, and the courts have found that real property entrusted to the County must be managed as public property on behalf of State residents. As a result, the Government Code mandates specific requirements on the County for disposition of real property, including requirements for competitive bidding by entities proposing to develop County property for the County's benefit, requirements that land dispositions comply with the County's land use ordinances, and requirements that dispositions consider the need to provide recreational facilities and low income housing.

In addition, SB 1732 requirements for the transfer of Court Facilities have imposed a legal mandate upon Counties to transfer court real property assets. Government Code Sections 77200-77213 describe requirements for the County to provide Court facilities. Property Management, FAF Administration and Building Operations staff all support this function.

Based on the need to comply with these mandates, having a separate property acquisition and disposition unit is considered mandated.

21 – Civic Center Garage **\$410,658**

The Intragovernmental Support Services Division administers a contract with Standard Parking to manage and operate the Civic Center Garage on Hedding Street. Department staff monitor contract compliance, facility use, revenue generation, vendor payments and administer equipment and facility maintenance needs for the Garage. It is not legally required for the County to operate the Garage. However, under SB 1732, the law governing the transfer of court facilities from counties to the State, the County is obligated to provide parking for the court, both now while it continues to own the court buildings and even after those buildings are transferred to State ownership. Since the majority of parking in the Civic Center Garage is associated with court business, and there is currently no alternative site to provide the parking for the courts, the garage function should be considered mandated.

The cost of this function is offset by revenues estimated at \$726,516. In addition, the County makes debt service payments of about \$1.7 million annually on lease revenue bonds sold to construct this facility. If Garage operations did not continue, the County would be faced with either making the entire bond payment from other General Fund revenues, or defaulting on the bonds, adversely affecting its credit. The debt payments are not included as part of the Facilities Department budget.

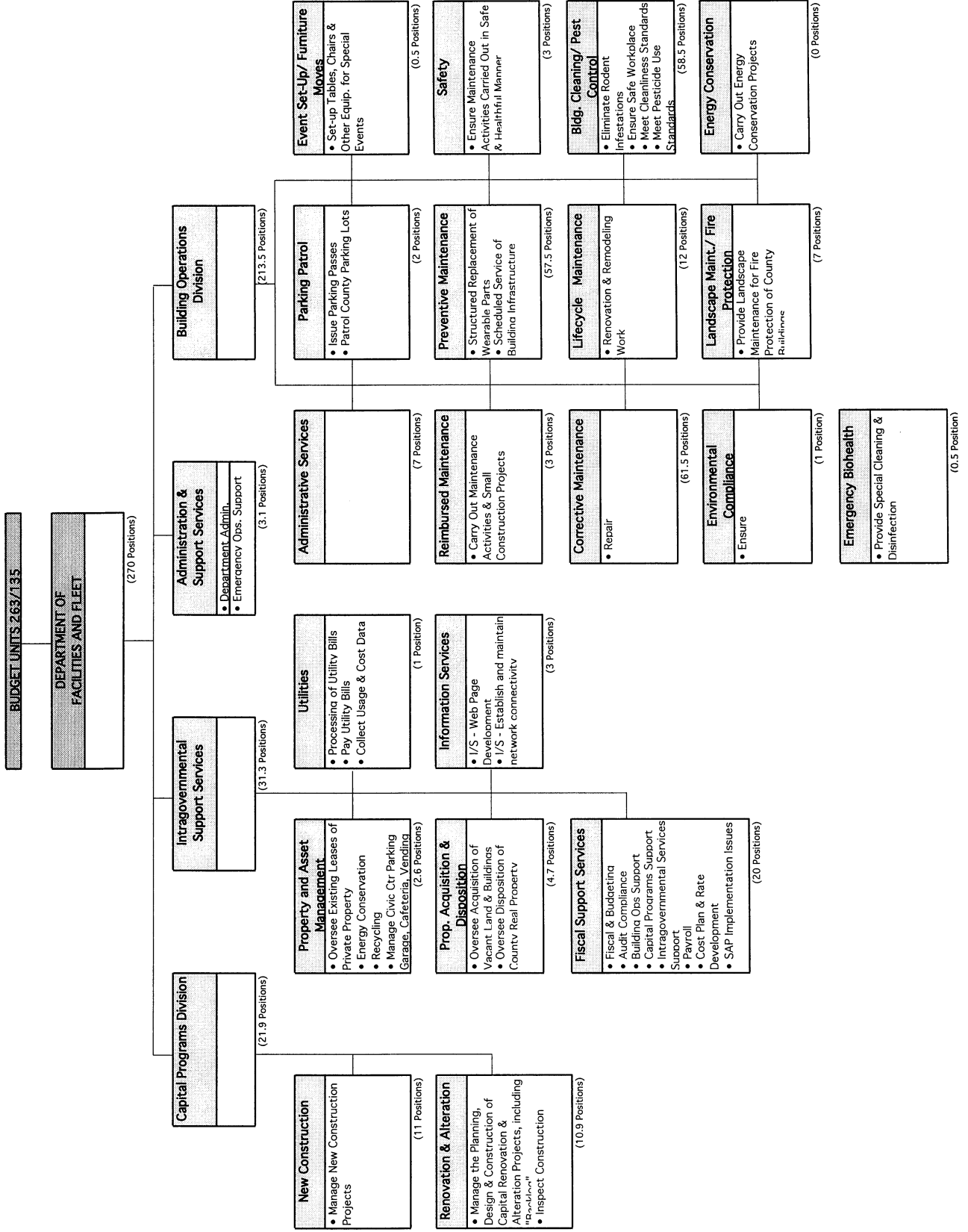
22 – Emergency Operations Logistics Support (MANDATED): **\$234,670**

The Manager of Intragovernmental Support Services, Director of FAF and Capital Programs Manager also serve as the Emergency Operations Logistics Section Chief(s) and assist in development of countywide planning efforts and disaster response. The section chief function and staffing for replacements is mandated by State Emergency Management System/National Incident Management System and the Homeland Security Act of 2004. As noted previously these functions are within BU 263.

Building Operations staff has functional responsibilities to provide logistics support during Emergency Operations. Although all County staff are required to perform as Disaster Service Workers during an emergency or disaster, Building Operations staff have been designated for specific duties within operation plans for traditional hazards such as earthquake and fire, and non-traditional hazards such as Pandemic Flu and Bioterrorist incidents. For example, some Building Operations and Fleet Department staff will serve as Warehouse Operations staff during a Bioterrorist Incident to distribute pharmaceuticals and non-medical support to over 400 sites throughout the County. Depending upon the incident the level of support may vary.

Total Facilities Department FY 2006-07 Adopted Budget	\$108,164,887
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DEPARTMENT OF FACILITIES AND FLEET



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Winifred Botha
Robert C. Campbell
Nancy J. Clark
Laurie F. Faulkner
ASSISTANT COUNTY COUNSEL

TO: Roger Mialocq, Management Audit Manager

FROM: Kimberly Kernan, Deputy County Counsel *kjh*

RE: Facilities and Fleet, Property Management, #263
Mandate Analysis

DATE: August 1, 2006

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to Budget Unit #263 regarding FAF – Property Management. Below are comments or supplemental analyses, as needed, about the mandates related to this department. This memorandum only discusses those changes from the 2003 County Counsel memorandum.

FAF – Property Management

1. Legal Basis for Mandate. No changes.
2. Level or Requirement of Mandate, if applicable. Not applicable.
3. Other Comments. The 2003 memo provides a list of a number of legal requirements that must be met when the County is selling, buying, or leasing property. In addition to those requirements listed, the County is also required to comply with the following:
 - Government Code Section 25515 (Development of Public Property);
 - Government Code Section 25520 *et seq.* (Sale of Lease of Real Property); and
 - Government Code Section 54220 *et seq.* (Surplus Property).

c: Larry Jenkins,
Ann Ravel

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Ann Miller Ravel
COUNTY COUNSEL

Debra L. Cauble
Laurie F. Faulkner
Susan G. Levenberg
ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Leslie Orta, Deputy County Counsel *Leslie Orta*

RE: Mandate Analysis
Departments Administering Public Works Projects
Roads & Airports, GSA Building Operations, Capital Programs, Procurement
SCCHHS VMC Facilities Department

DATE: September 12, 2003

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to the five departments (I represent) who administer public works construction projects (listed above). Below are comments about the mandates in the functional areas identified by these departments.

Public Works Construction Projects

1. Legal Basis for Mandate

Although I did not receive any written information from the clients listed above (except Capital Programs), I can make some general comments regarding their activities to undertake public works projects. I am aware of no legal mandates for the County to necessarily own any facilities; it could lease sufficient facilities to provide the services it is required or chooses to provide. It is possible that the County's landlords could undertake all improvement projects and the County would not administer any public works projects.

2. Level or Requirement of Mandate

If the County chooses to undertake public works construction projects, there are many statutes that mandate the process for such projects (too many to enumerate) including:

- Public Contract Code - competitive bidding
- Labor Code - prevailing wages
- Civil Code - insurance, bonds, stop notices
- Government Code - procurement rules

If the County chooses to apply for public works project funding from the federal government (FHWA, FAA, FEMA), there are many additional requirements to comply with such as the Disadvantaged Business Enterprise program (49 CFR part 26). If the County chooses to apply for grant funds from the state or federal government to pay for public works projects (such as the current Juvenile Hall housing project), there are many requirements imposed by these funding sources that are mandatory as a condition of receiving the funds. A few of the more typical ones include: maintaining a drug-free workplace, using a certain percentage of recycled products, or retaining a larger portion of the general contractor's progress payments as leverage to obtain project completion.

The above summary is very general and very brief. There are many, many laws that apply to the administration of public works projects in California, with or without federal funds. If the County chooses to own (i.e. renovation and remodel projects are very common) and build facilities, it would have to comply with these requirements.

Other Comments

Although the departments and agencies that administer public works projects are listed above, there are quite a few other County departments and agencies that are necessarily involved in the handling of some portion of the process as well. These include: Clerk of the Board, Finance, Controller, Risk Management, County Counsel, Fiscal Agents for each Agency/ Department. A more exhaustive list can be provided upon request.

c: Ann Ravel

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ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Leslie Orta, Deputy County Counsel *Leslie Orta*

RE: Mandate Analysis
General Services Agency, Building Operations Department

DATE: September 30, 2003

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of the legal mandates, if any, applicable to the General Services Agency, Building Operations Department related to the services it delivers. In many respects, the analysis of any mandates for this department, is very similar to evaluating those of the General Services Agency, Property Management Division. As such, please refer to the Memorandum dated September 12, 2003 from Paul J. Niewiadomski, Deputy County Counsel, stating his supplemental analysis regarding the mandates identified by the Property Management Division.

There is no legal mandate that the County either own or lease any facilities, but since it provides many mandated services, logic dictates that there must be some physical locations established to operate programs and serve clients. Many Government Code sections mandate counties maintain certain functions and appoint staff to particular positions such as the Clerk, Assessor, Tax Collector, and Road Commissioner. These persons must work somewhere, and since their functions serve the public, many laws apply to the physical attributes of the facilities housing employees and open to the public whether or not the County owns or leases the space.

The Building Operations Department is responsible for maintaining and repairing County-owned facilities, and in some cases, leased space. The work performed either by the employees in this Department or outside contractors at staff direction, must be done in conformance with applicable federal and state laws, regulations and standards. Examples of compliance standards

Memorandum to Roger Mialocq

Re: Mandate Analysis

General Services Agency, Building Operations Department

September 30, 2003

Page 2

(as detailed more fully in Paul's Memorandum referenced above) include: the Americans With Disabilities Act; California Environmental Quality Act; Cal OSHA Regulations; Labor Codes; various Building and Fire Codes; and Health & Safety Codes. There are also ordinances and Board policies that relate to County facilities such as the Integrated Pest Management requirements, but these are discretionary rules and can be revised at the Board's direction.

If the County chooses to own or to maintain leased facilities, its staff (i.e. Building Operations employees) or independent contractors must keep the premises in certain safe and suitable condition in accordance with many applicable laws and non-discretionary requirements.

c: Steve Black, Manager, Building Operations, GSA
1555 Berger Drive, Building #3
San Jose, CA 95112

Ann Miller Ravel, County Counsel

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Ann Miller Ravel
COUNTY COUNSEL

Debra L. Cauble
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Susan G. Levenberg
ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Paul J. Niewiadomski, Deputy County Counsel 

RE: GSA Facilities Department, Property Management Division

DATE: September 12, 2003

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of the analysis of legal mandates applicable to the Property Management Division of the General Service Agency. Below is a supplemental analysis about the mandates identified by the Property Management Division.

In general, counties are governmental agencies of the State, and the real property entrusted to counties must be managed as public property for the residents of the State.¹ In furtherance of this, the California Government Code imposes specific requirements on counties relating to the acquisition and disposition of real property.² To the extent that the County acquires or disposes of real property, the Property Management Division is responsible for complying with the requirements. The County, however, is not legally mandated to maintain a group devoted to this purpose.

State law may also require that the County provide facilities for certain mandated functions. For example, under California Government Code, Sections 77200-77213, the County must provide the court system with facilities within the County. Similarly, to the extent that the County is required to maintain certain functions, such as the Board of Supervisors, County Clerk, County Counsel or Assessor, or provide certain services, such as a County Recorder, Surveyor or Coroner, it may be necessary for the County to provide facilities for these functions. The Property Management

¹ *County of Los Angeles v. Sidney T. Graves* (1930) 210 Cal. 21.

² See, e.g., Government Code Section 25515 (Development of Public Property); Government Code Sections 25520 *et seq.* (Sale or Lease of Real Property); Government Code Sections 54220 *et seq.* (Surplus Land).

Division is responsible for acquiring and managing, which involves a wide range of administrative responsibilities and contractual obligations, real property for these functions. Again, the County is not mandated to maintain a department or division specifically for this purpose.

When services are provided by the Property Management Division, certain legal requirements must be met, as reflected in the mandate analysis provided by the Property Management Division. For example, the Property Management Division must comply with:

- 1) all applicable provisions of the American with Disabilities Act (ADA);
- 2) the requirements in California Government Sections 4450-4461 (requiring disabled access to public buildings);
- 3) all applicable provisions of federal and state health & safety and environmental laws, regulations and permits;
- 4) the California Environmental Quality Act (CEQA), which applies to the leasing, acquisition and modification of real property;
- 5) all applicable building codes and County ordinances such as the County's Integrated Pest Management requirements; and
- 6) all applicable mandatory reporting laws.

The above legal requirements are only a partial list. The Property Management Division is required to comply with all legal and regulatory requirements that apply to the type of activity or service provided.

c: Nancy Fowler
Larry Jinkins
Kevin Carruth
Ann Miller Ravel

293 Medical Examiner/Coroner

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Non-Mandated	0	0	0%	0	0%	0.0	0%
Mandated	3	2,654,556	89%	2,478,619	93%	16.9	89%
Admin/Support	-	<u>328,091</u>	<u>11%</u>	<u>328,091</u>	<u>100%</u>	<u>2.1</u>	<u>11%</u>
Total	<u>3</u>	<u>2,982,647</u>	<u>100%</u>	<u>2,806,710</u>	<u>94%</u>	<u>19.0</u>	<u>100%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=percent of total staffing

Departmental Description

The Office of the Medical Examiner/Coroner performs activities related to determining the nature and cause of death of persons, securing the remains of deceased individuals, and related interactions with families, criminal justice agencies and organ donor organizations. The County's Ordinance Code, Sections A18-85 through A18-91 recognize the Department of the Medical Examiner-Coroner and provide the County Executive or his/her designee with the authority to manage the department. Effective July 1, 2004, the Office of the Sheriff assumed supervision and administration of the Medical Examiner-Coroner Department as a result of acceptance by the Board of Supervisors of the County Executive's recommendation for this organizational change. The County Executive and Sheriff entered into a Memorandum of Understanding (MOU) to transfer authority to the Sheriff to perform certain administrative functions for the MEC Department. The revised structure is reflected in the organizational chart at the end of this section of the report. The County Medical Examiner system will remain in place; the Sheriff will not have authority or discretion to direct or otherwise control the medical determinations of the forensic pathologists.

Management Audit Division

The Medical Examiner/Coroner has identified three major functions it performs in the fulfillment of its legal responsibilities.

FY 2006-07 General Fund Budget by Program/Function

<u>Function</u>	FY 2006-07 Adopted Budget		<u>Departmental</u>	General	
	<u>Amount</u>	<u>Staffing</u>	<u>Revenue</u>	<u>Subsidy</u>	<u>Percent</u>
<i><u>Non-Mandated Activities</u></i>					
None	<u>0</u>	<u>0.0</u>	<u>0</u>	<u>0</u>	<u>0%</u>
Subtotal	<u>0</u>	<u>0.0</u>	<u>0</u>	<u>0</u>	<u>0%</u>
<i><u>Mandated Activities</u></i>					
01 Documentation	536,877	3.4	24,437	512,440	96%
02 Investigation	1,521,150	9.7	151,500	1,369,650	90%
03 Autopsy-Related	<u>596,529</u>	<u>3.8</u>	<u>0</u>	<u>596,529</u>	<u>100%</u>
Subtotal	<u>2,654,556</u>	<u>16.9</u>	<u>175,937</u>	<u>2,478,619</u>	<u>93%</u>
<i><u>Required</u></i>					
Admin/Support	<u>328,091</u>	<u>2.1</u>	<u>0</u>	<u>328,091</u>	<u>100%</u>
Total	<u>2,982,647</u>	<u>19.0</u>	<u>175,937</u>	<u>2,806,710</u>	<u>94%</u>

Description of Programs and Functions

Administration and Support (REQUIRED):

\$328,091

Budget unit 293 includes 2.1 FTE administrative support staff responsible for departmental administrative, and fiscal, budget and information systems support. The direct services performed by the Medical Examiner/Coroner are mandated. Consequently, the County must also provide adequate administrative oversight and support services to fulfill these mandates. The amount of staff and other resources necessary to provide an 'adequate' level of funding is subject to determination by the Board of Supervisors pursuant to Government Code Sections 29063 and 29088.

MANDATED PROGRAMS AND FUNCTIONS

01–Documentation (MANDATED): **\$536,877**

The Documentation function is comprised of approximately 3.4 FTE's. It includes the maintenance of a log to track the demographics of each death reported to the Medical Examiner/Coroner (Government Code Section 27463), and the maintenance of the official record of cause and manner of death reported to the State of California (Health & Safety Code Section 102860). This function also includes the maintenance of the official record, or decedent file, containing all relevant investigation and medical information used in determining the cause and manner of death, as mandated in Government Code Section 27463.5.

02–Investigation (MANDATED): **\$1,521,150**

The investigation function of the Medical Examiner/Coroner is comprised of approximately 9.7 FTE's who perform the following activities:

- Identify decedents, including the prerogative to order a dental exam to aid in the identification of the decedent.
- Investigative and determine the cause and manner of all reportable deaths.
- Locate and notify next of kin, as mandated under Government Code Section 27471(a).

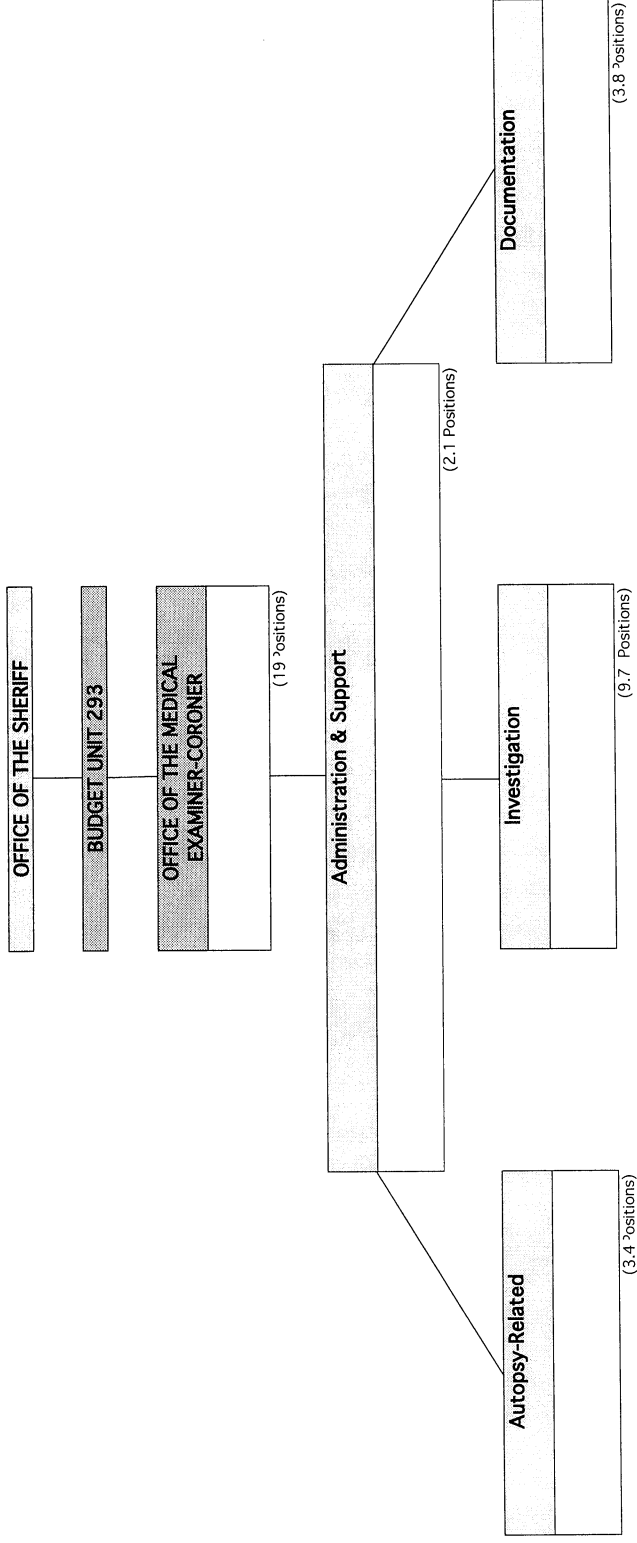
03–Autopsy-Related (MANDATED): **\$596,529**

The autopsy-related function of the Medical Examiner Coroner is comprised of approximately 3.8 FTE's who perform the following mandated activities:

- Reporting process of all suspected Sudden Infant Death Syndrome (SIDS) deaths, as specified in Government Code Section 27491.41 and Health and Safety Code Section 7104.
- The interment of indigent remains, as specified in Health and Safety Code Section 7104.
- Medically determine the cause and manner of all reportable deaths.
- Authorize the removal of tissue and organs, as specified in Government Code Section 7184.5.
- Collect and test motor vehicle accident specimens to determine if drugs or alcohol are a contributing factor.
- Provide court testimony in both civil and criminal courts pertaining to official death reports and other areas of professional expertise.

Total Medical Examiner/Coroner FY 2006-07 Adopted Budget	\$2,982,647
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OFFICE OF THE MEDICAL EXAMINER-CORONER



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**Ann Miller Ravel
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Winifred Botha
Robert C. Campbell
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Laurie F. Faulkner
ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager
FROM: Tamara K. Lopez, Deputy County Counsel *TKL*
RE: Medical Examiner/Coroner Office Mandate Analysis
DATE: August 1, 2006

As requested by the County Executive and the Board of Supervisor's Management Audit Division, we are providing a written assessment of analysis of legal mandates applicable to the Medical Examiner/Coroner's Office. Below are comments or supplemental analysis, as needed, about the mandates in the functional areas identified by the Medical Examiner/Coroner's Office.

I have carefully reviewed the statutory authority submitted by the Medical Examiner/Coroner's Office in their mandate analysis. This office agrees with the Medical Examiner/Coroner's Office report regarding mandated functions.

c: Robert Dixon
Ann Miller Ravel

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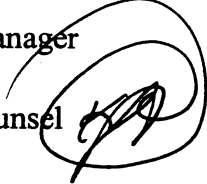


**Ann Miller Ravel
COUNTY COUNSEL**

**Martin H. Dodd
SPECIAL ASSISTANT COUNTY COUNSEL**

**Laurie F. Faulkner
Susan G. Levenberg
ASSISTANT COUNTY COUNSEL**

**CONFIDENTIAL MEMORANDUM
ATTORNEY-CLIENT PRIVILEGED COMMUNICATION**

TO: Roger Mialocq, Management Audit Manager
FROM: Karen J. Anderson, Deputy County Counsel 
RE: Medical Examiner/ Coroner Mandate Analysis
DATE: October 22, 2004

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to the Medical Examiner/Coroner. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the Medical Examiner/Coroner.

This office has no changes to the analysis submitted last year by this office.

c: Captain Bob Dixon

410 Public Health

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Non-Mandated	7	7,517,177	8%	3,881,413	52%	26.0	5%
Mandated	25	77,815,144	77%	33,371,415	44%	509.0	90%
Admin/Support	-	15,166,065	15%	11,496,788	76%	29.5	5%
Total	<u>32</u>	<u>100,498,386</u>	<u>100%</u>	<u>48,749,616</u>	<u>49%</u>	<u>564.5</u>	<u>100%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3= percent of total staffing.

Departmental Description

The Public Health Department performs functions, most of which are mandated pursuant to Federal and State statutes and regulations. The Public Health Department seeks to identify and control disease in the community and provide preventive interventions to foster the health of the entire community. The Department projected budget includes expenditures of approximately \$100.5 million for FY 2006-07 and approximately \$48.7 million in General Fund support. The services provided by Public Health are described in the Department's Mission Statement on the County's website:

The vision of the Public Health Department is to improve the health of Santa Clara County residents through leadership, mobilized community-wide planning, action and advocacy. Its mission is to serve all people of Santa Clara County by protecting health; preventing disease, injury, premature death and disability; promoting healthy lifestyles, behaviors and environments; and responding to disasters, disease outbreaks and epidemics.

The Department asserts it is mandated to provide services that require more funds than the amount received from the State and federal governments. The Department further states that the General Fund support currently budgeted is insufficient given the

Management Audit Division

extensive set of federal and State mandates and unplanned public health emergencies such as the flu vaccine shortage, West Nile Virus, Pandemic Influenza, and heat-related issues. The table in this report and the estimates of General Fund discretionary expenditures reflect information provided by the Department. Management Audit staff have made adjustments based on a review of the related codes and interpretation by County Counsel.

Title 17 of the California Code of Regulations lists the services that the State requires local health departments to provide. Article 2, Chapter 1, Section A18 of the County's Ordinance code establishes the positions of Public Health Officer and Director of Public Health. The County Ordinance Code designates specific authority to the Public Health Officer to perform searches and even arrest persons when he/she witnesses a public health related misdemeanor infraction. The Code describes the manner in which the Public Health Officer and his/her designee should ensure the public health of the county by enforcing public health statutes, orders, quarantine regulations and other ordinances and rules of incorporated cities. Section 17000 of the Welfare and Institutions Code imposes on counties a duty to provide "medical necessary" care to indigent persons not eligible for care under other programs.

In the public health area, there are several programs that may not be specifically required under the state or federal laws; however, they have been developed by the Public Health Department to meet general service requirements specified in Section 1276 of Title 17 of the California Code of Regulations or Welfare Institutions Code Section 17000. To the extent that these programs/functions enable the Department to meet the mandates specified in law, they were designated as mandated for the purposes of this study. Definitively determining whether a program is "mandated," however would require an assessment of the public health functions in the context of all health services provided in throughout the Santa Clara Valley Health and Hospital System, an analysis that was outside the scope of this study.

Although several of the functions performed by the Public Health Department have been designated as mandated in this study, the laws and regulations do not always specify the specific program or minimum legal requirements so there may be some discretion as to the level and types of services provided.

FY 2006-07 General Fund Budget by Program/Function

<u>Function</u>	<u>FY 2006-07 Adopted Budget</u>		<u>Departmental Revenue</u>	<u>General Fund Subsidy</u>	<u>Percent</u>
	<u>Amount</u>	<u>Staffing</u>			
<u>Non-Mandated Activities</u>					
01 Learning / Achmnt Ctr	1,433,944	5.5	1,132,234	301,710	21%
02 Lead Poisoning Control	443,764	3.0	440,803	2,961	1%
03 Violence Prevention	144,756	1.0	-	144,756	100%
04 Traffic Safety	458,555	3.5	479,548	(20,993)	(5%)
05 Emergency Medical Svs	2,392,683	13.0	1,583,179	809,504	34%
06 Pandemic Flu (One-Time)	2,268,475	0.0	-	2,268,475	100%
07 HIV Testing (One-Time)	<u>375,000</u>	<u>0.0</u>	-	<u>375,000</u>	<u>100%</u>
Subtotal	7,517,177	26.0	3,635,764	3,881,413	52%
<u>Mandated Activities</u>					
08 Community Clinics	3,478,724	1.0	-	3,478,724	100%
09 Diabetes Center	799,174	5.0	100,000	699,174	87%
10 Immunization Registry	434,144	3.5	441,066	(6,922)	(2%)
11 Epidemiology & Data Mgt	1,126,933	8.0	101,125	1,025,808	91%
12 Vital Registration	1,039,126	9.0	1,092,692	(53,566)	(5%)
13 Steps	1,711,708	4.0	1,544,198	167,510	10%
14 Disease Control /Surv.	1,979,527	15.0	402,507	1,577,020	80%
15 Nutrition/Wellness/WIC	5,051,999	44.0	3,769,458	1,282,541	25%
16 CHDP	2,270,919	15.5	1,904,503	366,416	16%
17 CA Children's Svs	12,782,416	102.0	7,826,859	4,955,557	39%
18 MCAH	1,376,298	10.0	769,135	607,163	44%
19 Black Infant Health	945,148	7.0	736,493	208,655	22%
20 Immunization Prog	2,912,542	19.5	2,077,161	835,381	29%
21 Tobacco Control	1,410,621	6.5	873,905	536,716	38%
22 Tuberculosis	1,735,365	12.0	1,037,435	697,930	40%
23 PH Pharmacy	4,067,324	9.5	3,189,664	877,660	22%
24 PH Laboratory	1,490,882	10.0	241,000	1,249,882	84%
25 Disaster Med Svs	4,652,728	20.0	4,241,010	411,718	9%
26 HIV/ AIDS Program	5,543,389	21.0	4,314,286	1,229,103	22%
27 Regional Svs	15,168,525	124.0	4,718,973	10,449,552	69%
28 Adolescent Family Life*	1,874,672	18.0	1,374,051	500,621	27%
29 PACE Clinic	3,022,902	17.5	2,218,213	804,689	27%
30 TB Clinic	2,591,585	24.0	1,049,285	1,542,300	60%
31 Refugee/Child Hlth	220,377	2.0	275,000	(54,623)	(25%)
32 Med Marijuana ID Card	<u>128,116</u>	<u>1.0</u>	<u>145,710</u>	<u>(17,594)</u>	<u>(14%)</u>
Subtotal	77,815,144	509.0	44,443,729	33,371,415	43%
<u>Required</u>					
Admin/Support	<u>15,166,065</u>	<u>29.5</u>	<u>3,669,277</u>	<u>11,496,788</u>	<u>76%</u>
Total	<u>100,498,386</u>	<u>564.5</u>	<u>51,748,770</u>	<u>48,749,616</u>	<u>49%</u>
*This program has existed since 1985, but in the prior Mandate Study it was included in Regional Services. In this study, it is listed separately.					

Description of Programs and Functions

Administration and Support (REQUIRED): **\$ 15,166,065**

The Public Health Department Administrative and Support category, as defined by the Management Audit Division, includes 29.5 medical, administrative, professional, support staff, and Park Alameda-based maintenance staff. These positions are responsible for departmental administration, compliance, management, fiscal, budget, health education, internal/external communication, and administrative support.

Because the majority of direct services performed by the Public Health Department are mandated, the County must also provide adequate administrative oversight and support services to fulfill these mandates.¹ The amount of staff and other resources necessary to provide an 'adequate' level of funding is subject to determination by the Board of Supervisors pursuant to Government Code Sections 29063 and 29088 and other code sections cited by the Department. For example, CA Administrative Code, Title 17, Division 1, Chapter 3, Section 1303 (Health Educator) and Section 1304 (Director of Health Education) specifically mandates that the Department have a health educator holding a master's degree in community health education from an American Public Health Association accredited University.

The Department reports that 100 percent of the Administrative and Health Officer Index Code expenditures are mandated and the Department has provided specific citations supporting the full time duties of the Health Officer and that he/she supervise and control Environmental Health activities during a health emergency.² The Homeland Security Act of 2002, Title III, Section 304; Title V; and Title VIII, Section 801 all reference the responsibilities of local public health departments in preparing for natural and manmade crises and emergencies.

NON-MANDATED PROGRAMS AND FUNCTIONS

01-Center for Learning & Achievement (NON-MANDATED): **\$1,433,944**

The Center for Learning and Achievement (CLA) provides early screening, assessment and early diagnosis of children with suspected developmental variations or delays, behavioral concerns, and learning differences. The CLA approach focuses on the whole child, integrating educational and developmental findings with complex medical issues. Patients are seen by a team of specialists who offer evaluations leading to a description of the child and detailed recommendations.³ The Center for Learning & Achievement is funded primarily by the First Five Commission, an entity that allocates Proposition 10 funds to support services delivered to children under six years of age. General Fund resources of \$301,710 support these services for older children in FY 2006-07. According to the Department, the First Five Commission does not require the County to match this funding.

¹ CA administrative Code, Title 17, Division 1, Chapter 3, Section 1251, 1252

² CA Administrative Code, Title 17, Division 1, Chapter 3, Section 1250

³ FIRST 5 Initiatives and Programs Brochure

02–Lead Poisoning Control (NON-MANDATED): **\$443,764**

The Childhood Lead Poisoning Prevention Program (CLPPP) function includes three authorized positions (grant funded) and is responsible for the prevention of lead poisoning in order to protect the health and well being of children in Santa Clara County. Grant funds offset almost the entire cost of this program (roughly 99 percent). This is done by coordinating case management services, providing environmental assessments, continuing case management to monitor follow-up blood lead level results, educating the community through presentations and media outreach and to collect, analyze and report data. The Department reports that 90% percent of CLPPP Index Code expenditures may be utilized for legally mandated levels. The Department bases this assertion on Title 17, §1276 that requires basic medical, nursing educational and other services to promote maternal and child health. County Counsel, however, indicates that it did not identify any statute or regulation specifically requiring that the County to offer this program.

03–Violence Prevention (NON-MANDATED): **\$ 144,756**

The Violence Prevention function includes one authorized position. Two positions were deleted in the FY 2004-05 budget. The remaining position implements the PeaceBuilders Program in schools. The Department asserts that although the format of this particular program is not mandated per se, Violence Prevention represents a social factor that impacts health and the Department is mandated (Title 17, Section 1276) to have as a part of its basic services those things which may include community planning, counseling, consultation, education and special studies.

The Department claims that the function of this program is mandatory, at an unspecified level. However, absent specific language that violence prevention be included in the basic services provided by a public health department, we conclude that this function is not mandated and that the entire budget is discretionary General Funding.

The Department indicated that “The Santa Clara County Violence Prevention Action Plan, approved by the Board of Supervisors, establishes the Violence Prevention Program, but there are no specific mandates that violence prevention activities be organized the way our Board has directed.” The Department did point out Penal Code citations that are intended to describe violence prevention activities in the criminal justice agencies. Elimination of this program would result in the loss of approximately \$144,756 in total services. The Department reports that grant funding has previously supported components of the Violence Prevention program.

04–Traffic Safety (NON-MANDATED): **\$458,555**

Although not mandated per se, Title 17 does state that the local health department shall offer at least some basic services from a list of 12 categories. Included in the list are health education programs and services directed to the social factors affecting health. The Department has undertaken this Traffic Safety program with grant dollars and has conducted prevention of red light running campaign and DUI courts in high schools and has promoted use of child safety seats and bicycle helmets as prevention oriented education efforts. The stated aim of the Traffic Safe Communities Network (TSCN) is to

prevent and control traffic-related fatalities and injuries as well as save health care and property costs through research-based best practice approaches. Grant funds are reported to exceed the costs specifically attributed to this function.

The Department reports that 90% of this program is mandatory based on their conclusion that traffic safety represents a social factor affecting health in Santa Clara County. In a manner consistent with the previous discussion of Violence Prevention, we have concluded that this function is not specifically mandated. County Counsel concurs with the assessment of this function.

05-Emergency Medical Services (EMS) Agency (NON-MANDATED): \$2,392,683

The establishment of the Santa Clara County Emergency Medical Services Agency (Agency) is authorized by the State of California pursuant to Title 22 and the Health and Safety Code. The Agency is responsible for ensuring the advancement of the pre-hospital care system, delivery of quality patient care, and the implementation of innovative educational programs.

Overall, the Agency is responsible for the day-to-day management of emergency medical services in the County, including, but not limited to the planning, implementation, and evaluation of emergency medical services systems; implementation of advanced life support systems and monitoring of training programs; approval of and continuous compliance of emergency medical education and training programs including EMT, Emergency Medical Dispatch, paramedic, etc.; certification of EMT's and local accreditation of paramedics and Mobile Intensive Care Nurses; establishment and maintenance of pre-hospital care policies and procedures; trauma system oversight and review; and licensing of pre-hospital care provider organizations. The EMS Agency also provides Medical/Health Disaster Planning and Response.

In the FY 2005-06 Mandate Study, the EMS Program was included under the Administration/Support function, but is now listed as a separate function for this update. According to County Counsel, a county "may," but is not statutorily required to develop an emergency medical services program. County Counsel further indicates that once the County has chosen to establish an EMS program, it must comply with all applicable requirements in the Health and Safety Code and corresponding regulations, including the establishment of a medical director and administration.⁴ Since the County has the discretion of not establishing an EMS program, this function has been designated as non-mandated for the purposes of this study. Both the Department and County Counsel, however, note that having an EMS system is the standard for any large metropolitan area. Assessing the extent to which this is the case was outside the scope of this study.

The 2006-07 Budget includes \$2,392,683 for this function, of which \$384,981 is set aside for one-time expenditures for various projects and activities intended to enhance the EMS system.

⁴ Health and Safety Code Section 1797.200 et seq, Title 22 of the California Code of Regulations.

06-Pandemic Flu Preparedness & Response (NON-MANDATED): \$2,268,475

In the FY 2006-07 Adopted Budget, the Board of Supervisors approved a one-time expenditure for a variety of activities related to Pandemic Influenza Preparedness and Response. These activities include training, public awareness and education, medical supplies for Influenza Care Centers, and supplies and equipment for county employees and vulnerable community populations. These activities will be administered by the Office of Disaster Medical Services. To accomplish the preparedness and response planning, the Department has redirected 6.0 FTE general funded positions from various programs, and Department management positions have added the administrative management and direct workload as part of their job duties. The total one-time cost of this function is \$2,500,000, which includes an expenditure increase of \$2,268,475 and a \$231,525 revenue decrease resulting from the redirection of staff.

07-HIV/Testing and Counseling (NON-MANDATED): \$375,000

In the FY 2006-07 Adopted Budget, the Board of Supervisors approved a one-time expenditure for aggressive HIV testing and counseling services for targeted at-risk populations where the HIV disease is known to be spreading in Santa Clara County. This program will be administered by the HIV/ AIDS Program.

MANDATED PROGRAMS AND FUNCTIONS**08-Primary Care Community Clinics (MANDATED):** \$3,478,724

The Primary Care Community Clinics provide primary care services in partnership with the Santa Clara Valley Health and Hospital System to the indigent, unsponsored, and under-insured residents of Santa Clara County. The Department concluded that this function was not mandated, and that the entire amount of General Fund support was discretionary. Eliminating this level of service, however, could result in increased utilization of Valley Medical Center, both for outpatient visits and visits to the Emergency Department by persons who currently utilize the Community clinics to access primary health care services.

According to County Counsel, the County, however, does have an obligation under §17000 of the Welfare & Institutions Code to provide medical care to the indigent. To the extent that the community clinics provide “medically necessary care to persons who are “indigent,” and ineligible or care under other health care programs, this function may assist the County in meeting its obligation under State law. The FY 2006-07 Adopted Budget includes \$325,000 for the capital expansion of a community clinic.

09-Diabetes Center (MANDATED): \$799,174

Under Title 17, local health departments are mandated to offer a list of basic services, including services in chronic diseases, which may include case finding, community education, consultation and rehabilitation, for the prevention or mitigation of any chronic disease. Although not specifically listed, the Department has asserted that the treatment of diabetes could be considered one of the illnesses intended for treatment under this code section.

The Diabetes Center was created to address the fragmented system of care for patients with diabetes. The fundamental goals of the Diabetes Center are to improve the health and well being of individuals with diagnosed diabetes, optimize the provision of health-care services diabetic patients and their families and to develop public awareness and education on the prevention and treatment of diabetes. The Department reports that this is a mandated function and that 80 percent of the related expenditures are mandated under Title 17. Because Title 17 does not specifically indicate that a diabetes center will be created in each county, only the proportion of expenditures associated with providing such care to the indigent under Section 17000 of the Welfare & Institutions Code is mandated.

The prevention and early intervention of diabetes, and coordination of medical services may have significant cost saving benefits by increasing and maintaining the level of functioning for these patients, and by avoiding more expensive inpatient hospitalizations should the disease go untreated and related health behaviors not be addressed and modified.

10-Immunization Registry (MANDATED): **\$ 434,144**

The Immunization Registry Information System (IRIS) function includes 3.5 authorized positions and is a computer automated information and reminder system. This system is part of the department's mandate for data collection and tabulation in its overall efforts to control the spread of disease through immunization as a prevention strategy. IRIS keeps a record of immunizations (shots) for all children who are enrolled. The purpose of the Immunization Registry is to make each child's immunization record available to the child's health care provider and to remind parents when their child's immunizations are due or overdue. The goal of IRIS is to prevent over-immunizing or under-immunizing of children. This "best practice" solution is one proven method of fulfilling the department's mandate to protect the health of the public by preventing communicable disease.

California law also mandates that all children entering Kindergarten and 7th grade be fully immunized before school entry. According to County Counsel, this function is not specifically required under state or federal law; however, it has been developed by the Public Health Department to meet the requirements of Section 1276 of Title 17 of the California Code of Regulations. This section describes basic services that shall be offered by local health departments. To the extent that this program continues to provide basic services pursuant to Section 1276, it fulfills Public Health's mandate.

11-Epidemiology & Data Management (MANDATED): **\$1,126,933**

The Epidemiology & Data Management function includes eight authorized positions and is responsible for assessment and health status monitoring services. These functions are provided by collecting and analyzing health measures and epidemiological data to respond to specific disease outbreaks, prevent the spread of infectious diseases and inform programs and communities about health prevention, service and policy needs. Additionally, staff supports the planning, development and implementation of the PH Integrated Health System, which captures service encounter information, and eventually will also capture evaluation data elements. The staff is also responsible for coordinating new external grant development. Epidemiology is defined as "the branch

of medicine that deals with the study of the causes, distribution, and control of disease in populations.”⁵ Epidemiology & Data Management also coordinates with SCVHHS Information Services and is currently developing the Public Health Integrated Information System (PHIIS).

The Department reports that California Administrative Code mandates that local health departments shall offer "collection, tabulation and analysis of all public health statistics, including population data, natality, mortality and morbidity records as well as evaluation of service records." While the function of data collection, analysis and reporting is a secondary one in many departments, this function is a primary one for any public health department. One of the basic tenets of the science of public health is the use of data to understand, prevent and treat diseases in populations. The Department reports that 100 percent of Epidemiology & Data Management Index Code expenditures are utilized for legally mandated levels. This function supports other mandated areas. According to County Counsel, similar to the Immunization Registry, this function has been developed the Public Health Department to meet the requirements of Section 1276.

12 –Vital Registration (MANDATED): **\$1,039,126**

The Vital Registration function includes nine authorized positions and is responsible for keeping birth and death records for Santa Clara County for the current year plus two previous years, for providing certified copies of birth and death certificates requested by mail or walk-in, and for referring birth and death statistical information requests to Data Management. The Vital Registration is explicitly mandated under the Health and Safety Code.

13-Steps to a Healthy US (MANDATED): **\$1,711,708**

Steps to a Health US (Steps) function includes four authorized positions and focuses primarily on raising community awareness regarding the effects of diabetes, asthma and obesity by creating programs that increase physical activities. Steps community partners include five school districts and four community-based organizations. This program is not specifically mandated, but has been developed by the Public Health Department to meet the requirements of Section 1276 of Title 17 of the California Code of Regulations.

14–Disease Control and Surveillance (MANDATED): **\$1,979,527**

The Disease Control and Surveillance function includes 15.0 authorized positions and is responsible for the surveillance and reporting of various reportable diseases and conditions, for case investigation, for planning and prevention programs, and for addressing any circumstances or issues related to communicable disease and the public health.

15–Nutrition Wellness/WIC (MANDATED): **\$5,051,999**

The Nutrition Wellness/ WIC function includes 44.0 authorized positions and is responsible for the provision of Women, Infants and Children program, a nutrition program that helps pregnant women, new mothers and young children to eat well and

⁵ *The American Heritage® Dictionary of the English Language, Fourth Edition*

stay healthy through: nutrition education and counseling; nutrition case management by Registered Dietitians (RD) for high-risk participants; supplemental nutritious food; breastfeeding education and support; and referrals to health care.

The Department reports Title 17 indicates local health departments shall have services in nutrition, including appropriate activities in education and consultation for the promotion of positive health, prevention of illness as well as medical, nursing and educational services to promote maternal and child health to meet community needs. Approximately \$5.1 million in Nutrition and Wellness services and resources are budgeted for FY 2006-07. The Department cited the California Health & Safety Code as containing the operative word "may" in terms of describing the provision of a "statewide program for providing nutritional food supplements..." County Counsel provided additional discussion of this function:

Section 1276(g) mandates the provision of "services in nutrition, including appropriate activities in education and consultation for the promotion of positive health, the prevention of ill health, and the dietary control of disease." Again, the language allows for flexibility, as it does not dictate specific program requirements. Here, the Health Department is meeting this regulatory mandate by running WIC, a program that is specifically authorized under both state and federal law.

16-CHDP (MANDATED):

\$2,270,919

The CHDP (Child Health and Disability Prevention) Program includes 15.5 authorized positions and is responsible for ensuring the provision of comprehensive health exams and immunizations for children with Medi-Cal or children from low-income families. CHDP health exams in Santa Clara County are provided by a network of 100 physicians, prepaid health plans, primary care centers, school-based and school-linked programs, Valley Health clinics and other public and private agencies.

The Department cites California Health and Safety Code 124040 that established the program and dictate the services to be provided and the manner in which they are to be provided by State and local CHDP programs. Almost \$2.3 million in services are provided through this function. The Department reports that possible penalties for not complying with the State scope of work are unknown, as the County has historically complied with the scope of work.

17-CA Children's Services (MANDATED):

\$12,782,416

The CA Children's Services function includes 102.0 authorized positions and is responsible for treating children diagnosed with certain physically disabling conditions, as enacted by the California Legislature in 1927. California Health and Safety Code 123850 states that the county "shall designate the county department of public health or the county department of social welfare as the designated agency to administer the CCS Program." Many medical conditions, which are physically disabling are eligible for benefits under the CCS program. This tax-supported program provides specialized medical care and rehabilitation for children whose families cannot provide all or part of the care.

18–MCAH (MANDATED): **\$1,376,298**

The MCAH (Maternal, Child and Adolescent Health) function includes ten authorized positions and includes the Comprehensive Perinatal Services Program, the Breastfeeding Promotion Project, Fetal Infant Mortality Review process (FIMR) and the Child Abuse Prevention Services, all of which are committed to serving women, children and their families in Santa Clara County by assuring access to comprehensive, quality health care and by focusing on prevention and early intervention strategies. Title 17 mandates that local health departments shall offer services for the MCAH population.

19–Black Infant Health (MANDATED): **\$945,148**

The Black Infant Health program includes seven positions. According to County Counsel, this program is not required by State or federal law; however, the Department has developed it to meet the requirements of Section 1276 of Title 17 of the California Code of Regulations.

20–Immunization Program (MANDATED): **\$2,912,542**

Immunization is a prevention strategy the Public Health Department has undertaken in its mandate to control disease based on Title 17. The Immunization function includes 19.5 authorized positions and is responsible for increasing the immunization of children and other residents of the County, thereby reducing the rate of preventable, communicable disease. These components are a routine pediatric immunization clinic, a travel clinic that provides immunization to persons traveling out of the country, the perinatal Hepatitis B program, a community/provider education program and the Immunization Registry Information System (IRIS). The latter function is described in item #10.

21–Tobacco Control (MANDATED): **\$ 1,410,621**

The Tobacco Control function includes 6.5 authorized positions and is responsible for the reduction of tobacco product use in Santa Clara County. Activities include changing community attitudes about tobacco use, reducing the use of tobacco and reducing the exposure to secondhand smoke. Tobacco use is the #1 leading cause of heart disease and death. Title 17 mandates local health departments address social factors that affect health, and to have services addressing chronic disease which may include rehabilitation, for the prevention or mitigation of any chronic disease.

22–Tuberculosis (MANDATED): **\$1,735,365**

The Tuberculosis (TB) function includes 12.0 authorized positions and is responsible, under Title 17, for preventing the development and spread of tuberculosis in the residents of Santa Clara County; and providing accessible and appropriate care for tuberculosis infection or disease. Directly Observed Therapy (DOT) of TB Medication is offered to high-risk cases of TB Disease. The Public Health Officer or a representative may provide testimony of non-compliance with TB therapy and may require a TB case to be closely monitored or hospitalized to insure the disease is not spread to others. Program staff work with private providers to provide recommended guidelines for the screening, care and treatment of TB infection and TB disease. Public Health Nursing staff support the provision of these services in the regions.

23 –Public Health Pharmacy (MANDATED): **\$4,067,324**

The Public Health Pharmacy function includes 9.5 authorized positions and is responsible for the provision of the highest level of pharmaceutical care consistent with community standards and client needs, according to the Department. The Department provided a list of activities carried out by the Pharmacy, including the following:

- Provision of Pharmacy services to Public Health clinic clients
- Participation in the HIV/ AIDS investigational drug studies
- Coordination and distribution of the Vaccine for Children Program
- Management and distribution of State Pediatric Vaccine Program
- Operation and management of State Aids Drug Assistance Program
- Ryan White Medication Assistance Program
- Coordination and management of all bioterrorism related drugs secured by the SCVHHS and other local drug stockpiles in the county as well as the Strategic National Stockpiles when Center For Disease Control decides to deploy them to Santa Clara County.

Although it is not mandated by law to operate a full Public Health Pharmacy, in Santa Clara County the Public Health Pharmacy is an integral component of the comprehensive approach to the mandated function: control of communicable disease.

Title 17 lists the “control of communicable diseases” as a mandated service of local health departments, including preventative measures. The provision of vaccines and medications that treat communicable diseases could be reasonably characterized under the Title 17 requirements. This function may be available for consolidation in order to reduce expenditures by combining the functions of the Public Health Pharmacy with the VMC Pharmacy.

24–Public Health Laboratory (MANDATED): **\$1,490,882**

The Public Health Laboratory function includes ten authorized positions and is responsible for providing laboratory support for the programs and activities of the public health department and the community. The Laboratory provides reference testing, consultation and training. The laboratory exists and functions under the mandates of the Health and Safety Code, California Business and Professions Code, Maintenance of Effort mandated by Welfare and Institutions Code 1700, Clinical Laboratory Improvement Act (CLIA), State of California Department of Public Health, and the Environmental Laboratory Accreditation Program (ELAP).

Services provided by the Public Health Laboratory include clinical and reference testing in the multiple areas as a full service microbiology lab, water testing to detect bacterial contamination and food testing when a food is suspected to be the source of a foodborne outbreak, rabies testing and special testing including the determination of what type of tick may have been involved in relation to Lyme disease. Subsequent to the September 11 events, the Public Health Laboratory has been federally designated as a Level B lab which includes the ability to “rule in” bioterrorism agents for Santa Clara County and assigned Bay Area counties.”

25–Disaster Medical Services (MANDATED): **\$4,652,728**

The Office of Disaster Medical Services (ODMS) function includes 17.0 authorized positions, which are centralized and is responsible for the coordination of preparedness and response to public health threats and disasters. An additional 3.0 authorized positions are located in other areas of the Public Health Department and the Information Services Department of the Health and Hospital System. ODMS develops, exercises and refines the public health disaster response system, and in collaboration with disaster response system partners, is establishing a comprehensive countywide medical response system. By coordinating disaster medical/health operations and resources throughout the county, ODMS ensures a capable public health response including the continual provision of critical public health services in times of disaster.

Title 17 does not specifically mandate a disaster services program per se, but does specify all of the basic services to be provided to each jurisdiction. In the event of natural or manmade disasters or emergencies, the mandated basic services of controlling communicable disease and disseminating public information must be maintained. The Homeland Security Act of 2002, Title III, Section 304; Title V; and Title VIII, Section 801 all reference the responsibilities of local public health departments in preparing and responding, in order to minimize damage, to natural and manmade crises and emergencies.

26–HIV/AIDS Program (MANDATED): **\$5,543,389**

The HIV/AIDS Program function includes 21.0 authorized positions located in various areas of the PHD (Epidemiology, Communicable Disease Registry, Central Contracts Office) and is responsible for reducing the incidence of HIV/AIDS transmission in Santa Clara County through health promotion, risk reduction, HIV/AIDS education, and prevention and treatment services. The HIV/AIDS Program contracts with community based organizations to provide the majority of client direct services. Lastly, this program seeks to assure the quality of life and health status of people living with HIV/AIDS care and treatment services. Title 17 mandates that local health departments shall have basic services that control communicable disease.

27–Regional Services (MANDATED): **\$15,168,525**

The Community-Based Regional Services function includes 124.0 authorized positions and is responsible for public health nursing and multi-disciplinary prevention and case management services through five regional offices throughout the County. This function also includes the Communicable Disease services, the general regional services and the regional services related to Tuberculosis treatment. Public Health Nurse and the Director of Public Health Nursing positions and functions are mandated under Title 17, Sections 1253 and 1301.

The revenues associated with this function vary proportionately with the General Fund, and a decrease in the allocation of General Fund resources could result in a decrease in the revenue received. This functional area is the largest of the Public Health Department and represents \$15.2 million for FY 2006-07. Reductions in the regional public health services could result in higher utilization of the Ambulatory Care Clinics, Valley Medical Center and possibly the Emergency Departments throughout the County.

Local health departments are mandated to 1) provide medical, nursing, educational and other services to promote maternal and child health, under Sec 1276, (d)), and, 2) services in nutrition, including activities in education and consultation for the promotion of positive health and the prevention of ill health and the dietary control of disease. Public Health Nursing is specifically identified as one of the basic services local health departments are mandated to provide (Sec 1276, (1)):

Public Health Nursing services to provide for the preventive and therapeutic care of the populations served.

The mandated services are carried out by a team comprised of Public Health Nurses, supported by paraprofessionals and clerical staff, under direction of managers reporting to the Director of Public Health Nursing, which is a mandated position (Section 1301) and must possess specific education and experience.

28-Adolescent Family Life Program (AFLP)/Cal Learn (Mandated): **\$1,874,672**
AFLP/Cal Learn has 18 authorized positions and is responsible for providing case management to pregnant and parenting adolescents and their families. The function contains two components that have incrementally increased their general fund subsidy because the grant funding has stayed level while the program costs have increased. During FY 2005-06 budget reduction planning, the Department proposed terminating the AFLP contract with the State of California and having the State locate an alternative local CBO for continued AFLP services in Santa Clara County.

Approximately 60% of the AFLP programs in California are provided by community based organizations. The second component of this function includes the pass-through funds from the Social Services Agency for Cal Learn clients. Because Cal Learn is a mandate for SSA, SSA continues to provide Cal-Learn services for eligible clients, within their resources.

According to County Counsel, to the extent that this program continues to provide basic services pursuant to Section 1276, it fulfills Public Health’s mandate.

29-PACE Clinic (MANDATED): **\$3,022,902**
The PACE Clinic function includes 17.5 authorized positions and is responsible for the provision of the majority of primary medical care (medical care, mental health, nutrition, pharmacology and case management care) for people living with HIV infection in the County. The provision of services in this function meets the requirements of both Section 17000 of the Welfare & Institutions Code and Title 17’s specific requirement that the local health department prevent the spread of communicable disease.

30-TB Clinic (MANDATED): **\$2,591,585**
The TB Clinic function includes 24.0 authorized positions and is responsible for diagnosis and treatment of active and latent tuberculosis in the County, seeing approximately 50 percent of all cases and providing consultation to private providers in the community. The provision of these services meets the requirements of both Section

17000 of the Welfare & Institutions Code and Title 17's specific requirement that the local health department prevent the spread of communicable disease.

Reductions in funding of the TB Clinic may result in the increased incidence of Tuberculosis in Santa Clara County, assumedly at a rate higher than if the County continued to allocate the current level of General Fund resources to this function. The Department reports that the number of cases in Santa Clara County has increased by 20 percent over previous years. Increased tuberculosis in the residents of Santa Clara represents increased healthcare and other costs related to decreases in functioning for these persons.

31-Refugee/Child Health Assessment Services (MANDATED): \$220,377

The Refugee/Child Health Assessment Services provides health assessments for newly arriving refugees. Most of the clinic expenses and revenues have been transferred to BU 921 for FY 2004-05 and thereafter. The funding that remains in BU 410 funds outreach, transportation and screening for refugees and asylees and includes 2.0 authorized positions. The program receives funding from the State Department of Health Services to provide the assessment services. Because the Department reports that the General Fund expenditures are required to generate the State revenue, a reduction in these expenditures would reduce non-General Fund revenue received by the County. In FY 2006-07, the projected revenue received for this program is expected to exceed its costs by approximately \$55,000.

According to County Counsel, to the extent that this program continues to provide basic services pursuant to Section 1276, it fulfills Public Health's mandate.

32 – Medical Marijuana ID Card Program (MANDATED): \$128,116

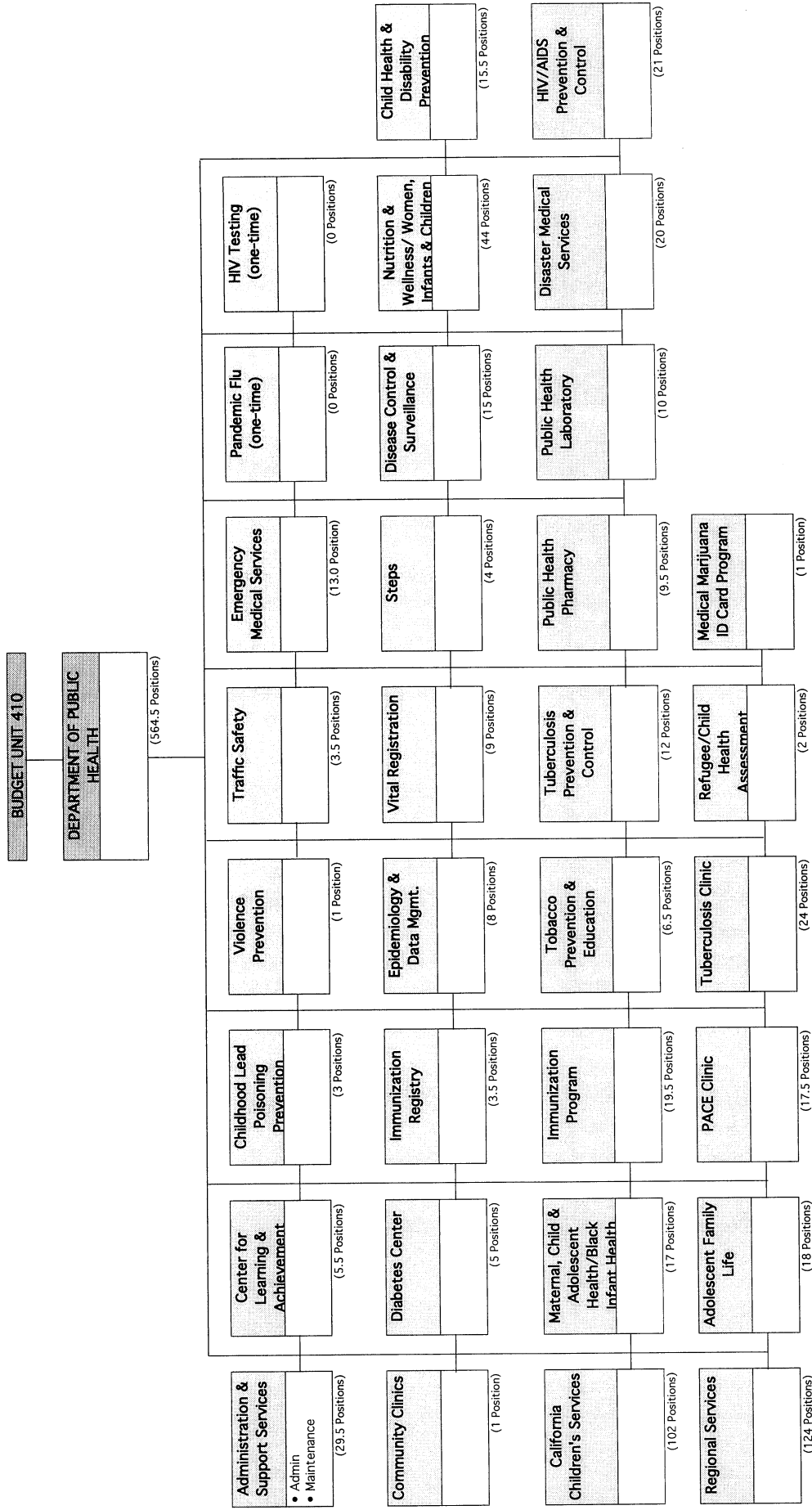
In 1996, California voters passed Proposition 215, also known as the Compassionate Use Act. The Act made the medical use of marijuana legal in California. However, the Act did not provide an effective way for law enforcement to properly identify patients who were legally protected by the Act. Due to problems in enforcement of the Act, Senate Bill 420 was introduced to assist law enforcement in identifying Californians who were protected by the Act by providing patients and their caregivers with a form of identification that would protect them against wrongful arrest and prosecution under California law.

On January 24, 2006, the Board of Supervisors approved the state-mandated MMICP and designated the Public Health Department to perform the implementation functions mandated by the California Department of Health Services (CDHS).

The State has defined the Administering Agency as the county health department or another health-related governmental or nongovernmental entity or organization designated by the county's Board of Supervisors to administer the county's MMICP (except for an entity or organization that cultivates or distributes marijuana). Santa Clara County has the option to designate another entity in the County to implement the MMICP.

Total Department of Public Health FY 2006-07 Adopted Budget	\$100,498,386
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DEPARTMENT OF PUBLIC HEALTH



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MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Jennifer S. Sprinkles, Deputy County Counsel ^{JSD}

RE: Updated Public Health Department and Ambulatory Care Public Health Programs
Mandate Analysis

DATE: August 4, 2006

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written analysis of the legal mandates applicable to Budget Unit 410 regarding the Public Health Department (PH). Below please find our supplemental analysis, as needed, about the mandates in the functional areas identified by the Public Health Department and Ambulatory Care Public Health Programs. This memorandum reflects only those revisions, supplemental analysis, or comments needed to update the Mandate Study of 2004.

Since 2004, several programs have been deleted or moved from Public Health and Ambulatory Care to other budget units. The following programs are no longer in Budget Unit 410: Health Assessment, and Quality Improvement, Perinatal Substance Abuse, Family Planning Clinic, and the Puentes Clinic.

Public Health has added and reorganized several programs. The Medical Marijuana Identification Card Program, and Steps for a Healthy US are new programs created by Public Health since the last mandate study. The Adolescent Family Life Program was previously included in the Regional Nursing Services section of the mandate study, but has now been included as a separate program. Emergency Medical Services (EMS) had previously been included in the Administration and Support section of the 2004 mandate study. EMS is now included in the mandate update as a separate program.

Programs and Functions

Health and Safety Code

The following Public Health Department functions and programs are specifically mandated under the Health and Safety Code and were listed as mandated services in the 2004 Mandate Study. There have been no changes that would affect whether these services are mandated. These functions and programs include:

- Vital Registration
- HIV/AIDS Services
- Tuberculosis Control
- Tuberculosis Clinic
- Communicable Disease Control
- Public Health Laboratory
- Tobacco Prevention and Control
- Immunization Program
- California Children's Services
- Child Health and Disability Prevention Program.

The majority of the services provided by these functions and programs are mandated, but the level of services is not specified with the exception of Tobacco Prevention and Control and California Children's Services. Public Health must follow state guidelines for both of these programs.

California Code of Regulations

The following programs were listed as mandated in the 2004 Mandate Study:

- Diabetes Center
- Immunization Registry
- Health Assessment and Quality Improvement
- Nutrition Wellness/WIC
- Maternal Child and Adolescent Health
- Black Infant Health Program
- Public Health Pharmacy
- Disaster Medical Services
- Perinatal Substance Abuse Program
- Regional Nursing Services
- Refugee and Child Health Clinic
- Community Clinics
- Epidemiology and Data Management
- Disease Control and Surveillance

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Re: Updated PH & Ambulatory Care Mandates Review
August 4, 2006
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These programs are not specifically required under state or federal law. However, these programs have been developed by Public Health to meet the requirements of section 1276 of Title 17 of the California Code of Regulations. This section describes basic services that shall be offered by local health departments. For example, Public Health must provide “services in nutrition, including appropriate activities in education and consultation for the promotion of positive health, the prevention of ill health, and the dietary control of disease.” Public Health has developed a Nutrition Wellness Program to provide these services.

To the extent that the above programs continue to provide basic services as enumerated in section 1276, they fulfill Public Health’s mandate. This section allows Public Health the flexibility to prioritize and modify these programs to address the specific health needs of the County. As long as the basic services are being provided, Public Health can reduce, combine, or even delete these programs.

Welfare and Institutions Code Section 17000

Welfare and Institutions Code section 17000 imposes on counties a duty to provide medical care to indigent persons not eligible for such care under other programs. This section provides:

Every county and every city and county shall relieve and support all incompetent, poor, indigent persons, and those incapacitated by age, disease, or accident, lawfully resident therein, when such persons are not supported and relieved by their relatives or friends, by their own means, or by state hospitals or other state or private institutions.

The County has the discretion to allocate appropriate funding and services to meet this obligation. Section 17000 imposes a mandatory duty to provide “medically necessary” care, not just emergency care.¹ Courts have defined a service as medically necessary “when it is reasonable and necessary to protect life, to prevent significant illness or significant disability, or to alleviate severe pain.”²

While some services and programs within the Public Health Department and Ambulatory Care are not specifically mandated, they may fulfill the County’s obligation under section 17000 because they provide medically necessary care to qualified individuals who could not seek care through other means.

¹ *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 104.

² *Id.* at 104-105

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Non-Mandated Services

The previous mandate study identified four programs as non-mandated services, including the Center for Learning and Achievement, Lead Poisoning Control, Traffic Safety and Violence Prevention. There have been no legal changes to these programs.

New Programs

The Medical Marijuana ID card program is a new mandated service provided by Public Health. Senate Bill 420, which was chaptered in 2003, required the State Department of Health Services (DHS) to establish and maintain a program for the issuance of medical marijuana identification cards. The legislation was codified in Health and Safety Code Section 11362.5 et seq. and imposes mandates upon county health departments related to the issuance of identification cards. Public Health must provide and process applications for the cards, maintain records for the program, and issue identification cards developed by DHS. While these functions and programs are mandated, there is no specified level of staff or funding that must be provided for this program.

Steps for a Healthy US is a new program created by Public Health through a federal grant. The Adolescent Family Life Program had previously been included in the Regional Nursing Services section of the 2004 mandate study. Public Health identified this as a separate program for this update. These programs are not specifically mandated, but to the extent that they provide basic services enumerated under section 1276 they fulfill Public Health's mandate.

EMS had been included in the Administration and Support section of the 2004 mandate update, but is now listed as a separate function for this update. As specified in Health and Safety Code Section 1797.200, a county "may" but is not statutorily required to develop an emergency medical services program. However, the delivery of emergency medical services, specifically paramedics, has become the standard of care for any large, metropolitan area. Once the County has chosen to have an EMS program, it must comply with all applicable requirements in the Health and Safety Code and corresponding regulations, including a medical director and administration.³

c: Kim Roberts, Acting Executive Director, Chief Financial Officer, SCVHHS
Guadalupe S. Olivas, Ph.D., Director, Public Health Department
Robin Roche, Director, Ambulatory & Community Health Services
Ann Miller Ravel, County Counsel

³ Health and Safety Code section 1797.200 et seq, Title 22 of the California Code of Regulations

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MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Jared Goldman, Deputy County Counsel J.G.

RE: Ambulatory Care Public Health Programs Mandate Analysis

DATE: October 25, 2004

As requested by the Board of Supervisors' Management Audit Division, we are providing a written analysis of the legal mandates applicable to Ambulatory Care Public Health Programs.

I. Welfare & Institutions Code Section 17000

The key mandate applicable to the Ambulatory Care Public Health Programs is California Welfare and Institutions Code section 17000, which imposes on counties a duty to provide medical care to indigent persons not eligible for such care under other programs. The section provides:

Every county and every city and county shall relieve and support all incompetent, poor, indigent persons, and those incapacitated by age, disease, or accident, lawfully resident therein, when such persons are not supported and relieved by their relatives or friends, by their own means, or by state hospitals or other state or private institutions.

The manner and level of service delivered under section 17000 is largely up to the County. Welfare and Institutions Code section 17001 authorizes a board of supervisors to adopt standards for the aid and care of indigents. And courts have recognized that counties have broad discretion in performing their duty under section 17000.¹ There are, however, limits to this discretion.

With regard to eligibility standards, the obligation under section 17000 extends to indigent

¹*County of San Diego v. State of California* (1997) 15 Cal.4th 68, 100.

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persons who do not receive medical care from other sources. Section 17000 does not further define this group of persons, but courts have held that a county's obligation extends *at least* as far as those individuals who are not aged, blind, disabled or eligible for AFDC (i.e., persons eligible for other government sponsored health care programs), and who before 1982 would have qualified for Medi-Cal (note that before 1982 the State provided care to "medically indigent person[s]" under Medi-Cal).²

With respect to a service standard, courts have held that section 17000 imposes a mandatory duty to provide "medically necessary" care, not just emergency care.³ In turn, courts have defined a service as medically necessary "when it is reasonable and necessary to protect life, to prevent significant illness or significant disability, or to alleviate severe pain."⁴

To the extent that the Ambulatory Care Public Health Programs provide medically necessary care to persons who are "indigent" under section 17000 and ineligible for care under other health care programs, the programs assist the County in meeting its obligation under section 17000.

The remainder of this memo addresses other mandates which may also apply to the programs.

Note that last year, our analysis included requirements related to several grants programs, including, federal refugee resettlement grants, family planning grants under Title X of the Public Health Services Act, and grants under the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act. This year we are omitting analysis of these grant requirements. While participating in a grant program may impose certain requirements on clinics as a condition of receiving grant funds, participation in these programs is not mandated.

II. Tuberculosis (TB) Clinic

In general, the TB Clinic provides tuberculosis screening, diagnosis and treatment for active and latent tuberculosis infection. This includes the provision of chest x-rays and community based direct observed therapy (i.e., medication compliance) for persons with active tuberculosis or high risk for developing active tuberculosis.

California Health and Safety Code, Division 105, Part 5, Chapter 1 (sections 121350-121460)

²*County of San Diego v. State of California* (1997) 15 Cal.4th 68, 104.

³*Id.* at 104-105.

⁴*Id.*

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establishes the duties of the State, local jurisdictions and other health care providers with respect to tuberculosis control. This chapter does not mandate the *treatment* services provided by the TB clinic, but it does require local health officers to provide *screening* and *diagnosis* of tuberculosis patients. Specifically, the chapter requires health officers to (1) accept reports from health care providers of cases of tuberculosis, (2) accept referrals from health care providers for examinations of potential tuberculosis cases, and (3) to ascertain the existence of, and investigate all reported or suspected cases of tuberculosis in the jurisdiction, and ascertain the sources of those infections. Other than these mandatory duties, the chapter gives health officers a wide range of discretionary power to take measures necessary to protect the public health, including ordering the treatment of a tuberculosis case, ordering a tuberculosis case's admission into a health facility, and ordering the isolation of a tuberculosis case. Although treatment (as opposed to screening and diagnosis) of tuberculosis patients, by the County, appears to be discretionary under sections 121350-121460, it should be noted that, under Health & Safety Code section 120175, a local health officer has a broad duty with respect to diseases, such as tuberculosis, to "take measures as may be necessary to prevent the spread of the disease or occurrence of additional cases."

In addition, Title 17, section 1276(c) of the California Code of Regulations imposes a similar mandate to control tuberculosis. The section requires a public health department to provide:

Communicable disease control, including availability of adequate isolation facilities, the control of the acute communicable diseases, and the control of tuberculosis and the venereal diseases, based on the provision of diagnostic consultative services, epidemiologic investigation and appropriate preventative measures for the particular communicable disease hazards in the community.

No specific manner or level of service is required by the above authorities. The County must, however, "carry out" the stated objectives and purposes of these programs.⁵

III. Refugee and Child Health Clinic/Program

In general, the Refugee and Child Health Clinic (1) provides comprehensive health assessments for newly arriving refugees, (2) provides Child Health and Disability Prevention (CHDP) examinations, (3) is a primary care clinic for the general SCVHHS client population, and (4) provides second opinion

⁵See *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 100 (stating that "the counties' eligibility and service standards must 'carry out' the objectives of section 17000"; and "provisions of law relating to a public assistance program shall be fairly and equitably construed to effect the stated objects and purposes of the program").

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medical exams for CalWORKs clients with medical exemptions.

Health Safety Code, Division 105, Part 3, Chapter 1 (sections 120500-120605) imposes certain duties on the County which may, in part, be satisfied by the Refugee and Child Health Clinic/Program. This chapter relates generally to sexually transmitted disease prevention and control. It applies to all persons, not just refugees. The relevant mandate is set forth in section 120575, which states in part:

It is the duty of the local health officer to use every available means to ascertain the existence of cases of infectious venereal diseases within their respective jurisdictions, to investigate all cases that are not, or probably not, subject to proper control measures . . . , to ascertain so far as possible all sources of infection, and to take all measures reasonably necessary to prevent the transmission of infection.

To the extent that the clinic provides sexually transmitted disease prevention and control, it assists the County in meeting its mandate under section 120575. In addition, to the extent that the clinic assists with disease prevention and control, generally, it assists the County in meeting its mandate under Title 17, section 1276(c). Again, no specific manner or level of service is required by these authorities, but the County must, at least, carry out the stated objectives and purposes of the program.

IV. Family Planning Clinic

The Family Planning Clinic provides reproductive health services, including physical assessments, basic contraceptive counseling, screening and treatment for sexually transmitted diseases, and health education. Title 22, section 1276(k) requires that public health departments provide:

Appropriate services in the field of family planning, which may include:

(1) Promotion of availability of program elements such as:

(A) Assembling knowledge about family planning, attitudes, values and information held by population groups.

(B) Public and professional educational services about the health benefits of family planning and fertility control methods.

(C) Professional services for sterility correction, fertility control and genetic counseling for all segments of the population, making available methods acceptable to families of any religious persuasion.

(D) Evaluation of the adequacy of the community's family planning efforts.

(2) Provision of program elements which are not otherwise likely to be made available, including family planning services for those groups who cannot reasonably obtain them.

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This section, as stated above, mandates "appropriate services in the field of family planning." The determination of what services are "appropriate," however, appears to be at the discretion of the County.

V. Ira Greene Positive PACE Clinic

The Ira Greene Positive PACE Clinic provides a wide range of health care service and case management for persons with HIV infection and AIDS diagnosis. To the extent that the clinic assists with disease prevention and control, it assists the County in meeting its mandate under Title 17, section 1276(c).

VI. Center for Learning and Achievement

The Center for Learning and Achievement provides multidisciplinary evaluation of children with developmental, behavioral and learning variations. We are unaware of any mandates applicable to this program.

VII. Puentes Clinic

The Puentes Clinic provides primary medical care to active and recovering injection drug users. To the extent that the clinic assists with disease prevention and control, it assists the County in meeting its mandate under Title 17, section 1276(c).

c: Robert Sillen, Executive Director, SCVHHS
Robin Roche, Director, Ambulatory & Community Health Services
Dena Dickenson, Director, Ambulatory Public Health Programs

412 Mental Health

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>% *1</u>	<u>Amount</u>	<u>% *2</u>	<u>Amount*3</u>	<u>%*4</u>
Non-Mandated	8	3,438,134	2%	2,972,758	86%	19.5	6%
Mandated	26	185,364,659	89%	57,391,477	31%	287.8	85%
Admin/Support	-	<u>19,310,574</u>	<u>9%</u>	<u>8,343,456</u>	<u>43%</u>	<u>29.8</u>	<u>9%</u>
Total	<u>34</u>	<u>208,113,367</u>	<u>100%</u>	<u>68,707,691</u>	<u>33%</u>	<u>337.0</u>	<u>100%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=totals may not sum due to rounding, *4=percent of total staffing.

Departmental Description

The Mental Health Department performs 34 functions related to the provision of mental health services to families and children, adults and older adults in Santa Clara County. The Mental Health Department also performs an administrative and support function that includes management, fiscal, budget and information systems support. The FY 2006-07 Current Level Mental Health Department budget equals \$208.1 million, of which \$68.7 million is General Fund support.

Article 3 of the County Ordinance Code, Sections A18-18 through A18-32 recognize the Mental Health Department and the director of Mental Health. The ordinance code states that the director is to "assure that proper personnel, equipment, supplies and facilities are provided to carry out these prescribed functions." The ordinance code also states the director is expected to administer admission and discharge procedures, maintain the confidentiality of records and organize and conduct a professional training program within the department.

The language in California Welfare & Institutions Code sections 5600, et. seq (the "Short-Doyle Act") related to local mental health services is primarily suggestive rather than mandatory, with many sections including the phrase "to the extent resources are available." There are certain sections that include the obligatory phrase "shall," related to the following functions and/or positions:

- "The Board of Supervisorsshall establish a community mental health service..." (WIC § 5602);
- "Each community mental health service shall have a mental health board..." (WIC § 5604);
- "The local mental health services shall be administered by a local director of mental health services to be appointed by the governing body." (WIC § 5607);
- "The local director of mental health services shall have the following powers and duties (WIC § 5608):
 - Serve as CEO of the community mental health service
 - Exercise general supervision
 - Recommend to its governing body the set of necessary services
 - Submit an annual report
 - Carry on studies
 - Possess authority to enter into contracts.

An assumption of the Short-Doyle Act is that all counties will elect to participate and enter into performance contracts with the State of California to receive State and federal funds. Although the Short-Doyle Act fails to identify any specific services to be provided, it does set forth a minimum array of services that should be provided by the counties to specified target populations "to the extent resources are available." Once a county enters into a performance contract, it is also required to provide certain additional services and programs, including services to persons receiving Medi-Cal, persons receiving involuntary treatment, and persons with special education needs.

The California W&I Code specifically states that counties are not required to provide General Funds in excess of the amounts calculated as minimum Maintenance of Effort amounts.¹ Beginning with Article 2, §17601, the Welfare & Institutions Code describes the allocation of funds to counties for mental health services and the maintenance of effort counties must dedicate. A letter from the Department of Health Services indicates that the Realignment Maintenance of Effort for Santa Clara County has equaled \$1,551,653 since 1997.

In terms of any mandate that mental health services be provided in various locations around the county, § 5600.35 of the W&I code encourages services be available in all geographic areas, but does not mandate counties to do so.

¹ "Nothing in this chapter shall prevent a county, or counties acting jointly, from appropriating additional funds for mental health services. In no event shall counties be required to appropriate more than the amount required under the provisions of this chapter." Welfare & Institutions Code § 5703

Since the FY 2005-06 Mandate Study, California voters passed Proposition 63, the Mental Health Services Act (MHSA). This initiative provides additional funding to be distributed to counties for the purpose of funding the expansion of certain mental health programs. Pursuant to the W&I Code Section 5891, the funds available under this act "shall not be used to supplant existing state or county funds utilized to provide mental health services." The MHSA mandates that the State implement local programs and services through the Performance Contract process.

The Department of Mental Health reports that they are currently negotiating a new performance contract with the state to address the programs and services required under MHSA. Although the MHSA funds are not part of the current budget for purposes of this mandate study, County Counsel believes that this act "requires a broader array of programs and services than is required under the Short-Doyle Act." Thus, to the extent that any of the programs listed in this study become covered under the MHSA contract, they will either become mandated, or their mandates will increase. The additional mandates resulting from MHSA, however, may be offset by funding provided under the act.

The functions of the Mental Health Department are mandated under the assumption that the County must enter into a contractual relationship with the State to receive funding. Once the County enters into this contract and accepts Short-Doyle funds, it is mandated to provide the minimum array of services, as well as certain additional services and programs, based on the resources available to do so. To the extent that any of the programs listed in this study become covered under the MHSA contract, they will either become mandated, or their mandates will increase.

FY 2006-07 General Fund Budget by Program/Function

<u>Function</u>	<u>FY 2006-07</u>		<u>Departmental</u>	<u>General</u>	<u>Percent</u>
	<u>Adopted Budget</u>	<u>Staffing</u>			
	<u>Amount</u>			<u>Subsidy</u>	
<u>Non-Mandated Activities</u>					
01 Supplemental RCF Beds	910,634	0.0	-	910,634	100%
02 Rep Payee	614,863	7.0	90,000	524,863	85%
03 Self-Help	375,430	0.0	-	375,430	100%
04 Suicide Hot-Line	76,908	0.0	-	76,908	100%
05 Suicide Prevention	145,686	1.0	108,124	37,562	26%
06 Gateway	922,781	9.0	267,252	655,529	71%
07 Supported Housing	134,007	0.0	-	134,007	100%
08 Drug Treatment Court	<u>257,825</u>	<u>2.5</u>	-	<u>257,825</u>	<u>100%</u>
Subtotal	3,438,134	19.5	465,376	2,972,758	86%
<u>Mandated Activities</u>					
09 Vocational Services	573,711	0.0	-	573,711	100%
10 Homeless Shelter	370,533	0.0	149,067	221,466	60%
11 Wraparound	12,771,954	0.0	12,771,954	-	0%
12 Specialized Outpatient	22,284,764	52.0	18,941,977	3,342,788	15%
13 CalWORKs Outpatient	621,789	6.0	613,689	8,100	1%
14 Residential Treatment	7,144,825	0.0	4,256,556	2,888,269	40%
15 Day Rehabilitation	4,479,222	0.0	2,951,673	1,527,549	34%
16 Outpatient Teams	31,773,992	120.5	19,101,088	12,672,904	40%
17 Family/ Children Inpt.	224,472	0.0	90,306	134,166	60%
18 Residential CTF	9,954,506	0.0	8,585,257	1,369,249	14%
19 JPD Hall/ Ranches	3,389,855	30.0	1,914,172	1,475,683	44%
20 Children's Shelter	1,088,563	10.0	838,834	249,729	23%
21 School Day Treatment	3,525,811	0.0	3,257,309	268,502	8%
22 State Hospital	4,349,651	0.0	1,749,886	2,599,765	60%
23 Adult/Older Inpatient	2,716,160	0.0	1,140,281	1,575,879	58%
24 IMD/SNF/OBS	10,796,883	0.0	4,968,706	5,828,177	54%
25 24-hour Care	1,456,799	13.0	557,567	899,232	62%
26 Legal Advocacy	457,380	0.0	230,116	227,264	50%
27 Call Center	1,754,854	13.5	552,013	1,202,841	69%
28 Disaster Response	36,716	0.3	-	36,716	100%
29 QI/ Research	1,320,215	11.5	725,527	594,688	45%
30 Pharmacy	18,314,554	21.0	15,193,458	3,121,096	17%
31 Managed Care	3,637,515	2.0	3,637,515	-	0%
32 Jail MH	8,576,916	0.0	3,450,535	5,126,381	60%
33 APS/ EPS	32,650,946	0.0	21,203,623	11,447,323	35%
34 Mental Hlth Svcs Act	<u>1,092,073</u>	<u>8.0</u>	<u>1,092,073</u>	-	<u>0%</u>
Subtotal	185,364,659	287.8	127,973,182	57,391,477	31%
<u>Required</u>					
Admin/Support	<u>19,310,574</u>	<u>29.8</u>	<u>10,967,118</u>	<u>8,343,456</u>	<u>43%</u>
Total	<u>208,113,367</u>	<u>337.0</u>	<u>139,405,676</u>	<u>68,707,691</u>	<u>33%</u>

Description of Programs and Functions

Administration and Support (REQUIRED): **\$19,310,574**

The Mental Health Department includes 29.8 management, administrative, and support staff. Specific tasks include: contracts administration, compliance, multi-cultural services, and Mental Health Board support. Because many of the direct services performed by the Mental Health Department are mandated, the County must also provide adequate administrative oversight and support services to fulfill these mandates. The amount of staff and other resources necessary to provide an "adequate" level of funding is subject to determination by the Board of Supervisors pursuant to Government Code Sections 29063 and 29088. The provision of clinical services often requires that supervision by a licensed clinician be provided on-site, necessitating that managers possess both managerial skills and be licensed clinicians. The Santa Clara County Mental Health Board is required by State law and County Ordinance.

NON-MANDATED PROGRAMS AND FUNCTIONS

01 – Supplemental Residential Care Facilities (NON-MANDATED): **\$910,634**

The Supplemental Residential Care Facility (RCF) function is comprised of contract expenditures to licensed residential care facilities that provide supplemental service to conserved and non-conserved clients who require additional service to be maintained in a community setting. The Department reports that this service is not mandated. The Department also asserts that the discontinuation of these services would result in many clients requiring placement in IMD or SNF programs at a cost up to five times that being currently provided through the Supplemental Residential Care Facilities. This function is entirely supported with General Fund revenue. According to County Counsel, these services may become mandated to the extent that they are covered by the Mental Health Services Act.

02 – Representative Payee (NON-MANDATED): **\$614,863**

The Representative Payee function includes seven authorized positions and is responsible for applying and maintaining benefits for clients who receive services from mental health and who are certified by a psychiatrist as unable to manage their own funds. This service is considered essential to support clients in the community who are at risk of institutionalization due to their inability to manage their daily financial affairs. The Department initiated a monthly service fee in April of 2004. A projected reimbursement of \$90,000 is included in the Current Level Budget. After taking into account this fee revenue, approximately 85 percent of this cost of this function is supported by the General Fund. According to County Counsel, these services may become mandated to the extent that they are covered by the Mental Health Services Act.

03 – Self-Help Centers (NON-MANDATED): **\$375,430**

The Self-Help Center function includes \$375,430 in projected expenditures intended to establish and support centers where mental health consumers can meet, offer each other support and participate in rehabilitative activities. These centers were created for client use without enrollment in service. The Department asserts that while the Welfare and Institution Code does not require counties to fund Self-Help programs, the State is

supposed to encourage county mental health programs to develop and support such client-based efforts and the centers support client recovery and self reliance and provide an excellent means to support clients as they leave services. In the FY 2006-07 Budget, this program is entirely supported with General Fund resources.

04 – Suicide Hot Line (NON-MANDATED): **\$76,908**

The Suicide Hot Line function includes two authorized positions and is responsible for intervention, stabilization, information and referrals. The Department reports that this service is 100 percent discretionary. Suicide is the ultimate negative outcome of mental illness and the prevention of such events is paramount to any public mental health system. Currently, this program is entirely subsidized by the General Fund. According to County Counsel, these services may become mandated to the extent that they are covered by the Mental Health Services Act.

05 – Suicide Prevention (NON-MANDATED): **\$145,686**

The Suicide Prevention function has one authorized position and is responsible for teen prevention and early intervention programs in middle and high schools. The Suicide Prevention function is supported by resources from the Morrison Trust, a specific Trust to support the Santa Clara County Suicide Crisis Service. Approximately 26 percent of the cost of this function is supported by the General Fund. According to County Counsel, these services may become mandated to the extent that they are covered by the Mental Health Services Act.

06 – Gateway (NON-MANDATED): **\$922,781**

On a contract basis for the Department of Alcohol and Drug Services, the Mental Health Department operates the Gateway Call Center. The nine staff provides information/referral and the initial screening and referral of clients into the Drug and Alcohol System. As a service provided on a contract basis to the Department of Alcohol and Drug Services, this service is required of the Mental Health Department. Roughly 70 percent of the cost of this function is offset by General Fund resources, with the remainder offset by grant funding.

07 – Supported Housing (NON-MANDATED): **\$134,007**

The Supported Housing function includes \$134,007 in contract services for mental health consumers to obtain and maintain housing in the community. The Department reports that this program is considered an alternative to higher levels of care, and as such fulfills the requirement that the county seek to establish a continuum of least restrictive 24-hour care for clients. According to County Counsel, these services may become mandated to the extent that they are covered by the Mental Health Services Act.

08 – Drug Treatment Court (NON-MANDATED): **\$257,825**

The Drug Treatment Court Mental Health function includes 2.5 authorized positions and is responsible for cases involving assessments, evaluations, including appropriate referrals and participation in court presentations. The Drug Treatment Court is operated under the authority and direction of a Judge and the Courts, and could presumably be court ordered. If the Drug Treatment Court Services were discontinued, many of the participants may return to the criminal justice system and be incarcerated, resulting in costs far in excess of those of the Drug Treatment Court. Although Penal

Code 1000 delineates eligibility for entry in to a drug court program and Section 36 of the California Rules of Court describes the treatment services that should be available to Drug Court participants, it does not appear to mandate that counties provide drug court services.

MANDATED PROGRAMS AND FUNCTIONS

09 – Vocational Services (MANDATED): **\$573,711**

Vocational Services are provided through a joint agreement between the County and the California Department of Rehabilitation (DOR), by which contractors are reimbursed for services. The Department reports that approximately \$2.2 million dollars is provided directly to the two contract Vocational Rehabilitation providers from the California State Department of Rehabilitation. Therefore, the actual amount of service that would no longer be provided if the General Fund allocation of \$573,711 were eliminated actually equals approximately \$2.7 million.

Although the Department is not mandated to contract with DOR, the Short-Doyle Act does require that public community mental health services offer an array of treatment options, including vocational services, if the County elects to enter into the Performance Contract and receive Short-Doyle Funds. Additionally, these services could become mandated, pursuant to the Mental Health Services Act under Welfare & Institutions Code Section 5800.

10 – Homeless Shelter (MANDATED): **\$370,533**

The Homeless Shelter function includes \$370,533 in contract services for mental health consumers. This service provides contracted homeless shelter beds for mentally ill individuals. The County has an overall system to address homelessness and a shelter system in place. The Short-Doyle Act requires that public community mental health services offer an array of treatment options, including services for homeless persons. To the extent that the County elects to fulfill this requirement with this function, it is mandated. However, to the extent this requirement is fulfilled elsewhere in the Department, it would not be mandated. Furthermore, according to County Counsel, these services may become mandated to the extent that they are covered by the Mental Health Services Act.

11– Wraparound (MANDATED): **\$12,771,954**

The Wraparound function is a contracted service and therefore does not include authorized positions. This function includes providing alternative intensive in-home treatment to children who would otherwise require RCL level 14 residential treatment and the legal mandate is essentially the same as that for RCL Level 14 and CTF placement. The model of treatment is discretionary, but because youth can demand such treatment through a judicial hearing, this service or a service similar is mandated.

12 – Specialized Outpatient Services (MANDATED): **\$22,284,764**

The Family and Children’s Services Specialized Outpatient Services function includes 52 authorized persons and is responsible for individual, group and collateral therapy, case management, medication services, crisis intervention, therapeutic behavioral

services, and rehabilitation support. The Short-Doyle Code requires that public community mental health services offer an array of treatment options, including outpatient services for children and adolescents

13 – CalWORKs Outpatient (MANDATED): **\$621,789**

The CalWORKs Outpatient function includes 6 authorized positions and is responsible for providing mental health services to CalWORKs recipients who may have a disability that hinders their ability to gain employment. These services are paid through funding from the State provided to the Social Services Agency. Failure to provide services in accordance with State CalWORKs requirements could result in a loss of State funding to the Department.

14– Crisis and Transitional Residential Treatment (MANDATED): **\$7,144,825**

The Residential Treatment function includes \$7,144,825 in contract services for mental health consumers. This level of service includes both crisis and transitional residential services that include specific support and monitoring not available in a more independent setting. The provision of Crisis Residential Services to persons who would otherwise require IMD or inpatient hospitalization meets the legal mandate of providing the least restrictive service available.

15 – Day Rehabilitation (MANDATED): **\$4,479,222**

The Day Rehabilitation function includes \$4,479,222 in contract services for mental health consumers. This service includes therapeutic groups and activities intended to assist mental health consumers in improving and maintaining their level of functioning in the community. According to the Department, this function is mandated pursuant to the Short-Doyle Act, which requires that public community mental health services offer an array of treatment options, including day services.

16 – Outpatient Teams (MANDATED): **\$31,773,992**

The Outpatient Service Team includes 120.5 authorized positions and is responsible for the provision of individual, group and collateral therapy, case management, medication services, crisis intervention and rehabilitation support. This function is mandated pursuant to the Short-Doyle Act.

17 – Family/Children Inpatient (MANDATED) **\$224,472**

The function of providing inpatient hospitalization services in the Family and Children’s Division includes contract expenditures of \$224,472 and includes staff to perform utilization review. Inpatient hospitalization services are provided to publicly funded SCC residents under the age of 18 who are determined by an evaluating psychiatrist to meet medical necessity for acute inpatient psychiatric care and who are referred to private hospitals under contract with Santa Clara County, and in limited cases, are hospitalized at the Barbara Aarons Pavilion. Welfare & Institutions Codes 5000 and 5600 require psychiatric evaluation and treatment of persons held involuntarily and inpatient hospitalization is a service included in the “array” of community mental health treatment.

18 – Residential CTF (MANDATED): \$9,954,506

Residential Community Treatment Facility services provided in the Family and Children Services division include \$9,954,506 in contract services. This level of treatment is provided at the Starlight facility and comes about as a result of interagency and court decisions indicating youth require either RCL Level 14 or CTF services. While the County may have the discretion not to include this service in its array, not doing so could result in paying another county or facility for the provision of such care when it is indicated as required under a child's IEP or by the court.

19 – JPD Hall/Ranches (MANDATED): \$3,389,855

The function of providing mental health services at the Juvenile Hall and the Juvenile Probation Department Ranch include 30 authorized positions. The Department asserts that these services are mandated under Title 15 of the California Code of Regulations. The Department also indicates that the service is mandated because the youth is incarcerated, suggesting that reducing the number of children detained would reduce the requirement.

20 – Children's Shelter (MANDATED): \$1,088,563

The function of providing mental health services based at the Children's Shelter includes 10 authorized positions. As a licensed group home that serves youth with Medi-Cal, the Department reports that mental health services must be provided to these youth who are in protective custody and are Medi-Cal eligible. As the population of the Shelter has decreased, the Department reports that staff has been redirected to serve children in the Dependency System who are not in the Shelter.

21 – School Day Treatment (MANDATED): \$3,525,811

The School Day Treatment function includes \$3,525,811 in contract services for children and adolescents within the Family and Children Division of the Mental Health Department. This intensive level of educational treatment is offered to youth placed in intensive level residential care, or to those who are placed in Special Education classes for seriously emotionally disturbed youth. The Short-Doyle Code requires that public community mental health services offer an array of treatment options, including intensive day services for children and adolescents. Additionally, when individualized education plan (IEP) recommends day treatment, the Department is responsible for providing this level of care or an appropriate alternative.

22 – State Hospital (MANDATED): \$4,349,651

The function of paying for State hospital treatment for persons from Santa Clara County or who previously resided in Santa Clara County includes projected expenditures of \$4,349,651. The caseload of this service is measured as the annual number of public funded hospital admissions of Santa Clara County residents over the age of 18 who are determined by an evaluating psychiatrist to meet medical necessity for acute inpatient care. The County contracts with the State for care provided to persons who cannot be treated safely in community locked or unlocked settings. Those persons in the State hospital are conserved; therefore, the placement is mandated under the Lanterman Petris Short (LPS) section of the Welfare and Institution Code.

23 – Adult/Older Inpatient (MANDATED): **\$2,716,160**

The function of providing inpatient hospitalization to adults, older adults and children requiring such care includes a projected budgeted expenditure of \$2,716,160 and includes staff to perform utilization review. The Mental Health Department provides this service through Emergency Psychiatric Services (EPS), Barbara Arons Pavilion and private contract beds. Clients who require this level of care, or for whom a lower level of care is not available, must be provided this level of treatment under LPS.

24 – IMD/SNF (MANDATED): **\$10,796,883**

The function of reimbursing contract providers for the treatment of individuals in Institutes for Mental Disease (IMD), Skilled Nursing Facilities (SNF) and Organic Brain Syndrome (OBS) facilities includes projected expenditures of \$10,796,883. Caseload is measured as the annual number of public funded IMD/SNF admissions of SCC residents over the age of 18 who are determined by an evaluating psychiatrist to meet medical necessity for a locked level of care. Required capacity is determined by average daily number of clients requiring IMD/SNF care. While the Department has, and continues to make efforts to decrease the required inpatient expenditures, clients who require this level of care, or for whom a lower level of care is not available, must be provided this level of treatment under LPS.

25 – 24-Hour Care (MANDATED): **\$1,456,799**

The 24-Hour Care function includes 13 authorized positions and is responsible for authorization, care management, and aftercare planning for clients placed in 24-hour services including hospital, State hospital, IMD, SNF and RCF. The authorization process is mandated to allow for contractors to receive patients and be reimbursed. This function is mandated pursuant to the Short-Doyle act.

26 – Legal Advocacy (MANDATED): **\$457,380**

The function of providing legal advocacy services includes \$457,380 in contract services. This function is comprised of certification review services to inpatient programs, and patient rights services and legal representation and counseling in housing, Medi-Cal, administrative appeals of SSI/SSDI terminations and related issues for homeless mentally ill clients. According County Counsel, this function is mandated pursuant to Welfare and Institutions Code Section 5520.

27 – Call Center (MANDATED): **\$1,754,854**

The Call Center function includes 13.5 authorized positions and is responsible for telephone screening and referral by qualified clinicians 24 hours a day, seven days a week, as well as crisis triage, information and referral and consultation services. The Department cites Title IX's requirement that mental health plans provide 24-hour access through a 1-800 phone number with staff available in three threshold languages. The Department also cites requirements that the access to crisis, referral and outreach as well as a referral system for fee for service providers are mandated.

28 – Disaster Response (MANDATED): **\$36,716**

Disaster Response includes the development of local and State crisis response and emergency response plans, coordination of crisis response to local and State disasters, crisis response to local and State disasters, crisis response training, consultation and

response services to local county and city jurisdictions relative to specific crisis situations, and consultation to courts and jury debriefing. The Department cites the CA Welfare and Institution Code and its direction that public mental health systems provide services to “Persons who need brief treatment as a result of a natural disaster or severe local emergency.”

29 – QI/Research (MANDATED): **\$1,320,215**

The QI/Research function includes 11.5 authorized positions and is responsible for the Quality Improvement and Research work carried out in the Mental Health Department. There are four primary functions of the QI/Research Group reported by the Department: Utilization Review, Beneficiary Services, Performance Outcomes and Credentials. The California Welfare & Institutions Code and Title IX include the requirements that the Department provide for these functions.

30 – Pharmacy (MANDATED): **\$18,314,554**

The Pharmacy function of the Mental Health Department includes 21 authorized positions and is responsible for the preparation and provision of medication to consumers of the mental health system. The Department cites W&I Code §5623.5 that the county does not have the discretion to deny prescribed medication approved by Medi-Cal, through its inclusion on the program’s formulary. The mandated provision of medications could be met under a centralized pharmacy or contract pharmacy system.

31 – Managed Care (MANDATED): **\$3,637,515**

The Managed Care function of the Mental Health Department includes two authorized positions and is responsible for the development and operation of a managed care system for fee-for-service clients seeking mental health services. Such service is required by multiple Welfare & Institution Code Sections, as cited by the Department, and confirmed by the analysis of the Mental Health Department by County Counsel.

32 – Jail MH (MANDATED): **\$8,576,916**

The Mental Health Department cites Title XV, the California Code of Regulations and the W&I Code related to the set of services that must be provided in Adult Custody Facilities. There are also service mandate provisions related to federal and State regulations, as well as local court settlement agreements related to the provision of mental health services to persons in custody.

33 – APS/EPS (MANDATED): **\$32,650,946**

This expenditure represents reimbursement to Budget Unit 921 Valley Medical Center. The Department cites Title XXII, LPS and the Short-Doyle Act as legal mandates related to the services provided at EPS and Barbara Aarons. Additionally, the Department cites JCAHO and other regulations that govern how services must be provided, if Emergency Psychiatric and inpatient services are provided. Finally, these services must be provided to the indigent to comply with § 17000 of the Welfare & Institutions Code, if psychiatric care is determined to be part of the basic medical care mandated for indigent persons in the W&I Code. Any services provided to persons who are not indigent and do not meet medical necessity should be considered discretionary, in a manner consistent with the analysis of Budget Unit 921, Valley Medical Center.

34 – Mental Health Services Act (MANDATED):

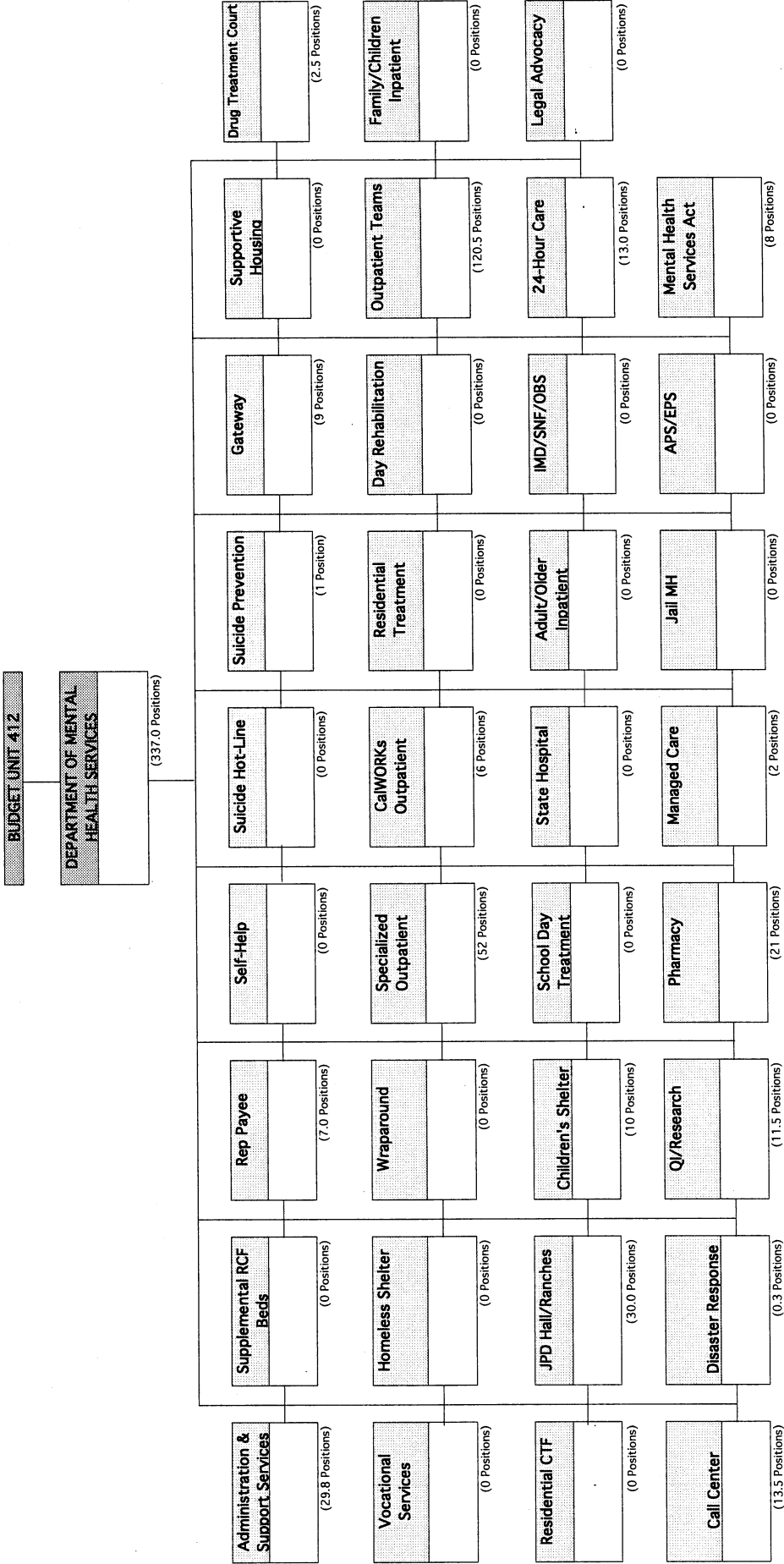
\$1,092,073

The Mental Health Services Act (MHSA) was passed in November 2004 mandating new funds for services that are not already covered by federally sponsored programs or by individuals’ or families’ insurance programs. These funds are specifically targeted for programs that are innovative, successful and proven to be effective for treating seriously mentally ill children, transitional age youth, adults and older adults and may not supplant other revenues currently being used for public mental health programs. Services must include approaches that reduce ethnic, cultural or other disparities that influence access to and use of services.

MHSA is being implemented in phases, the first being the development of Community Services and Supports (CSS). In FY 2006-07, the ongoing funding in the Department’s CSS plan totals \$10.6 million, but only \$1.0 million is included in the County’s FY 2006-07 final approved budget. (In FY 2006-07, DMH will also receive an additional \$4.8 million in CSS one-time funds and an additional \$3.1 million in expenses funded with State and federal resources.) The Department’s CSS Plan has been approved and will be implemented through the development of new county and contract services that will be brought to the Board for approval and budget appropriation in the course of the fiscal year. Fifty one percent of the \$10.6 million will be used to contract for “full service partnership” services (similar to wraparound) for each age group. Forty nine percent will be distributed among programs that include mobile, crisis and urgent care; clinician, consumer and family training; peer and family support; and housing enhancement.

Total Department of Mental Health FY 2006-07 Adopted Budget	\$208,113,367
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DEPARTMENT OF MENTAL HEALTH SERVICES



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MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Theresa J. Fuentes, Deputy County Counsel *Theresa Fuentes*

RE: Department of Mental Health, Budget Unit 412 - Mandate Analysis

DATE: August 1, 2006

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to Budget Unit 412 regarding the Department of Mental Health (the "Department"). Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the Mental Health Department. This memo reflects only those changes, revisions or supplemental analysis needed to update the FY 2005-06 Mandate Study completed in October 2004 (the "2004 Study").

Departmental Description

As indicated in the 2004 Study, the County is mandated under the Short-Doyle Act, Cal. Welf. & Inst. Code ("WIC") § 5600, et. seq. (the "Short-Doyle Act"), to "establish a community mental health service to cover the entire area of the county or counties." WIC § 5602. "Mental health service" is defined as "any service directed toward the early intervention in, or alleviation or prevention of a mental disorder, including but not limited to, diagnosis, evaluation, treatment, personal care, day care, respite care, special living arrangements, community skill training, sheltered employment, socialization, case management, transportation, information, referral, consultation, and community services." WIC § 5601.

Although the Short Doyle Act fails to identify any specific services to be provided, it does set forth a minimum array of services that "should" be provided by the counties to specified target populations "to the extent resources are available." For example, the minimum array of services for adults in the target population should include precrisis and crisis services, assessment, medication education and management, case management, twenty-four-hour treatment services, rehabilitation and support services, vocational services, and residential services. WIC § 5600.6. It is up to the County to implement the services as they deem appropriate. WIC § 5601 defines

“to the extent resources are available” as “to the extent that funds deposited in the mental health account of the local health and welfare fund are available to an entity qualified to use those funds.” In addition, the Short Doyle Act requires the County to enter into a performance contract with the State to receive funding for these minimum services, and to provide certain “additional services and programs” as a condition to receiving such funding. WIC § 5650, et seq. (the “Performance Contract”). These “additional services and programs” include the provision of services to persons receiving Medi-Cal, persons receiving involuntary treatment, and persons with special education needs as mandated under the California Gov’t Code § 7570, et seq. Thus, once a county signs the Performance Contract and accepts Short-Doyle funds, the county is then mandated to provide the services and programs listed therein, as well as those falling within the minimum array of services defined in WIC § 5600.5 (children and youth in target population), § 5600.6 (adults in target population), and § 5600.7 (older adults in target population). In addition, as noted in the 2004 Study, certain Mental Health Department services are mandated under WIC § 5150, et seq. requiring the provision of emergency psychiatric services for persons involuntarily detained, WIC § 5000, et seq., regarding conservatorship of persons who are “gravely disabled” by mental illness, and various regulations, including Titles 15 and 9 of the California Code of Regulations.

Mental Health Services Act (Proposition 63)

In November 2004, subsequent to the 2004 Study, California voters passed Proposition 63, which was codified as the Mental Health Services Act (“MHSA”). The MHSA imposes a one percent tax on certain taxpayers with taxable income in excess of one million dollars. These new tax dollars are deposited in the State Treasury Mental Health Services Fund, to be distributed to the counties for the purpose of funding expansion of certain mental health programs. WIC § 5890(a). The funds “shall not be used to supplant existing state or county funds utilized to provide mental health services.” WIC § 5891.

The MHSA mandates the State to implement programs and services outlined in Parts 3, 3.2, 3.6 and 4 of the Act, as supplemented by the MHSA (discussed below), through the Performance Contract with the County. WIC § 5897(a) and (c). Under § 5847, “each county shall prepare and submit a three year plan which shall be updated at least annually and approved by the department.” The plan “shall” update and include the following programs:

- (1) A program for prevention and early intervention in accordance with Part 3.6

Part 3.6 WIC § 5840, et seq. Prevention and Early Intervention Programs.

“The Department of Mental Health shall establish a program designed to prevent mental illnesses from becoming severe and disabling.” The program “shall include” the following components: (a) outreach to families, employers, primary

healthcare providers and others to recognize the early signs of mental illness; (b) access and linkage to medically necessary care provided by county mental health programs for children with severe mental illness and for adults and seniors with severe mental illness as early as practicable; (c) reduction in the stigma associated with either being diagnosed with a mental illness or seeking mental health services; and (d) reduction in discrimination against people with mental illness. In addition, the program "shall emphasize strategies" to reduce the following negative outcomes that may result from untreated mental illness: (1) suicide; (2) incarceration; (3) school failure or dropout; (4) unemployment; (5) prolonged suffering; (6) homelessness; (7) removal of children from their homes. The State must contract with each county to implement these programs. WIC § 5840.2(a).

- (2) A program for services to children in accordance with Part 4 to include a program pursuant to Chapter 6 of Part 4 of Division 9 commencing with Section 18250 or provide substantial evidence that it is not feasible to establish a wrap around program in that county.

Part 4. WIC § 5850, et seq. Children's Mental Health Service Act. This part outlines services to children based on an interagency model adopted by the County of Ventura. Although WIC § 5853 provides that "County participation under this part shall be voluntary," there appears to be two provisions of this Part that are not voluntary under the MHSA. First, §§ 5878.1-5878.3 states that "subject to the availability of funds . . . county mental health programs shall offer services to severely mentally ill children for whom services under any public or private insurance or other mental health or entitlement program [such as Medi-Cal, child welfare, and special education] is inadequate or unavailable." In addition, § 5878.3 requires funding to be at "sufficient levels" to ensure that the counties can provide each child with services necessary and appropriate to prevent an out of home placement including in accordance with the "wrap-around" program outlined in WIC § 18250 (outlining "wrap-around services" to be developed). Section 5878.3(c) requires the State to contract with the county for these services.

- (3) A program for services to adults and seniors in accordance with Part 3.

Part 3. WIC § 5800, et seq. Mental Health Services to Adults and Older Adults. Subject to the "availability of funds," the State shall distribute funds to the counties for the provision of services to adults and seniors with severe mental illnesses. WIC § 5813.5. Section 5806 sets forth standards that the state "shall" include in providing mental health services such as outreach, psychiatric services,

substance abuse, supportive housing or other housing assistance, vocational rehabilitation, veterans services, family support and consulting, etc. This part encourages interagency collaboration. Section 5804 requires the State to include funding under this part in the Performance Contract for “existing and new counties selected under this part to develop an integrated service agency component or a countywide or regional system of care.” The State “shall require counties to use available state and matching funds for the client target population as defined in Section 5600.3 to develop a comprehensive array of services as defined in Sections 5600.6 and 5600.7.” WIC § 5805. Section 5813.5(g) requires the State to contract with the county for these services.

- (4) A program for Innovations in accordance with Part 3.2.

Part 3.2. Innovative Programs. WIC § 5830. This provision requires counties to develop plans for innovative programs, which “shall have the following purposes: (1) to increase access to underserved groups; (2) to increase the quality of services, including better outcomes; (3) to promote interagency collaboration; (4) to increase access to services.” The county shall receive funds for this program upon approval by the state.

- (5) A program for technological needs and capital facilities needed to provide services pursuant to Parts 3, 3.6 and 4. . . .
- (6) Identification of shortages in personnel to provide services pursuant to the above programs and the additional assistance needed from the Education and Training Programs established pursuant to Part 3.1
- (7) Establishment and maintenance of a prudent reserve to ensure the county program will continue to be able to serve children, adults and seniors that it is currently serving pursuant to Parts 3 and 4 during the years in which revenues for the Mental Health Services Fund are below recent averages. . . .”

The Department reports they have completed the RFP process and are currently negotiating a new Performance Contract to address the programs and services required under the MHSA. Although the MHSA funds are not part of the current budget for purposes of this mandate study, we believe that the MHSA requires a broader array of programs and services than is required under the Short-Doyle Act. Thus, to the extent that any of the programs listed in the 2004 Study will be covered by the MHSA contract, they will either become mandated, or their mandates will increase.

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Re: Department of Mental Health, Budget Unit 412 - Mandate Analysis
July 31, 2006
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We have the following changes or comments to the services listed as non-mandated in the 2004 Study.

Supplemental Residential Care Facilities

No changes or comments, except to note that these services may become mandated under the MHSA, WIC §§ 5800, et seq.

Vocational Services

The 2004 Study lists this program as not mandated. However, “vocational services” is included within the minimum array of services required under WIC §5600.6 if the county elects to enter into the Performance Contract and receive Short-Doyle funds, and thus may be considered mandated. In addition, these services may become mandated under the MHSA, WIC §§ 5800, et. seq.

Representative Payee

No changes or comments, except to note these services may become mandated under the MHSA, WIC §§ 5800, et seq.

Suicide Hot Line

No changes or comments, except to note that these services may become mandated under the MHSA, WIC §§ 5800, et seq.

Cross-Systems Evaluation

The Department advises that this program no longer exists.

Suicide Prevention

No changes or comments, except to note that these services may become mandated under the MHSA, WIC §§ 5800, et seq.

Homeless Shelter

The 2004 Study lists this program as not mandated. However, “services for homeless persons” is included within the minimum array of services required under WIC §5600.4 if the county elects

Roger Mialocq, Management Audit Manager
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to enter into the Performance Contract and receive Short-Doyle funds, and thus may be considered mandated. In addition, these services may become mandated under the MHSA, WIC §§ 5800, et seq.

Supported Housing

No changes or comments, except to note that these services may become mandated under MHSA, WIC §§ 5800, et seq.

Drug Treatment Court

No changes or comments.

With respect to the services listed in the 2004 Study as mandated, we agree with the Department's current assessment of the mandates for these programs. In addition, we note that additional support for the mandates may come from the MHSA.

cc: Nancy Pena, Director, Department of Mental Health
Bruce Copley, Deputy Director, Department of Mental Health
Ann Miller Ravel

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**CONFIDENTIAL MEMORANDUM
ATTORNEY-CLIENT PRIVILEGED COMMUNICATION**

TO: Roger Mialocq, Management Audit Manager
FROM: Karen J. Anderson, Deputy County Counsel
RE: Mental Health Department
DATE: October 22, 2004

A handwritten signature in black ink, appearing to be "KJ Anderson", is written over the "FROM:" line. The signature is enclosed within a hand-drawn oval.

Summary: This office has no changes to the mandate analysis submitted in 2003, a copy of which is provided below.

2003 Mandate Analysis.

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to the Mental Health Department. Below are comments regarding the information provided by the Mental Health Department relating to their departmental functions.

General Legal Analysis:

As a prerequisite to determining which mental health functions are mandated, one must understand the basic principles regarding mental health funding. Below is an outline of the general statutes relating to mental health funding. There are very few statutes prescribing how to provide mental health services, and the existing statutes do not establish the level of service.

A. Brief statutory analysis.

The Bronzan-McCorquodale Act, commonly referred to as the Short-Doyle Act, is embodied in the California Welfare and Institutions Code ("WIC") section 5600 et.seq. Welfare & Institutions Code section 5602 states:

"The Board of Supervisors of every county, or the board of supervisors of counties acting under the joint powers provisions of Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code shall establish a community mental health service to cover the entire area of the county or counties." This Act is intended to organize and finance community mental health services for the mentally disordered in every county through locally administered and locally controlled community mental health programs.

Each county is required to sign a performance contract with the state in order to receive the Short-Doyle funds. WIC section 5650 states:

"(a) The board of supervisors of each county, or boards of supervisors of counties acting jointly, shall adopt, and submit to the Director of Mental Health in the form and according to the procedures specified by the director, a proposed annual county mental health services performance contract for mental health services in the county or counties. (b) The State Department of Mental Health shall develop and implement the requirements, format, procedure, and submission dates for the preparation and submission of the proposed performance contract."

The Performance Contract mandates that each county agree to provide additional services and programs that are not part of the Short-Doyle Act. These services are outlined in the Performance Contract Contents set forth in WIC section 5651.

"Performance Contract; Contents"

The proposed annual mental health services performance contract shall include all of the following:

(a) The following assurances:

- (1) That the county is in compliance with the expenditure requirements of Section 17608.05
- (2) That the county shall provide the mental health services required by Ch. 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code and will comply with all requirements of that chapter.
- (3) That the county shall provide services to persons receiving involuntary treatment as required by Part 1 (commencing with Section 5000) and Part 1.5 (commencing with section 5585)
- (4) That the county shall comply with all requirements necessary for Medi-Cal reimbursement for mental health treatment services and case management programs provided to Medi-Cal eligible individuals including, but not limited to, the provisions set forth in Chapter 3 (commencing with Section 5700), and that the county shall

submit cost reports and other data to the department in the form and manner determined by the department.

- (5) That the local mental health advisory board has reviewed and approved procedures ensuring citizens and professional involvement at all stages of the planning process pursuant to Section 5604.2.
- (6) That the county shall comply with all provisions and requirements in law relating to patient rights.
- (7) That the county shall comply with all requirements in federal law and regulation pertaining to federally funded mental health programs.
- (8) That the county shall provide all data and information set forth in Section 5610 and 5664.
- (9) That the county, if it elects to provide the services described in Chapter 2.5 (commencing with Section 5670), shall comply with guidelines established for program initiatives outlined in that chapter.
- (10) Assurances that the county shall comply with all applicable laws and regulations for all services delivered.

Because WIC section 5602, Short-Doyle Act, includes the word "shall" it can be interpreted as a mandate to each county to provide the services described in the Act. Arguably counties could refuse the Short-Doyle funds by not signing the Performance Contract thereby eliminating the requirement to provide Short-Doyle services and those programs required in the Performance Contract. However, in most, if not all, legal contexts, use of the word "shall" makes something mandatory rather than optional. The word "may" is used for those instances where something is optional. Therefore, the use of the word "shall" in WIC section 5602 indicates that the obligations set forth in the Short-Doyle Act are mandated rather than optional.

The State uses the Performance Contract to mandate each county to provide additional services and programs. If a county accepts the argument that the Short-Doyle Plan is mandatory, then signing the Performance Contract is also mandatory. Once a county signs the Performance Contract, the county is then mandated to provide the services and programs which are listed in the Performance Contract. Counties are then mandated to comply with all requirements of providing those services and programs. Each county that fails to comply with any of the services and programs listed in the Performance Contract (Short-Doyle Plan) faces any of the following state imposed sanctions: (a) state withholding part or all of state mental health funds from such county; (b) the state requires the county to enter into negotiations for the purpose of assuring county Short-Doyle plan compliance with such laws and regulations; (c) State could bring an action in mandamus or such other action in court as may be appropriate to compel compliance.

Pursuant to the provisions of the Performance Contract each county is required to be a Medi-Cal provider. Each county is required to enter into a Mental Health Managed Care Contract to be a Medi-Cal provider. WIC section 5775 (c) states:

"If a county elects not to contract with the department, does not renew its

contract, or does not meet the minimum standards set by the department, the department may elect to contract with any other governmental or non-governmental entity for the delivery of mental health services in that county and may administer the delivery of mental health services until a contract for a mental health plan is administered." Reference to "mental health services" is a reference to Short-Doyle Services. Any county that elects not to enter into the Mental Health Managed Care Contract with the State risks losing all Short-Doyle Funds.

There are specific regulations and compliance activities related to being a Medi-Cal provider. Therefore, complying with those regulations and demonstrating compliance requires additional resources. Prior to billing Medi-Cal, counties are required to bill Medicare. WIC section 5718 states, "Counties shall provide services to Medi-Cal beneficiaries and seek the maximum federal reimbursement possible for services to the mentally ill." Therefore, by requiring counties to be Medi-Cal providers, the State has obligated counties to comply with Medicare. Both Medi-Cal and Medicare compliance programs requires administrative resources to ensure that all requirements are met. Resources are also necessary to monitor contract compliance with the requirements. Further, once counties become a Medi-Cal provider, they are to provide all services required to meet medical necessity for Medi-Cal beneficiaries. This includes meeting all programmatic and service requirements. Medical necessity and level of care are clinical determinations that cannot be varied.

The State, by using the various statutory requirements, has put counties in a position to provide both Short-Doyle services and Medi-Cal services. A county can not elect to provide one without the other. Any failure to comply with either program, places the funding for the other program at risk.

Each county is also independently obligated to provide services pursuant to Ch. 26.5 as set forth in California Government Code section 7570 et.seq. WIC section 5701.3 states:

"It is the intent of the Legislature that this chapter not affect the responsibilities to fund psychotherapy and other mental health services required by Ch. 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code. Counties shall continue to receive allocations from specifically appropriated funds for psychotherapy and other mental health services provided by the counties in accordance with that chapter." Therefore, although the State requires the counties to comply with Ch. 26.5 when they sign the Performance Contract, the counties are independently responsible for complying with Ch. 26.5 regardless of their other Short-Doyle obligations and the Performance Contract. However, if a county signed the performance contract, failure to comply with Ch. 26.5 could jeopardize their Short-Doyle funds."

If a county board of supervisors has designated an emergency psychiatric facility for LPS services, then that county must comply with the LPS requirements. If a county has an LPS designated

facility and signs the Performance Contract, that county must comply with the LPS requirements or risk losing Short-Doyle funds. If the a county has not designated such a facility, then the county does not have to comply with the LPS statutes even if they sign the Performance Contract. (Please note: As discussed below, the Short-Doyle Act requires counties to maintain emergency psychiatric facilities for the target population. It is unclear if this directive then mandates that counties designate a facility as an LPS facility.) If a county has an LPS designated facility, the mental health department must fulfill its statutory obligations relating to LPS.

Once a county provides mental health services, the mental health director is mandated to appoint or contract for the services of mental health advocates (WIC section 5520: "Each mental health director shall appoint, or contract, for the services of one or more patient rights advocates."). County patients' rights advocates shall have access to all client and other recipients of mental health services in any mental health facility, program, or service at all times as are necessary to investigate or resolve specific complaints an in accord with subdivision (b) of section 5523 (WIC 5530).

Once a county becomes a mental health provider, they must comply with all state and federal regulations relating to the provision of mental health services. These would be California Welfare and Institutions Code section 5328 et. seq. regarding confidentiality of mental health records and HIPAA. Administrative resources are necessary to ensure compliance with these legal mandates.

B. Services and Levels of Service

There is little direction regarding how the prescribed services are to be provided. The California Code of Regulations provides some direction for provision of certain types of treatment modalities such as residential treatment. In those instances where the regulations provide guidance, they establish the number of beds, ratio of staff to clients, etc. Absent any guidance in the regulations, the local mental health director is left to determine how to establish and provide the services. Santa Clara County

Ordinance Code section A.18-19, "**Powers and Duties of Director of Mental Health Services**" states:

"The director of mental health shall be responsible for the delivery of mental health services within the county and shall perform such other duties as set forth in the Welfare & Institutions Code and as authorized by the executive director. The director is expected to assure that proper personnel, equipment, supplies and facilities are provided to carry out these prescribed functions."

The Short-Doyle Act sets forth the minimum array of mental health services for the target populations that must be provided to the "extent resources are available." "To the extent resources are available" means to the extent that funds deposited in the mental health account of the local health and welfare fund are available to an entity qualified to use those funds. "Mental Health Service" is defined in section 5601 as "any service directed toward early intervention in, or alleviation or prevention of a mental disorder, including but not limited to, diagnosis, evaluation, treatment, personal care, day care, respite care, special living arrangements, community skill training, sheltered employment, socialization, case management, transportation, information, referral, consultation, and community services."

The target populations are seriously emotionally disturbed children or adolescents and adults and older adults who have a serious mental disorder (WIC 5600.3). In order to comply with the Short-Doyle Plan, counties must provide the minimum array of services for each target population. The Treatment Options define the types of service and are listed as the desired goal, not the mandate. Therefore, the minimum array of services can be viewed as the mandated types of services. The statutes fail to provide any guidance regarding the provision of the services and counties are left to implement the services as they deem appropriate. The following section provide the minimum array of services and the definitions of those services under Treatment Options. The minimum array of services is considered the mandatory minimum type of service that counties must provide.

Children and youth in target population; minimum array of services (WIC 5600.5)

The minimum array of services for children and youth meeting the target population criteria established in subdivision (a) of section 5600.3 should include the following modes of service in every geographical area, to the extent resources are available:

- (a) Pre-crisis and crisis services
- (b) Assessment
- (c) Medication education and management
- (d) Case Management
- (e) Twenty-four hour treatment services.
- (f) Rehabilitation and support services designed to alleviate symptoms and foster development of age appropriate cognitive, emotional, and behavioral skills necessary for maturation.

Adults in target population; minimum array of services (WIC section 5600.6)

The minimum array of services for adults meeting the target population criteria established in subdivision (b) of section 5600.3 should include the following modes of services in every geographical area, to the extent resources are available:

- (a) Pre-crisis and crisis services
- (b) Assessment
- (c) Medication education and management
- (d) Case management
- (e) Twenty-four-hour treatment services
- (f) Rehabilitation and support services
- (g) Vocational Services
- (h) Residential Services

Older adults in target population; minimum array of services (WIC 5600.7)

The minimum array of services for older adults meeting the target population criteria established in subdivision (b) of section 5600.3 should include the following modes of service in every geographical area, to the extent resources are available:

- (a) Pre-crisis and crisis services, including mobile services
- (b) Assessment, including mobile services.
- (c) Medication education and management
- (d) Case management, including mobile services.
- (e) Twenty-four-hour treatment services
- (f) Residential Services
- (g) Rehabilitation and support services including mobile services.

Treatment Options (W&I 5600.4)

Community mental health services should be organized to provide an array of treatment options in the following areas, to the extent resources are available.

(A) Pre-crisis and Crisis Services: Immediate response to individuals in pre-crisis and crisis and to members of the individual's support system, on a 24-hour, seven-day-a-week basis. Crisis services may be provided offsite through mobile services. The focus of pre-crisis services is to offer ideas and strategies to improve the person's situation, and help access what is needed to avoid crisis. The focus of crisis services is stabilization and crisis resolution, assessment of precipitating and attending factors, and recommendations for meeting identified needs.

(B) Comprehensive Evaluation and Assessment: Includes, but is not limited to, evaluation and assessment of physical and mental health, income support, housing, vocational training and employment, and social support service needs. Evaluation and assessment may be provided off site through mobile services.

(C) Individual Service Plan: Identification of the short- and long-term service needs of the individual, advocating for, and coordinating the provision of these services. The development of the plan should include the participation of the client, family members, friends, and providers of services to the client, as appropriate.

(D) Medication, Education, and Management: Includes but is not limited to, evaluation of the need for administration of, and education about, the risks and benefits associated with medication.

(E) Case Management: Client-specific services that assist clients in gaining access to needed medical, social, educational, and other services. Case management can be provided off site through mobile services.

(F) Twenty-Four-Hour Treatment Services: Treatment provided in any of the following: an acute psychiatric hospital, an acute psychiatric unit of a general hospital, a psychiatric health facility, an institute for mental disease, a community treatment facility, or community residential treatment programs, including crisis, transitional and long-term programs.

(G) Rehabilitation and Support Services: Treatment and rehabilitation services designed to stabilize symptoms, and to develop, improve, and maintain the skills and supports necessary to live in the community. These services may be provided through various modes of services, including, but not limited to, individual and group counseling, day treatment programs, collateral contacts with friends and family, and peer counseling programs. These services may be provided offsite through mobile services.

(H) Vocational Rehabilitation: Services which provide a range of vocational services to assist individuals to prepare for, obtain and maintain employment.

(I) Residential Services: Room and board and 24-hour care and supervision.

(J) Services for Homeless Persons: Services designed to assist mentally ill persons who are homeless, or at risk of being homeless, to secure housing and financial resources.

(K) Group Services: Services to two or more clients at the same time.

Therefore, when analyzing whether a specific service provided by a county is a mandated service, one must look to the definition of that type of service provided in the Treatment Options. Counties may call a service something other than that listed under the minimum array but the function is one of those listed under the definitions in Treatment Options.

The Mental Health Department has provided a matrix listing their 41 different services. Without a detailed description of functions of each service, I am unable to determine with certainty whether the service falls within the minimum array of services because, the statutes do not define or prescribe the services. One is left to analyze whether the type of service fits within the definitions provided. In order to be more exact, one would have to have service descriptions and then analyze whether it fits within

the definition. The conclusions presented are based on assumptions and some speculations.

Family and Childrens Services:

Administration: for implementation of required services

Inpatient: WIC 5600 et. seq.; 24-hour care

Residential/CTF: Minimum array; 24-hour care

Wraparound: WIC 5600 et. seq. More information needed to determine.

Juvenile Hall/ Ranch: Title XV.

Shelter Outpatient: WIC 5600 et. seq.; Pre-Cris; Rehab. and Support

School Day Treatment: WIC 5600 et. seq.; Rehab. and Support

Specialized Outpatient: WIC 5600 et. seq.; Rehab. and Support

Adult and Older Adult Services:

Administration: Necessary to meet requirements

State Hospital: WIC 5600 et. Seq.

Inpatient Contracts: WIC 5600 et. Seq.

IMD/SNF: WIC 5600 et. Seq.

Crisis/Residential/transitional

Residential: WIC 5600 et. Seq.

24 Hour Care Management: WIC 5600 et. Seq.

Day Rehab: WIC 5600 et. seq.

Outpatient (Service Teams): WIC 5600 et. seq.

Homeless Services: WIC 5600 et. seq.

Vocational: WIC 5600 et. seq.

Patient Rights Advocates: WIC 5520

Core, Outreach, Referral, and Education Services:

Administration

Call Center

Disaster Response

Acute Psychiatric Services:

Inpatient: WIC 5600 et. seq./ LPS WIC 5000 et. seq.

Emergency: WIC 5600 et. seq./ LPS WIC 5000 et. seq.

Adult Jail/ Inpatient/ Outpatient: Title XV

Administration:

General Administration

Compliance

Finance

Information Services

Training

Cultural Competency

Quality Improvement/Research
Utilization Review
Beneficiary Services
Performance Outcomes
Credentials
Contracts Administration
Pharmacy
Mental Health Board
Managed Care

Non Mandated:

CalWorks
Supplemental RCF
Supplemental Housing
Rep Payee
Self Help
Gateway
Suicide Crisis Hotline (but arguably this is a mandate because: Crisis under WIC 5600 et. seq.)
Morrison Trust
Drug Treatment Court
Cross Systems Evaluation

cc: Nancy Pena, Ph.D, Director
Ann Ravel

414 Children's Shelter and Custody Health Services

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount*3</u>	<u>%*4</u>
Non-Mandated	4	1,521,546	4%	867,716	57%	8.8	4%
Mandated	4	30,122,431	81%	30,122,431	100%	192.3	79%
Admin/Support	-	5,578,275	15%	5,502,890	99%	42.1	17%
Total	<u>8</u>	<u>37,222,252</u>	<u>100%</u>	<u>36,493,037</u>	<u>98%</u>	<u>243.2</u>	<u>100%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category;*3=FTE figures exclude unfunded positions, but include estimates of overtime and extra-help in each function, and *4=percent of total staffing.

Departmental Description

The Children's Shelter and Custody Health Services Department (CSCHS) performs eight functions related to the provision of medical, dental and other health services to residents of the Children's Shelter and the correctional and Probation facilities of Santa Clara County.

A Memorandum of Understanding (MOU) between the Department of Correction and the Santa Clara Valley Health and Hospital System places the authority with the Medical Director to set the level of care rather than the Department of Correction. The services provided in the correctional facilities are to include a focus on prevention and control of illness as well as the restoration of health. The current MOU establishes that the care will "meet or exceed Title XV regulations." The final determination of the level of service to be provided in excess of Title XV is a policy and budget decision for the Board of Supervisors. The Valley Medical Center (VMC) Financial Planning Task Force has recommended that the County pursue legislation to reimburse counties for medical care of incarcerated persons.

The provision of medical services at the Children's Shelter is not a mandated function, although access and transportation to medical care must be provided. While the County is required by law to provide a minimal level of services to these persons, it is not necessarily a requirement that the service be provided on site, or by a county department, depending on the size and population of the facility. Therefore, no longer providing some level of service determined to exceed that required would, in some cases, require a redesign of the provision of custody health services in Santa Clara County. Currently, 41 percent of the cost of care provided in the Children's Shelter is offset by General Fund resources, with the remaining cost offset by other sources (state and federal funding).

The Board of Supervisors has the authority to determine the manner in which custody health services are provided, either under the current model or under alternative models of contractual services inside and/or outside the various in-custody environments. However, these services must be provided in compliance with the associated regulations and any statute regardless of where and how they are provided. Therefore, determining the potential marginal cost savings associated with alternative methods would require significant analysis. Because of the difference between the Children's Shelter and correctional facilities, the functions have been divided, as shown in the table below.

While the primary departments such as the Department of Correction (DOC) and Probation are the "purchasers" of services provided by CSCHS, Custody Health and the Santa Clara Valley Health and Hospital System must adhere to all regulations and requirements related to the provision of the service. Therefore, decreasing services provided at these locations must be undertaken collaboratively by the purchasing department such as DOC and the service provider agency (Custody Health) to ensure reductions do not cause the County to be out of compliance with legally mandated services.

The FY 2006-07 adopted budget amounts to approximately \$37 million in expenditures, most which is reimbursed by General Fund resources. The CSCHS claims that a portion of its reimbursements is actually offset by non-General Fund revenue received by DOC pursuant to negotiated agreements for housing certain inmates from other jurisdictions. Specifically, given that rates negotiated with other counties factored in an estimated cost of mental health services provided by CSCHS to mentally ill inmates, CSCHS believes that a portion of the associated revenue reduces its General Fund subsidy. For the purposes of this study, however, the revenue was not used to reduce CSCHS' General Fund subsidy since the negotiated agreements did not result in additional health care costs to CSCHS. The CSCHS reported that it has been able to care for the additional inmates using its existing staff and other resources. Absent the negotiated contracts, it appears that CSCHS would still incur the same level of expenditures.

The distribution of the revenue from these negotiated agreements has been of interest to CSCHS and the DOC since the agreements were initially established. While generally, the placement of this revenue in one budget or another does not impact the bottom line of the County budget as a whole, it could influence the County's ability to fully

maximize this revenue. For instance, placement of this revenue in the Department of Correction's budget may create a stronger incentive for it to negotiate rates that are the most favorable to the County. At the same time, however, this placement may inadvertently create an incentive for CSCHS to limit the number of inmates accepted when it would result in a negative variance in its budget but an overall increase in revenue for the County.

In light the potential factors that could influence this discretionary source of revenue, the Board of Supervisors may wish to revisit the issue of revenue sharing between CSCHS and DOC as part of the upcoming FY 2007-08 budget review.

The functions performed by Children's Shelter and Custody Health Services at the Shelter are discretionary in that they are provided on-site. The services provided in the custody facilities are mandated.

FY 2006-07 General Fund Budget by Program/Function

<u>Function</u>	<u>FY 2006-07 Adopted Budget</u>		<u>Departmental</u>	<u>General</u>	
	<u>Amount</u>	<u>Staffing*1</u>	<u>Revenue</u>	<u>Fund</u>	<u>Percent</u>
				<u>Subsidy*2</u>	
<u>Non-Mandated Activities</u>					
01 CHSH Nsg/Clinical	792,843	4.8	467,777	325,066	41%
02 CHSH Physicians	306,543	1.0	180,860	125,683	41%
03 CHSH Pharmacy	8,800	0.0	5,192	3,608	41%
04 MIOCR	<u>413,360</u>	<u>3.0</u>	-	<u>413,360</u>	<u>100%</u>
Subtotal	1,521,546	8.8	653,830	867,716	57%
<u>Mandated Activities</u>					
05 CUST Physicians	2,784,895	10.3	-	2,784,895	100%
06 CUST Nsg/Clinical	23,821,155	166.6	-	23,821,155	100%
07 CUST Pharmacy	3,255,985	12.6	-	3,255,985	100%
08 CUST Dental	<u>260,396</u>	<u>2.8</u>	-	<u>260,396</u>	<u>100%</u>
Subtotal	30,122,431	192.3	-	30,122,431	100%
<u>Required</u>					
Admin/Support	<u>5,578,275</u>	<u>42.1</u>	<u>75,385</u>	<u>5,502,890</u>	<u>99%</u>
Total	<u>37,222,252</u>	<u>243.2</u>	<u>729,215</u>	<u>36,493,037</u>	<u>98%</u>
*1 = Given the 24/7 nature of operations at the correctional facilities and Children's Shelter, FTE figures exclude unfunded positions and includes estimates of overtime and extra-help in each function. Per BRASS, the total appropriated FTEs is 272.90.					
*2 = Totals may not sum due to rounding.					

Description of Programs and Functions

Administration and Support (REQUIRED): \$5,578,275

The Children's Shelter and Custody Health Department includes 42.1 administrative and support services staff, including 25.5 clerical and other support staff assigned to various functions throughout the Department. The amount of staff and other resources necessary to provide an 'adequate' level of funding is subject to determination by the Board of Supervisors pursuant to Government Code Sections 29063 and 29088.

NON-MANDATED PROGRAMS AND FUNCTIONS

01- Children's Shelter Nursing/Clinical Services (NON-MANDATED): \$792,843

The Children's Shelter Nursing/Clinical Services function includes 4.8 positions. The Department reports that while the provision of medical services to children in a licensed group home is required, providing such service through an on-site clinic is not required. Given the trend of lower population at the Shelter, the allocation of resources for an on-site clinic and the related staffing should be considered. Because the Department reports that this function is discretionary, we have included the entire projected expenditure amount as non-mandated, although some amount of support would be necessary to transport Shelter residents to a clinic for medical services.

A review of Title 22, General Licensing Requirements and Title 22, Group Homes confirms that there is no specific mandate that health related services be provided on site under the licensure requirements of the Children's Shelter. These regulations state only that "the licensee shall ensure that each client receives necessary first aid and other needed medical and dental services" and that "this shall include arrangement for and/or transportation to the nearest available facility that can provide the needed medical or dental services."

02- Children's Shelter Physician Services (NON-MANDATED): \$306,543

The Physician Services function at the Children's Shelter is comprised of one position. The Department reports that while the provision of medical services to children in a licensed group home is required, providing such service through an on-site clinic is not required. Given the trend of lower population at the Shelter, the allocation of resources for an on-site clinic and the related staffing should be considered. A proposal to eliminate the on-site Medical Services at the Children's Shelter was submitted by the Department in the FY 2004-05 budget. The night nursing staff was deleted effective July 1, 2004. Because the Department reports that this function is discretionary, we have included the entire projected expenditure amount as non-mandated, although some amount of support would be necessary to transport Shelter residents to a clinic for medical services.

A review of Title 22, General Licensing Requirements and Title 22, Group Homes confirms that there is no specific mandate that health related services be provided on site under the licensure requirements of the Children's Shelter. These regulations state only that "the licensee shall ensure that each client receives necessary first aid and other needed medical and dental services" and that "this shall include arrangement for

and/or transportation to the nearest available facility that can provide the needed medical or dental services."

03- Children's Shelter Pharmacy (NON-MANDATED): \$8,800

The Pharmacy function at the Children's Shelter includes \$8,800 in pharmaceutical expenditures. The Department reports that while the provision of medical services to children in a licensed group home is required, providing such service through an on-site clinic is not required. A review of Title 22, General Licensing Requirements and Title 22, Group Homes confirms that there is no specific mandate that pharmacy services be provided on site under the licensure requirements of the Children's Shelter. These regulations instead describe the manner in which medications are to be stored and administered in the group home setting.

04 - Mentally Ill Offenders Crime Reduction (MIOCR) (NON-MANDATED):\$413,360

As a result of a previous State Mentally Ill Offenders Crime Reduction (MIOCR) Grant, Custody Health began a program to assist released mentally ill inmates access needed services in order to reduce the likelihood that such persons would return to custody. Funding of this grant was eliminated by the State; however, due to the success of this program, some funds to maintain its continuance in FY 2006-07 have been provided as a reimbursement to CSCHS from the Mental Health Department. Therefore, these funds should be considered discretionary in the same way that many other of the General Fund expenditures that reimburse Custody Health are discretionary.

MANDATED PROGRAMS AND FUNCTIONS

05- CUSTODY Physician Services (MANDATED): \$2,784,895

The Custody Physician Services function includes 10.3 positions and provides outpatient services annually, including thousands of appointments and regularly scheduled clinic hours, as well as acute psychiatric services on the 8A unit. The Department cites multiple code sections and other regulations that mandate both that the services be provided and that they be provided in a manner that complies with staffing and other requirements.¹ For instance, Penal Code § 4023 and Title 15 require correctional facilities with a population over 100 to have a physician present and available, and to offer medical care to inmates within or outside the institution, so long as the facility outside has been established as appropriate by a judge.

County Counsel has also indicated that pursuant to Penal Code Section 6030, effective January 2006, the Corrections Standards Authority shall establish minimum standards for state and local correctional facilities pertaining to the types of services provided to pregnant inmates. The standards shall require the following services: a balanced, nutritious diet approved by a doctor; prenatal and postpartum information and health care, including but not limited to access to necessary vitamins as recommended by a doctor; and information pertaining to child birth education and infant care.

¹ Title 22, Code § 80075, Code §84075.

County Ordinance § A18-40 lists the classes of patients that shall be admitted to SCVMC, including "Inmates confined in county penal institutions in need of hospital or medical care." The hospital includes the costs of these services in the category of expenses called "unreimbursed" each year in the budget, per direction of the Subsidy Task Force. The provision of services on site at the various in-custody environments lessens the necessity to bring inmates and others to VMC for treatment, avoiding the associated sworn staff and transportation costs.

06 – CUSTODY Nursing/Clinical Services (MANDATED): \$23,821,155

The Custody Nursing and Clinical Services function includes 166.6 positions and is responsible for the nursing and clinical services in the custody facilities such as sick call assessments and medication administration. The Department cites multiple code sections and other regulations that mandate both that the services be provided and that they be provided in a manner that complies with staffing and other requirements.

Under Title 15 of the California Code of Regulations, inmates have specific rights related to their access to treatment while in custody, both in terms of medical and mental health treatment. In regards to health care services to be provided to juveniles in custody, Title 15 includes a requirement that at least one physician be available to provide treatment and that "health care services which meet the minimum requirements of these regulations and be at a level to address acute symptoms and/or conditions and avoid preventable deterioration of health while in confinement" be provided. The regulations also include language that juveniles be provided "unimpeded access to health care" while in custody. Juveniles must be screened for medical issues upon arrival at a facility, and be offered the opportunity to request medical access twenty-four hours a day. The regulations indicate that staff observing a need for health services "shall" relay the need for medical services for a minor when necessary.

Title 15 of the California Code of Regulations allows Counties to collect co-payments from inmates for certain medical services. Santa Clara County has not exercised this option, based on the limited revenue that would be earned and the administrative burden that would be incurred to establish a system to charge inmates.

County Ordinance § A18-40 lists the classes of patients that shall be admitted to SCVMC, including "Inmates confined in county penal institutions in need of hospital or medical care." The hospital includes the costs of these services in the category of expenses called "unreimbursed" each year in the budget, per direction of the Subsidy Task Force. The provision of services on site at the various in-custody environments lessens the necessity to bring inmates and others to Valley Medical Center for treatment, avoiding the associated sworn staff and transportation costs.

07– CUSTODY Pharmacy (MANDATED): \$3,255,985

The Custody Pharmacy Services function includes 12.6 positions and is responsible for the packaging and preparation of medications for persons in the inpatient units of the facilities and those in the general population who require medications. Management Audit staff inquired as to the provision of discharge medications to inmates to ensure that the system in place complied with legal mandates and that it sought appropriate

reimbursement when inmates had left custody. The Department reports that procedures are currently utilized in Custody Health Services to ensure inmates have access to continued required medications upon their release from custody should the inmate elect to continue his/her treatment regime in the community. The County could elect to operate an inpatient pharmacy only and establish contract(s) with local pharmacies for the provision of medications to inmates and others currently served by the County-operated system. Determining whether such a system would reduce the General Fund costs incurred to run the various outpatient pharmacies throughout the County would require an in-depth analysis that is outside the scope of this study.

County Ordinance § A18-40 lists the classes of patients that shall be admitted to SCVMC, including "Inmates confined in county penal institutions in need of hospital or medical care." The hospital includes the costs of these services in the category of expenses called "unreimbursed" each year in the budget, per direction of the Subsidy Task Force. The provision of services on site at the various in-custody environments lessens the necessity to bring inmates and others to VMC for treatment, avoiding the associated sworn staff and transportation costs.

08- CUSTODY Dental Services (MANDATED):

\$260,396

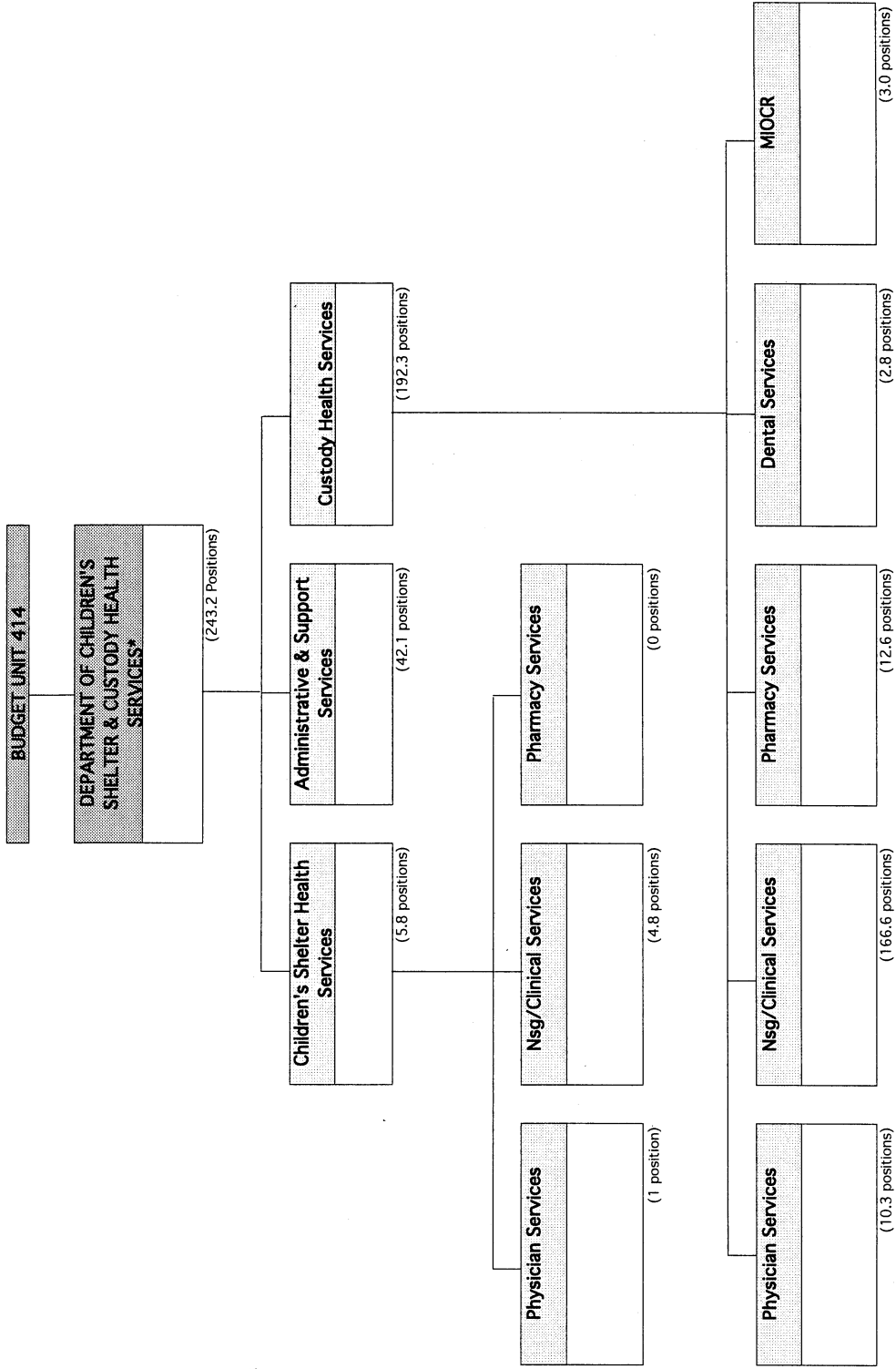
The Custody Dental Services function includes 2.8 positions. The Department cites multiple requirements that mandate the manner in which dental services are to be provided but did not provide a specific citation mandating the actual provision of dental services. The provision of dental services is on a periodic clinic or emergency basis, and therefore appears to meet the mandate of medical services to be provided to persons in custody. Title 15, Minimum Standards for Local Detention Facilities, includes the following language related to the provision of Dental Care to inmates:

Medically required dental care is that arising from a dental condition which interferes with the general health of the inmate. While health care and custody personnel are not expected to determine whether or not an inmate needs dental care, both have the responsibility to make appropriate referral to dental services. Dental care is not limited to extractions, but jail dental care is not intended to correct years of personal dental neglect; it may be limited to only that care necessary for the immediate welfare of the inmate. Policies and procedures should include responding to conditions that arise from dental injuries sustained while in custody.

The mandated level of dental care to be provided to juveniles in custody, per Title 15 includes "dental treatment be provided as necessary to respond to acute conditions and to avert adverse effects on the minor's health. Such treatment shall not be limited to extractions."

Total Children's Shelter & Custody Hlth Svs FY 2006-07 Adopted Budget \$37,222,252

DEPARTMENT OF CHILDREN'S SHELTER & CUSTODY HEALTH SERVICES



*FTE figures exclude unfunded positions and includes estimates of overtime and extra-help in each function. Per BRASS, the total appropriated FTEs is 272.90.

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MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Karen J. Steiber, Deputy County Counsel 

RE: Children's Shelter/Custody Health & Budget Unit 414 Mandate Analysis

DATE: August 3, 2006

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to Budget Unit 414 regarding the Children's Shelter/Custody Health. Below are comments or supplemental analysis, as needed, about the mandates in the functional areas identified by Children's Shelter/Custody Health.

Except as set forth below, there have been no legislative or functional changes applicable to this Budget Unit since the last mandate analysis conducted in late 2004. Attached for your reference is a copy of the previous mandate analysis memorandum written by this office in October 2004.

Health Services in Adult Custody and Juvenile Custody Facilities

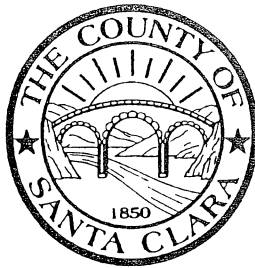
1. Legal Basis for Mandate

Penal Code section 6030, effective January 2006, states that the Corrections Standards Authority shall establish minimum standards for state and local correctional facilities. The code mandates that these standards shall require that inmates who are received by the facility while they are pregnant are provided with the following services: a balanced, nutritious diet approved by a doctor; prenatal and postpartum information and health care, including, but not limited to, access to necessary vitamins as recommended by a doctor; and, information pertaining to childbirth education and infant care.

Enclosure (1)

c: Maryann Barry, RN, Children's Shelter /Custody Health
Ann Miller Ravel, County Counsel
Nancy J. Clark, Assistant County Counsel

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MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Gita Suraj, Deputy County Counsel *GS*

RE: Custody Health Mandate Analysis

DATE: October 22, 2004

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to the Children's Shelter/Custody Health. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the Children's Shelter/Custody Health.

Health Services in Adult and Juvenile Custody Facilities

1. Legal Basis for Mandate

Title XV California Code of Regulations section 1200 requires the facility administrator of Type I, II, III, and IV facilities to ensure the provision of emergency and basic health care services. The regulation provides that each facility will have at least one physician available to treat physical disorders, with the exception of a Type IV facility, which may comply by providing access into the community and establishing a written plan for treatment, transfer or referral in the event of an emergency. The regulation permits compliance in a number of ways, including hiring medical personnel, contracting with a local hospital, medical group, or medical center, a written agreement with a county health department, or developing a regional agreement among small counties.

2. Level of Mandate

The regulations do not define what is "basic health care", and thus do not clarify the level

of mandate. But the regulations do list additional responsibilities, which are, for the most part, delegated to the "health authority", the individual responsible for health care services through a written agreement or job description. These responsibilities include the establishment of an annual assessment of health services, the maintenance of individual health records, the establishment a health care procedures manual, the development of policies and procedures for handling communicable diseases, and plans and procedures for pharmaceutical management. Inmates received into the facility must be screened for medical and mental health problems and a plan of care must be developed for inmates who need care or request treatment.¹

3. Other Comments

Through a memorandum of understanding between the Santa Clara Health & Hospital System and the Department of Correction, the departments agreed that the focus of the provision of health care would be on the prevention of illness, and restoring the health of inmates and that the community standards for health care will be adhered to.

Mental Health Services in Adult Custody Facilities

1. Legal Basis for Mandate

The County is obligated to provide comprehensive mental health treatment services for a small number of inmates who have been found incompetent to stand trial or not guilty by reason of insanity if they have been placed in the County's correctional facility by the court.²

These services are generally comprehensive treatment programs rather than basic mental health services because they must be individually designed to promote the inmate's speedy restoration to mental competence. For inmates who are committed to a state hospital or other treatment facility and who are transferred to the County for a pending hearing, the County is required to continue the program of treatment that the inmate was receiving at the state facility.

In addition to the provision of ongoing mental health services, the County is required to make regular reports concerning the inmate's progress toward recovery of mental competence to the court and appear in court.

Neither the specific level of mental health services to be provided nor the manner of the provision of such services is specified.

¹ Title XV California Code of Regulations section 1202-1230

² California Penal Code sections 1370, 1370.01, 1601, 1026.2, 1026.5, 1601 and 1602.

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Re: Custody Health Mandate Analysis
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Children's Shelter

1. Legal Basis for Mandate

The County is not required to provide health care services at the Children's Shelter. Welfare & Institutions section 300.2 states that it is the intent of the statutes relating to dependent children to ensure the safety and protection of those children who are being physically, sexually or emotionally abused, neglected or exploited. It further states: "[t]his safety, protection and physical and emotional well-being may include provision of a full array of social and health services to help the child and family and to prevent reabuse of children." Neither the level of health services to be provided nor the manner of the provision of such services is specified.

c: Maryann Barry, Children's Shelter/Custody Health
Ann Ravel, County Counsel

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MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Gita Suraj, Deputy County Counsel *GS*

RE: Custody Health Mandate Analysis

DATE: October 22, 2004

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to the Children's Shelter/Custody Health. Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the Children's Shelter/Custody Health.

Health Services in Adult and Juvenile Custody Facilities

1. Legal Basis for Mandate

Title XV California Code of Regulations section 1200 requires the facility administrator of Type I, II, III, and IV facilities to ensure the provision of emergency and basic health care services. The regulation provides that each facility will have at least one physician available to treat physical disorders, with the exception of a Type IV facility, which may comply by providing access into the community and establishing a written plan for treatment, transfer or referral in the event of an emergency. The regulation permits compliance in a number of ways, including hiring medical personnel, contracting with a local hospital, medical group, or medical center, a written agreement with a county health department, or developing a regional agreement among small counties.

2. Level of Mandate

The regulations do not define what is "basic health care", and thus do not clarify the level

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Re: Custody Health Mandate Analysis
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of mandate. But the regulations do list additional responsibilities, which are, for the most part, delegated to the "health authority", the individual responsible for health care services through a written agreement or job description. These responsibilities include the establishment of an annual assessment of health services, the maintenance of individual health records, the establishment a health care procedures manual, the development of policies and procedures for handling communicable diseases, and plans and procedures for pharmaceutical management. Inmates received into the facility must be screened for medical and mental health problems and a plan of care must be developed for inmates who need care or request treatment.¹

3. Other Comments

Through a memorandum of understanding between the Santa Clara Health & Hospital System and the Department of Correction, the departments agreed that the focus of the provision of health care would be on the prevention of illness, and restoring the health of inmates and that the community standards for health care will be adhered to.

Mental Health Services in Adult Custody Facilities

1. Legal Basis for Mandate

The County is obligated to provide comprehensive mental health treatment services for a small number of inmates who have been found incompetent to stand trial or not guilty by reason of insanity if they have been placed in the County's correctional facility by the court.²

These services are generally comprehensive treatment programs rather than basic mental health services because they must be individually designed to promote the inmate's speedy restoration to mental competence. For inmates who are committed to a state hospital or other treatment facility and who are transferred to the County for a pending hearing, the County is required to continue the program of treatment that the inmate was receiving at the state facility.

In addition to the provision of ongoing mental health services, the County is required to make regular reports concerning the inmate's progress toward recovery of mental competence to the court and appear in court.

Neither the specific level of mental health services to be provided nor the manner of the provision of such services is specified.

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c: Maryann Barry, Children's Shelter/Custody Health
Ann Ravel, County Counsel


*Dedicated to the Health
of the Whole Community*



Robert Sillen
Executive Director
645 South Bascom Avenue, Suite #221
San Jose, California 95128
Tel. (408) 885-4030
Fax. (408) 885-4051

October 25, 3004

TO: Roger Mialocq
Board of Supervisors Management Audit Manager

FROM: Amy Carta 

RE: Response to Mandate Analysis, FY06

Attached you will find responses from the Public Health Department as well as Children's Shelter and Custody Health Services to the Fiscal Year 2006 version of the Mandate Study.

Please be advised that Robert Sillen has not had a chance to review the report nor the responses and reserves the right to comment at a later date.

C: Robert Sillen

*Dedicated to the Health
of the Whole Community*



To: Roger Mialocq
Harvey Rose Accountancy Corporation

From: Maryann Barry *MB*
Associate Director, Acute Psychiatric Services/Custody Health Services

Re: Response to Mandate Analysis Study/BU 414/Custody Health Services

In the Mandate Analysis Study that was conducted by the HRAC of BU 414/Custody Health Services, the auditors suggested that Santa Clara County Jail costs per inmate exceed that of some other Counties in the State by 35-55% and that this difference represents expenditures beyond the minimum legal required levels and that therefore they are discretionary. The CSCHS organization provides health services that we believe are legally required as well as services that are consistent with SCVHHS/VMC standards and Public Health policies.

There is no simple way to quantify the level of services that exceed legally mandated levels. The HOK consultants who conducted the Custody Health Study were not able to delineate what services were being provided in the Jails that exceeded the legal mandates other than the provision of acute Mental Health Services on site. If the acute Mental Health Unit did not exist at the Jail, the provision of these services – which are legally mandated – would need to be provided at VMC at a significantly higher cost than provision of these services at the Jail.

We have never seen any document that delineates the specific services which must be provided in Jails and each County makes their decisions on level of service provision based on their interpretation of the Title XV regulations and a number of variables such as previous or pending litigation, availability of services in a geographic area, and availability of staff to provide services. As an example, we provide a very comprehensive Tuberculosis prevention program in the Jail. Such a program is not mandated by Title XV but it is in the best interests of the Jail, the Public Health Department and the Community for us to do so. This program could be eliminated but by doing so the incidence of Tuberculosis would dramatically increase in the Jails for both the inmates as well as the employees. The reason that we have not experienced a Tuberculosis epidemic in the Jails in Santa Clara County as many other Jails across the County have experienced is due to our aggressive screening and treatment program that we initiate in the Jail and which the Public Health Department follows up on in the Community upon inmates release from Custody.

Santa Clara County was forced to increase the quality and the scope of health service provision in the Jails as a result of the Branson/Fischer lawsuit which was settled in the late 1980s. Although the County is no longer under a Court Decree with respect to level of health service provision in the Jails, the services that were augmented in the Jail during the Court jurisdiction have been maintained to prevent another such lawsuit from being filed. It would seem extremely dangerous from a risk perspective for the County to establish two levels of service provision – one for the Community and another for inmates and Children detainees – which was the situation prior to the settlement of the Branson/Fischer lawsuit. Access to Treatment is a Title XV regulation which we have interpreted in conjunction with County Counsel as provision of health services to inmates/children detainees that are comparable to services that the inmates/children detainees could access in the Community. Any change in this interpretation should be reviewed by County Counsel for potential risk to the County.

**Bob Sillen
Executive Director, HHS**

417 Alcohol and Drug Services

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Non-Mandated	8	7,485,096	16%	3,062,197	41%	30.0	18%
Mandated	11	33,378,779	71%	14,533,518	44%	110.0	67%
Admin/Support	-	5,930,677	13%	4,624,022	78%	24.5	15%
Total	<u>19</u>	<u>46,794,552</u>	<u>100%</u>	<u>22,219,737</u>	<u>47%</u>	<u>164.5</u>	<u>100%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=percent of total staffing

Departmental Description

The County Ordinance Code, Sections A18-25 through A18-29, recognizes the Santa Clara Valley Department of Alcohol and Drug Services (DADS) and the director of alcohol and drug services. The ordinance code cites two Health & Safety Code Sections (that are currently in effect) as a basis by which the director is to administer the programs of the Department:¹

Health & Safety Code § 11800

Health & Safety Code Section 11800 states, "the board of supervisors shall designate a health-related county agency or department that shall administer the county alcohol and other drug program." While Santa Clara County has designated a separate health-related county agency to administer the County's alcohol and drug program, the

¹ The FY 2005-06 Mandate Study also referenced Health & Safety Code Sections 11962 and 11963 (relating to drug programs). According to County Counsel, these sections have since been repealed and combined with Health & Safety Sections 11800 and 11801.

language in the section does not preclude an existing agency from assuming the role of administering the program instead.

Health & Safety Code § 11801

Health & Safety Code Section 11801 mandates the primary duties of a county alcohol and drug program administrator, including but not limited:

- Recommending to the Board of Supervisors the provision of services, establishment of facilities, contracting for services, or other matters necessary for a drug and alcohol program;
- Executing the “net amount contract, and Drug-Medi-Cal contract, whichever is applicable;”
- Assuring the evaluation of alcohol and other drug programs;
- Submitting an annual report to the Board of Supervisors;
- Participating in the County Drug & Alcohol Administrators Association of California; and
- Encouraging the appropriate utilization of all other public and private alcoholism programs and services in the county in coordination with the alcohol programs funded pursuant to this part.

The ordinance code also includes language that the director is expected to “assure that proper personnel, equipment, supplies and facilities are provided to carry out these prescribed functions” and that the “director shall transmit the needs of the department to the executive director of SCVHHS.” The budget process then allows for these needs to be considered by the Administration for inclusion in the Recommended Budget presented to the Board of Supervisors for approval. Therefore, the director of DADS is mandated to prepare his/her budget based on the resources necessary to provide the program services as outlined above.

California Health & Safety Code §11781 includes language regarding the responsibilities of the federal, State and local governments in providing alcohol and drug services. This section does not include language indicating the county “shall” provide such services, nor does the section of the Government Code indicate what types of services should be provided.

For all Medi-Cal substance abuse services provided by County or contract staff, various laws and regulations establish the mandated manner in which these services must be provided in order to bill the State, including the size of groups and the State maximum reimbursement under the various service modes. The California Code of Regulations (CCR) includes a set of standards that must be met by counties “that elect to apply for state or federal funds and claim reimbursement.” These requirements apply only so long as the Board continues to leverage County General Funds to earn State and federal revenues for the provision of alcohol and drug services.

Drug and alcohol services provided under Proposition 36 are mandated; however, drug court services are not specifically mandated. Rules of Court, not binding to the County, delineate the services to be provided, but County Counsel has indicated these rules do not constitute a mandate. Additional mandates and legal requirements as they pertain to specific functions in DADS are further detailed below.

The functions performed by the Department of Alcohol and Drug Services consist of a combination of activities that are mandated and not mandated; however, the County is not mandated to participate in the State Drug and Alcohol Program, nor is the County required to establish a separate stand-alone agency to administer the County's drug and alcohol program.

FY 2006-07 General Fund Budget by Program/Function

<u>Function</u>	<u>FY 2006-07 Adopted Budget</u>		<u>Departmental</u>	<u>General</u>	
	<u>Amount</u>	<u>Staffing</u>	<u>Revenue*1</u>	<u>Fund</u>	<u>Percent</u>
				<u>Subsidy</u>	
<u>Non-Mandated Activities</u>					
01 Prevention Services	2,320,566	8.0	2,229,497	91,069	4%
02 Gateway	647,929	0.0	-	647,929	100%
03 Health Realization	572,893	4.0	531,558	41,335	7%
04 Employee Assistance	617,372	5.0	-	617,372	100%
05 BASN	910,884	0.0	910,884	-	0%
06 Homeless Project	202,120	2.0	-	202,120	100%
07 Justice Services	977,239	6.0	558,115	419,124	43%
08 Dependency Drug Trt Crt	<u>1,236,093</u>	<u>5.0</u>	<u>192,845</u>	<u>1,043,248</u>	<u>84%</u>
Subtotal	<u>7,485,096</u>	<u>30.0</u>	<u>4,422,899</u>	<u>3,062,197</u>	<u>41%</u>
<u>Mandated Activities</u>					
09 Adult Outpatient	6,423,366	17.5	1,449,778	4,973,588	77%
10 Residential Detox	598,497	0.0	521,141	77,356	13%
11 Adolescent Services	3,686,900	17.5	2,517,904	1,168,996	32%
12 Residential Services	6,546,249	0.0	2,775,798	3,770,451	58%
13 Medical Services	2,575,913	21.0	747,121	1,828,792	71%
14 HIV Services	293,771	2.0	285,967	7,804	3%
15 Methadone Services	2,801,205	26.0	2,389,057	412,148	15%
16 Perinatal Services	2,546,911	9.5	1,336,660	1,210,251	48%
17 Drug Testing (SATTA)	365,346	0.0	365,346	-	0%
18 SACPA Services	4,900,634	13.5	3,817,078	1,083,558	22%
19 CalWORKs	<u>2,639,987</u>	<u>3.0</u>	<u>2,639,413</u>	<u>574</u>	<u>0%</u>
Subtotal	<u>33,378,779</u>	<u>110.0</u>	<u>18,845,261</u>	<u>14,533,518</u>	<u>44%</u>
<u>Required</u>					
Admin/Support	<u>5,930,677</u>	<u>24.5</u>	<u>1,306,655</u>	<u>4,624,022</u>	<u>78%</u>
Total	<u>46,794,552</u>	<u>164.5</u>	<u>24,574,815</u>	<u>22,219,737</u>	<u>47%</u>
*1 = Total may not sum due to rounding					

Description of Programs and Functions

Administration and Support (REQUIRED): \$5,930,677

The Department of Alcohol and Drug Services includes 24.5 administrative and support staff. These positions are responsible for departmental management, and fiscal, budget and information systems support. In order to provide the direct services of the Department of Alcohol and Drug Services, the County must also provide adequate administrative oversight and support services to fulfill these mandates. The amount of staff and other resources necessary to provide an 'adequate' level of funding is subject to determination by the Board of Supervisors pursuant to Government Code Sections 29063 and 29088. Research and Evaluation was included in the Administration and Support category in the information provided by the Department. These functions are required to some degree and mandated to an extent so long as the County participates in the State's drug and alcohol treatment system.

The Quality Improvement Division and Adult Services Administration is an additional component of the Administrative services function of the Department that serves the entire adult system of care. The QI function is responsible for assuring the quality and treatment standards for the adult system of care and monitors the access and utilization of clients into specialty residential services, including both residential treatment and transitional housing units (THU). It also performs regular and ongoing program audits and provides technical assistance to all providers. The Adult Services Administration has program oversight over adult outpatient and residential services.

NON-MANDATED PROGRAMS AND FUNCTIONS

01-Prevention Services (NON-MANDATED): \$2,320,566

The Prevention Services function includes eight authorized positions and is responsible for the provision of education, information dissemination and community development to help build nurturing and healthy environments for children, youth, family and communities. Staff provides technical assistance, information sharing, skill building and coalition development across sectors to implement results-based prevention programs. DADS Learning Institute provides workshops, trainings and conferences to direct service providers for professional development and continual learning and to non-addiction specialists and community members to increase basic awareness and knowledge about alcohol and other drug problems. The 2006-07 Budget includes approximately \$2.3 million in expenditures for this function, of which 4 percent is subsidized by the General Fund.

California Health & Safety Code § 11795 includes the following language:

- (a) The board of supervisors of each county **may** apply to the (State) for funds for the purpose of alleviating problems in its county related to alcohol abuse or other drug abuse. This part applies only to counties receiving state or federal funds allocated by the (State) under this part.

Since the County is not required to seek these funds, this function is considered non-mandated. County Counsel, however, notes that related statute specifies that if a county elects to receive such funds, it is then required to complete certain activities such as coordinating and maintaining cooperative partnerships with state and local alcohol and other drug abuse prevention, care, treatment, and rehabilitation programs. California Health & Safety Code §11811, grants counties "broad discretion" in the types of services they utilize, but those services must include alcohol and other drug abuse prevention and treatment.

02-Gateway (NON-MANDATED): **\$647,929**

The Gateway Center serves multiple access related functions in the Department, including receiving calls from persons seeking substance abuse counseling, assessing the need for such services and authorizing and referring services to meet the needs of each caller. These access services are provided on a contractual basis by the Santa Clara County Mental Health Department. These services are not mandated by any identified statute. The Department reports that the Gateway function generally supports the direct services provided by the Department. This function is fully subsidized by the General Fund.

03-Health Realization (NON-MANDATED): **\$572,893**

The Health Realization function includes 4.0 authorized positions and is responsible for providing Health Realization classes throughout the County to Department of Correction staff and inmates, Probation Department staff and inmates, students and teachers in schools, participants and staff with community-based programs, youth and staff in Juvenile Hall and at the Ranches and other clients and human service providers throughout the community. The provision of the classes requires both the development of collaborative relationships with community programs, schools and school districts as well as research and evaluation to determine the impact of the classes and training programs. The Department of Alcohol and Drug Services provides these classes to the Departments in a manner consistent with the Board of Supervisor's approved budget.

This function is not mandated by local, state, or federal law. After taking into account offsetting non-General Fund revenue included in the FY 2006-07 Budget for this function, 7 percent of this function is subsidized by the General Fund. According to information submitted by the Department, this function is primarily offset by Substance Abuse Prevention and Treatment Block grant funds.

04 - Employee Assistance Program (EAP) (NON-MANDATED): **\$617,372**

The County offers an Employee Assistance Program (EAP) and provides confidential professional consultation and referral for employees and their dependents. The goal of EAP is to provide confidential assistance to all employees to restore and enhance their effectiveness on the job. EAP provides up to five consultation sessions at no cost and will make referrals to local resources. These services, while included in many labor agreements, are not required by Federal or State law, or any county ordinance. It is important to note that the Department itself does not have discretion to no longer provide this service, as DADS is acting as the service provider for the County. Because

labor agreements include the provision of this service, any reduction in the level of service would require negotiation.

The FY 2006-07 Budget includes \$617,372 in expenditures and 5 FTEs for this function. Currently, this function is fully subsidized by the General Fund. Alternatively, the costs of the EAP Program could be included in the County's overall cost allocation plan, with allocation of costs across funds to be based on the proportion of employees relative to the total employee count. This method would allow the county to charge non-General Fund Departments for the EAP service cost, and allow Departments such as Social Services to recover a portion of these costs, possibly as much as 78 percent, from the State and federal government.

05- BASN Services (NON-MANDATED): **\$910,884**

Implemented in FY 1991-92, the Bay Area Services Network (BASN) provides community treatment and recovery services to parolees in nine Bay Area counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano and Sonoma. Funded by the California State Department of Corrections (CDC), the counties work through an Interagency Agreement with the State Alcohol and Drug Programs' (ADP) Parolee Services Network. DADS contracts with four contract agencies to provide outpatient, residential and THU services. Although this function is not mandated at the county level, Penal Code §3054 includes language requiring the State to establish a demonstration project for female parolees who have successfully completed an in-prison therapeutic community program, and the set of services recommended includes substance abuse treatment. This program does not require any General Fund support, according to the Department's allocation of revenue and General Fund support across functions.

06 – Homeless Project (NON-MANDATED): **\$202,120**

The Homeless Project is supported by two full-time employees who provide intensive case management services for homeless clients. The goal of the case management service is to find housing for these clients and then continue to case manage to ensure housing stability. The team provides services to adult clients and their families, primarily single women in recovery and their children, the most vulnerable segment of the homeless population. Some of these women must obtain stable housing to regain custody of their children from Juvenile Dependency Court. These clients are referred by substance abuse treatment programs from all regions of the County. In addition, this team provides general case management services for clients in the Dual Diagnosis Courts, as well as cases management services for substance abuse clients eligible for the Job Connection Program sponsored by the Social Services Agency. This function is not mandated and the entire expenditure amount is subsidized by the General Fund.

07 – Justice Services (NON-MANDATED): **\$977,239**

The set of Justice Services provided through the Department of Alcohol and Drug Services includes the Drinking Driver Program (DDP), the Drug Treatment Court (DTC) and the Deferred Entry of Judgment (DEJ) program. DDP provides services to those convicted of driving under the influence. Programs are provided for first time and multiple offenders and approximately 6,000 persons are provided this service annually. DTC is a high intensive, supervised program for Criminal Justice and Prop 36 clients

who have multiple drug and non-drug criminal charges. Assessments are conducted on these clients by the Department. DEJ provides services for those first time drug offenders under PC 1000 without violence, with no felony prior convictions within five years. The program consists of six, two-hour classes, two random urinalysis tests and participation in community support groups. Approximately 800 clients are provided this service annually according to the Department.

Health & Safety Code Sections 11837.1 (a) through 11837.8 (a) mandate counties to monitor Driving Under the Influence programs in conjunction with State regulation and allow counties to charge such programs funds to cover the costs of these monitoring activities. However, § 11837.3 includes language indicating that if a County “shows the department that it has insufficient resources, insufficient program participants, or other material disadvantages,” that county “is not required to establish a program.” The Justice Services of the Department also include the drug court programs. The intent and value of the drug court approach rely on cooperation between the courts and the County’s service providers in offering an alternative to offenders and ensuring that the client receives treatment and frequent and consistent encouragement from the court for continued treatment compliance. It is unclear whether a judge could order such treatment be provided in those cases where the treatment exceeds a mandate under federal, State or local law. Penal Code § 1000 delineates eligibility for entry in to a drug court program and § 36 of the California Rules of Court describes the treatment services that should be available to Drug Court participants, but County Counsel has indicated that these rules are not binding to the County.

The FY 2006-07 Budget includes \$977,239 in expenditures and 6 full-time employees under this function. Approximately 43 percent of the cost of this function is supported by the General Fund, with the remainder of the costs offset by grants and patient fees.

08 – Dependency Drug Treatment Court (NON-MANDATED): **\$1,236,093**
Dependency Drug Treatment Court provides assessments for men and women with children who are trying to regain custody of their children, along with some case management services. The intent and value of the drug court approach as applied to dependency relies on the cooperation between the courts and the County’s service providers in offering treatment and frequent and consistent encouragement from the court for continued compliance. While the Dependency Drug Treatment Court may assist the County in avoiding costly placement of dependent children in the Shelter and foster homes, no legal mandate was identified which indicates the County must operate the Dependency Drug Treatment Court. Approximately 84 percent of the cost of this function is supported with General Fund resources.

MANDATED PROGRAMS AND FUNCTIONS

09–Adult Outpatient (MANDATED): **\$6,423,366**
The provision of Adult Outpatient Services is comprised of 17.5 positions and includes additional contractual expenditures. The Department of Alcohol and Drug Services operates 15 outpatient treatment sites (excluding methadone and perinatal services), throughout Santa Clara County operated by the County and contract agencies. Services

are provided in Spanish, Vietnamese and several other Asian languages. All clients seeking services are able to access a level of care assessment and referral to individualized treatment by telephoning an 800 number (Gateway program) or through the SACPA Assessment Center. The outpatient modality may include psycho education, group and/or individual treatment, relapse prevention, case management and referral to adjunct support services, including transitional housing and vocational programs. Clients with dual diagnoses, that is, co-occurring substance abuse and mental disorders are treated throughout the system. If needed, clients may move to a more intensive service level (detoxification or residential) within the DADS continuum of care. According to County Counsel's analysis of this function, these services are mandated as described below.

California Code of Regulations, Section 1276 of Title 17 specifies several broad categories of basic services that must be provided by the County, including services in chronic disease. These services could include case finding, community education, consultation, or rehabilitation for the prevention or mitigation of any *chronic disease*. According to the Department, "alcohol and drug addiction is considered in the medical community to be a chronic, relapsing condition that alters normal brain function" similar to other neurological or psychiatric conditions.

County Counsel further indicates that under Welfare & Institutions Code Section 17000, the County is required to provide alcohol and drug services to indigent patients when the services are "medically necessary." This statute requires each county to provide medical care to indigent persons who are otherwise ineligible for other programs.

Additionally, some patients are treated in this program pursuant to the Substance Abuse and Crime Prevention Act (SACPA, also referred to as Proposition 36), and as a result the assessment and treatment services provided to this group of patients are mandated under that act.

To the extent that the services required to address the needs of these clients were provided elsewhere either in DADS or another existing health-related agency in the County, this function would not be mandated.

10-Residential Detoxification (MANDATED):

\$598,497

The Department of Alcohol and Drug Services sponsors twenty-four hour social detoxification (non-opioid) services that are offered by two contract providers: Horizon South for men and Mariposa Lodge for women. The detoxification period averages five days, during which clients receive regular monitoring and support. As their condition stabilizes, and they become better able to participate in individual and group interactions, clients are transitioned to residential treatment services, generally provided by the same agency.

Chapter Two of the California Code of Regulations establishes standards of care that must be met if detoxification services are provided, including an assessment and the offering of services on a voluntary basis to persons who do not need to be detained. These regulations, however, do not specifically mandate the provision of detoxification services.

According to County Counsel, as with Adult Outpatient Services, the services under the Residential Detoxification function are mandated for certain patients including 1) drug addicted persons, 2) SACPA patients, and 3) indigent patients requiring medically necessary drug and alcohol services. To the extent that the services required to address the needs of these clients were provided elsewhere either in DADS or another existing health-related agency in the County, this function would not be mandated.

11-Adolescent Services (MANDATED): **\$3,686,900**

The provision of Adolescent Substance Abuse Services includes 17.5 authorized positions and is responsible for the provision of School-Based services, services at the Children's Shelter, Juvenile Probation Drug Treatment Court, and in the Aftercare Collaborative. These services provide clients with an accessible therapeutic setting for assessment and treatment of drug and alcohol abuse problems in order to redirect the client's life. The service provider collaborates with school personnel and other on-site service providers in linking and maintaining a comprehensive network of services to meet the needs of the clients across the continuum of care. Services provided include group counseling, and individual counseling such as intake, crisis intervention, collateral services and treatment and discharge planning.

According to the Department, a significant portion of its budget under this function is used to provide services to children at Juvenile Hall. County Counsel has advised that pursuant to Section 1431, Title 15 of the California Code of Regulations, counties are required to "adopt policy and procedures that address the identification and management of alcohol and other drug intoxication in connection with booking and screening procedures at juvenile facilities." Additionally, as in Adolescent Services, this function is mandated to the extent that services under this function are considered "medically necessary," and the County has chosen to meet its section 17000 obligation through this program.

12- Residential Services (MANDATED): **\$6,546,249**

DADS contracts with four agencies to provide 24-hour residential treatment services, primarily in a group format, at six sites throughout the county. Average length of stay is about 60 days, after which clients desiring ongoing treatment are transitioned to the outpatient modality with THU support as needed. Treatment goals are stabilization, engagement in treatment and preparation for transition a lower level of care for continuing recovery. Dually-diagnosed clients are treated by all providers.

Although, no legal citation was identified which requires that this specific function be provided, County Counsel determined that similar to other mandated functions in DADS, this function is mandated under Welfare & Institutions Code 17000 to the extent that it provides "medically necessary" services to indigent patients. Additionally, pursuant to SACPA, services provided to patients eligible under that act are mandated.

13-Medical Services (MANDATED): **\$2,575,913**

Medical services for methadone include the administering of methadone medication, urine drug testing and related activities such as physician assessments, admission of clients to detox when required, continued care as clients receive treatment and other

activities associated with methadone treatment such as the treatment of minor skin infections and interaction with other agencies and treatment providers. Additionally, as in the Department's other mandated functions, this function is mandated to the extent that services under this function are considered "medically necessary," services are provided to SACPA-eligible patients, and the County has chosen to meet its section 17000 obligation through this program.

14–HIV Services (MANDATED): **\$293,771**

HIV-related Substance Abuse Services include two authorized positions and is responsible for the provision of a wide range of services including HIV/HCV and TB pre and post test counseling, infectious disease prevention and education to the clients and staff of the adult services system of care, phlebotomy skills for testing including fingerstick methods, TB testing for residential and outpatient providers, the coordination of outpatient testing, the coordination of Gateway TB assessments and clearances and the maintenance of statistics for reporting purposes. Because HIV represents a public health issue, code sections related to the spread of disease cited by Public Health could be applied to HIV-related services by the Department of Alcohol and Drug Services. Therefore, these expenditures have been categorized as mandated.

15–Methadone Services (MANDATED): **\$2,801,205**

Methadone Services provided by the Department of Alcohol and Drug Services include 26 authorized positions and is responsible for the provision of methadone medication and therapy services to 550 opioid dependent individuals in accordance with established state and federal regulations. Under the Department's system of care for Methadone, clients receive a screening by Gateway or a referral from a doctor or hospital, intake and assessment, the assignment of a primary counselor, the provision of the methadone treatment, and consistent client contact and treatment planning.

Health & Safety Code Sections commencing with § 11758.40 establish the authority of the State Department of Health to contract with counties for the provision of methadone services. Another code section indicates that agencies wishing to establish methadone services in a county can contract directly with the State if the County refuses to include the agency in its contract with the State. Health & Safety Code § 11222 and § 11877 require that persons who are on methadone when they enter custody be provided with continued treatment while in custody. Injection drug use is a public health issue and has been deemed an emergency in Santa Clara County repeatedly by the Board of Supervisors through formal votes. Therefore, some of the same code sections cited by the Public Health Department in their analysis of mandated functions could be applied to the provision of Methadone services.

Furthermore, County Counsel has determined that this program can be considered mandated to the extent services are provided to the indigent, drug addicted patients, or SACPA eligible-patients for the reasons described in the Department's other mandated functions.

16–Perinatal Services (MANDATED): **\$2,546,911**

Perinatal Substance Abuse Services include 9.5 authorized positions. DADS operates three perinatal programs, targeting treatment for pregnant and parenting women with

young children. The County program, the Perinatal Substance Abuse Program (PSAP) and the contract program, Blossoms (operated by Gardner Health Center) offer individual and group treatment, childcare, medical support and health education as components of their services, which are delivered by a multidisciplinary team. The centrally located PSAP also offers methadone services. Blossoms, located in East San Jose, is able to provide services in Spanish. Clients in both programs, along with their very young children, can live in Transitional Housing Units (THUs) in conjunction with treatment. ARH House on the Hill, the third program and also contract-operated, provides residential services for up to six mothers and their children.

The California Health & Safety Code established the Office of Perinatal Substance Abuse and established requirements of counties applying for such funds but does not mandate services that are to be provided. According to County Counsel's analysis of this function, Health and Safety Code Section 11757.57 allows for the state to contract with the county for training regarding alcohol and drug dependency. In addition, Section 11757.59 provides that counties receiving funds under this chapter shall provide certain perinatal services.

Additionally, Health and Safety Code Section 104561, while authorizing counties to enter into contracts to provide perinatal program coordination, patient advocacy, and expanded access services, " for perinatal patients, there is no mandate that they do so.

County Counsel further notes that although there is no specific mandate or requirement that counties receive funds and provide perinatal services, these services are mandated under Welfare and Institutions Code Section 17000 to the extent they 1) are deemed "medically necessary" and provided to the indigent or 2) consist of basic service provided to drug and alcohol addicted patients.

17- Drug Testing (SATTA) (MANDATED): \$365,346

Senate Bill 223 (Burton Bill), effective October 11, 2001, appropriated \$8.4 million under the Substance Abuse Treatment and Testing Accountability Program (SATTA) to the State Department of Alcohol and Drug Programs to administer and award funds to counties for the cost of substance abuse testing under the Substance Abuse Crime Prevention Act (SACPA) of 2000. These funds are used to reimburse Probation and Pre-Trial for SACPA drug testing.

18- Substance Abuse Crime & Prevention Act (SACPA) (MANDATED): \$4,900,634

The services provided by the County in order to comply with the Substance Abuse Crime & Prevention Act (SACPA) are mandated and partially offset by State funding appropriated for this purpose. Title IX of the California Code of Regulations includes sections prohibiting counties from using SACPA funds to match county Drug Med-Cal; federal financial participation. Additionally, the county is required to provide detailed reports on the expenditures of these funds to the State each quarter.² Counties are required to designate a Lead Agency, the Office of the County Executive in Santa Clara County.

²Title 9, Division 4, Chapter 2.5, 9533, 9535.

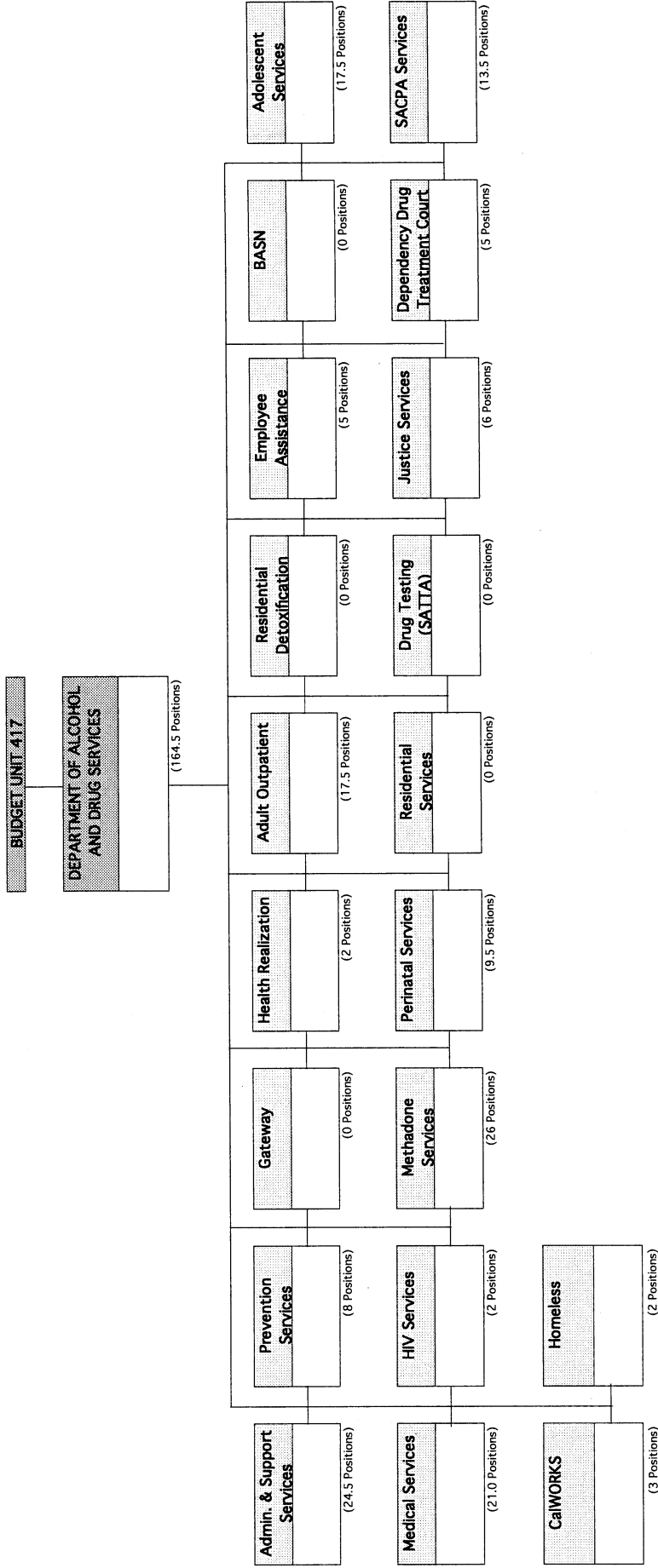
The Department reports that no General Funds are *directly* allocated to the provision of Department SACPA services. However, historically the costs to treat SACPA-eligible patients exceed the SACPA allocation. As a result, a significant portion of the adult treatment costs, including outpatient, residential, transitional housing, residential detoxification, heroin detoxification and methadone treatment are provided above the SACPA allocation. According to County Counsel, to the extent general funds are allocated to other DADS programs to provide services to the unfunded SACPA-eligible patients, both the SACPA funded and unfunded services are mandated.

19- CalWORKs Services (MANDATED): \$2,639,987

CalWORKs services include the CalWORKs Health Alliance and ten CalWORKs Social Work Unit staff. The CalWORKs Alliance coordinates and provides all support services to CalWORKs clients who require such support to successfully return to the workforce. The County does have discretion in regards to the types and level of services that it provides to CalWORKs recipients, but the function is a mandated one under Federal and State law. These services are supported primarily from the State and Federal government. SSA reports that approximately over 99 percent of the functions' expenditures are supported by non-General Fund resources.

Total Department of Drug & Alcohol Services FY 2006-07 Adopted Budget \$46,794,552

DEPARTMENT OF ALCOHOL AND DRUG SERVICES





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COUNTY COUNSEL**

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ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Theresa Fuentes, Deputy County Counsel *Theresa Fuentes*

RE: Department of Alcohol and Drug Services, Budget Unit 417 - Mandate Analysis

DATE: August 1, 2006

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to Budget Unit 417 regarding the Department of Alcohol and Drug Services (the "Department"). Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the Department. This memo reflects only those changes, revisions or supplemental analysis needed to update the FY 2005-06 Mandate Study completed in October 2004 (the "2004 Study").

Departmental Description

The applicable provisions of the California Health & Safety Code ("H&S") have been amended since the 2004 Study was completed. Specifically, H&S §§ 11962 and 11963 (relating to the drug program) have been repealed and combined with H&S §§ 11800 and 11801 (relating to the alcohol program). Section 11800 now states that the "board of supervisors shall designate a health related county agency or department that shall administer the county alcohol and drug program." (emphasis added to reflect change in statute). Section 11801 has been amended to include duties relating to drugs as well as alcohol. In addition, § 11801 has been revised to include among the required duties of the program administrator the execution of the "net amount contract, and Drug Medi-Cal contract, whichever is applicable," the submission of an annual report to the board of supervisors, and participation in the County Alcohol and Drug Program

Administrators Association of California “for the purpose of representing the counties in their relationship with the state with respect to policies, standards, and administration for alcohol and other drug abuse services.”

Prevention Services

Because the discussion of Prevention Services in the 2004 Study relies heavily on H&S §§ 11795 and 11811, a brief discussion of the subsequent amendments to those statutes is necessary. The amendments do not change the substance of the statute for purposes of the mandate study, but the current study should be updated to reflect the new statutory language. Section 11795 provides that the board of supervisors of each county may apply to the state for funds for the purpose “of alleviating problems in its county related to alcohol abuse and other drug abuse.” If the county elects to receive such funds, the county must do certain things such as coordinating and maintaining a “cooperative partnership” with state and local alcohol and other drug abuse prevention, care, treatment and rehabilitation programs. Section 11811 gives the counties “broad discretion” in the types of services they utilize, but those services “shall include services for alcohol and other drug abuse prevention and treatment.”

Gateway

No changes or comments.

Health Realization

No changes or comments.

Adult Outpatient

The 2004 Study concludes that Adult Outpatient services are not mandated. However, a portion of these services may be mandated under section 1276 of Title 17 of the California Code of Regulations (“section 1276”). Section 1276 lists twelve broad categories of basic services that must be provided by the County. One such category is “services in chronic disease, which may include case finding, community education, consultation, or rehabilitation, for the prevention or mitigation of any chronic disease.” 17 C.C.R.1276(h). The Department advises that alcohol and drug addiction is considered in the medical community to be a “chronic, relapsing condition that alters normal brain function, just as any other neurological or psychiatric illness.” Thus, if alcohol and drug addiction is a “chronic disease,” this program is mandated to the extent that patients receiving services from this program are addicted, and this program is the only means by which the County provides these services to them. Moreover, some of the patients treated in this program are SACPA-eligible patients and thus a portion of this program is mandated under the Substance Abuse and Crime Prevention Act of 2000 (see discussion under Substance Abuse

and Crime Prevention Act program below). Lastly, the County is required to provide alcohol and drug services to indigent patients to the extent these services are “medically necessary.” California Welfare & Institutions Code (“WIC”) § 17000. Section 17000 imposes on each county a duty to provide medical care to indigent persons not eligible for such care under other programs. WIC § 17001 requires each county to “adopt standards of care” for the indigent, and confers broad discretion on the county to determine eligibility and the type of services to be provided. The courts have determined that § 17000 imposes a mandatory duty to provide “medically necessary” care, meaning that it is “reasonable and necessary to protect life, to prevent significant illness or significant disability, or to alleviate severe pain.” *County of San Diego v. State of California* (1997), 15 Cal.4th 68, 104-105. The County has chosen to meet its § 17000 obligation primarily through operation of the Santa Clara Valley Medical Center. However, to the extent that adult outpatient services are “medically necessary” and the County has chosen to meet its section 17000 obligation through this program, then the program is mandated.

Detoxification

The 2004 Study concludes that Detoxification services are not mandated. However, for the reasons discussed above, these services are mandated for drug and alcohol addicted persons under section 1276, and additionally for indigent persons to the extent “medically necessary” under § 17000. Moreover, some of the patients treated in this program are SACPA-eligible patients and thus a portion of this program is mandated under the Substance Abuse and Crime Prevention Act of 2000 (see discussion under Substance Abuse and Crime Prevention Act program below).

Employee Assistance Program

No changes or comments.

BASN Services

No changes or comments.

Homeless Project

No changes or comments.

Justice Services

No changes or comments.

Dependency Drug Treatment Court

No changes or comments.

Adolescent Services

The 2004 Study concludes that this program is not mandated. However, the Department advises that a significant portion of its budget for this program is allocated to providing services to children at Juvenile Hall. Services to these children are mandated under Section 1431, Title 15 of the California Code of Regulations, which requires the County to “adopt policy and procedures that address the identification and management of alcohol and other drug intoxication in connection with booking and screening procedures at juvenile facilities.” In addition, this program is mandated to the extent services under this program are “medically necessary,” and the County has chosen to meet its section 17000 obligation through this program. Lastly, this program is mandated under section 1276 to the extent it provides basic services to drug and alcohol addicted children.

Residential Services

The 2004 Study concludes that this program is not mandated. However, this program may be mandated under section 1276 to the extent it provides basic services to drug and alcohol addicted patients, and under WIC § 17000 to the extent it provides “medically necessary” services to indigent patients. Moreover, some of the patients treated in this program are SACPA-eligible patients and thus a portion of this program is mandated under the Substance Abuse and Crime Prevention Act of 2000 (see discussion under Substance Abuse and Crime Prevention Act program below).

Medical Services

The 2004 Study lists this function as mandated by WIC § 17000 (incorrectly listed in the 2004 Study as §17000 of the Health & Safety Code). This program is also mandated under section 1276 to the extent it provides basic services to drug and alcohol addicted patients. Moreover, to the extent patients treated in this program are SACPA-eligible patients, a portion of this program is mandated under the Substance Abuse and Crime Prevention Act of 2000 (see discussion under Substance Abuse and Crime Prevention Act program below).

HIV Services

No changes or comments.

Methadone Services

In addition to the code sections cited in the 2004 Study, this program can be considered mandated under WIC § 17000 to the extent services are provided to the indigent, and under section 1276 to the extent services are provided to drug and alcohol addicted patients. Moreover, some of the patients treated in this program are SACPA-eligible patients and thus a portion of this program is mandated under the Substance Abuse and Crime Prevention Act of 2000 (see discussion under Substance Abuse and Crime Prevention Act program below).

Perinatal Services

The 2004 Study states that “because County Counsel analysis of the perinatal substance abuse services provided by the Public Health Department was inconclusive, this function has not been categorized as discretionary.” H&S § 11757.57 allows for the state to contract with the County for training regarding alcohol and drug dependency. In addition, § 11757.59 provides that counties receiving funds under this chapter shall provide certain perinatal services. However, there is no mandate or requirement that counties receive the funds and provide the services. Additionally, H&S § 104561, while authorizing counties to enter into contracts to provide perinatal program coordination, patient advocacy, and expanded access services,” for perinatal patients, there is no mandate that they do so. Nonetheless, these services are mandated under WIC § 17000 to the extent they are “medically necessary” and provided to the indigent. In addition, this program is mandated under section 1276 to the extent basic services are provided to drug and alcohol addicted patients.

Drug Testing (Criminal Justice)

No changes or comments.

Substance Abuse Crime & Prevention Act (SACPA)

As noted in the 2004 Study, the Department is mandated to provide services to SACPA-eligible patients. The Department reports that its costs to treat these patients exceeds its SACPA allocation. As a result, a significant portion of the adult treatment costs, including outpatient, residential, transitional housing, residential detoxification, heroin detoxification, and methadone treatment are provided above the SACPA allocation. Thus, to the extent general funds are allocated to other department programs (*e.g.*, “Adult Outpatient,” “Detoxification”) to provide services to these unfunded SACPA-eligible patients, these unfunded services are nonetheless mandated under SACPA.

Roger Mialocq, Management Audit Manager
Department of Alcohol and Drug Services, Budget Unit 417 - Mandate Analysis
July 31, 2006
Page 6 of 6

CalWorks Services

No changes or comments, except to note that W&I § 11325.8 mandates that the county's welfare-to-work plan "shall include a provision of substance abuse treatment services" including "evaluation, substance abuse treatment, employment counseling, provision of community services jobs, or other appropriate services."

cc: Robert B. Garner, Director, Department of Alcohol and Drug Services
Ann Miller Ravel, County Counsel

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**CONFIDENTIAL MEMORANDUM
ATTORNEY-CLIENT PRIVILEGED COMMUNICATION**

TO: Roger Mialocq, Management Audit Manager
FROM: Karen J. Anderson, Deputy County Counsel
RE: Department of Alcohol and Drug Services
DATE: October 22, 2004

A handwritten signature in black ink, appearing to be "KJA", is written over the "FROM:" line. The signature is enclosed within a hand-drawn oval.

Summary: This office has not changes from the mandate analysis submitted in 2003, a copy of which is provided for below.

2003 County Counsel Mandate Analysis:

In response to my requests for its mandate analysis, the Department of Alcohol and Drug Services provided copies of their organizational flow chart and their budget worksheets. They also provided copies of a number of statutes. However, they did not provide a list of services or a description of their services. Therefore, they did not provide enough factual information to this office which is necessary to complete a legal mandate analysis. Below is a brief outline of the various statutes relating to drug and alcohol programs.

Based on a review of the various statutes applicable to drug and alcohol programs, the only Drug and Alcohol Program that is mandated, is the Substance Abuse and Crime Prevention Act of 2000 (SACPA/ Prop 36). The requirements of this Act are set out California Code of Regulations, Title 9, Chapter 2.5, section 9500 et. seq. Prop 36 is set forth in 9 California Code of Regulations, section 9500 et. seq.

Section 9505 defines "client" as: defendant, probationer, parolee, and any other individuals eligible to receive services pursuant to the Act. "Drug treatment services" means the services described in Section 1210(b) of the Penal Code provided by drug treatment programs.

Section 9510 states, "The Department shall administer a special fund known as the Substance Abuse Treatment Trust Fund"..... shall be used to "(c) Fund provision of and placement in drug treatment services, vocational training, family counseling, and literacy training at the county level for adult offenders convicted of nonviolent drug possession offenses pursuant to Sections 1210(a) of the Penal Code or found to have committed a nonviolent drug possession offense pursuant to Section 3063.1 of the Penal Code and related administrative costs.

Section 9515 states, "(a) All counties in California shall request SATTF and SATTA funds".....

The statutes then describe what documents must be submitted and what the mandated criteria is for each program. Therefore, my previous email should be disregarded based on my review of Prop 36. In short, the State says that each County must apply for the funds and establishes criteria for the administration of the drug treatment programs. The Penal Code sections are directly referenced and are interrelated to Prop 36. Prop 36 is the funding mechanism and the regulation mechanism for the provision of services and options to criminal defendants under the Penal Code. My analysis is that this is a mandated service because of the language set forth in Section 9515. The County does not have any option but to provide this service. If the County chose to refuse the money and not provide the services, criminal defendants could bring a suit alleging denial of due process based on indigency because those who could not afford to pay for treatment would be unable to receive it as a sentencing option. There would be undoubtedly a constitutional claim of inequity. Because it is a stated option for criminal defendants regardless of ability to pay, and because the State intentionally chose to use the word "shall", I conclude it is mandated and my analysis will not change.

Section 9500 states that the Act **shall apply to all counties**. Section 9515 states that all counties in California **shall** request SATTF and SATTA funds (SATTF is related to SACPA; SATTA is the Act relating to funding for drug testing). Meeting the requirements of the Act requires resources to administer the program, complete audits of contract providers, and to comply with the state reporting requirements. The California Penal Code sets forth the eligibility requirements. Therefore, the level of services is dictated by the number of criminal defendants who meet the eligibility requirements.

Further, counties who comply with SACPA, are considered health care providers. Therefore, they must comply with HIPAA. They must also comply with other federal requirements relating to the confidentiality of drug and alcohol programs pursuant to 42 CFR Part 2. They must have a contracts department to draft contracts that meet SACPA requirements and to conduct contract monitoring activities required by the Act.

cc: Robert Garner, Director
Ann Ravel

418 Community Outreach Services

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Non-Mandated	3	7,912,638	90%	6,010,998	76%	75.0	89%
Mandated	-	-	-	-	-	-	-
Admin/Support	-	844,026	10%	694,026	82%	9.0	11%
Total	<u>3</u>	<u>8,756,664</u>	<u>100%</u>	<u>6,705,024</u>	<u>77%</u>	<u>84.0</u>	<u>100%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=percent of total staffing

Departmental Description

Community Outreach Services performs three functions related to improving the health of children and adults throughout Santa Clara County. These functions include the following: Children's Health Initiative, School-Linked Services and Mobile Health Services. The focus of these functions are prevention and early intervention, either by enrolling children and families in a health insurance program, or by bringing outreach and health services to the environments of individuals, such as school sites and designated mobile health sites.

The functions increase overall health of children and families in Santa Clara County, through prevention and early intervention. Also, the Department reports that revenue in addition to that reported in the analysis is earned for the County by Budget Unit 418, given the enrollment in Medi-Cal and other insurance and entitlement programs that is a direct result of the work of Community Outreach Services. All three functions reportedly result in increased Santa Clara Valley Health and Hospital System (SCVHHS) Medi-Cal Administrative Activity revenue. The Children's Health Initiative

(CHI) helps to convert uninsured clients into sponsored clients of SCVHHS, and Mobile Health Services provides services that are reimbursed by third-party payors.

The functions provided by Community Outreach Services are not mandated; however, when the program services are provided, certain legal requirements must be met pertaining to areas such as California Education Code requirements, applicable state and federal privacy and confidentiality laws, and applicable mandatory reporting laws.

None of the functions performed by Community Outreach Services are mandated.

FY 2006-07 General Fund Budget by Program/Function

<u>Function</u>	<u>FY 2006-07 Adopted Budget</u>		<u>Departmental Revenue</u>	<u>General Fund Subsidy</u>	<u>Percent</u>
	<u>Amount</u>	<u>Staffing</u>			
<i><u>Non-Mandated Activities</u></i>					
01 School-Linked Services	4,757,145	42.0	120,900	4,636,245	97%
02 Children’s Health Initiative	2,877,688	30.0	1,675,740	1,201,948	42%
03 Mobile Health Services	<u>277,805</u>	<u>3.0</u>	<u>105,000</u>	<u>172,805</u>	<u>62%</u>
Subtotal	7,912,638	75.0	1,901,640	6,010,998	76%
<i><u>Required</u></i>					
Admin/Support	<u>844,026</u>	<u>9.0</u>	<u>150,000</u>	<u>694,026</u>	<u>82%</u>
Total	<u>8,756,664</u>	<u>84.0</u>	<u>2,051,640</u>	<u>6,705,024</u>	<u>77%</u>

Description of Programs and Functions

Administration and Support (REQUIRED): **\$844,026**

The Community Outreach Services Department includes nine management, administrative and support staff. These positions are responsible for departmental management, and fiscal, budget and information systems support. Because the direct services performed by Community Outreach Services are not mandated, the County at its discretion provides adequate administrative oversight and support services to fulfill these functions. The amount of staff and other resources necessary to provide an ‘adequate’ level of funding is subject to determination by the Board of Supervisors pursuant to Government Code Sections 29063 and 29088. No objective basis was identified to determine the Administrative and Support budget associated with each of the three direct service functions in the Department.

NON-MANDATED PROGRAMS AND FUNCTIONS

01– School-Linked Services (NON-MANDATED): **\$4,757,145**

School-Linked Services (SLS) is a cross-system collaboration that coordinates services for children and families on school sites and focuses on maximizing student success. Partners of this collaboration include schools, community members and many county departments including Public Health, Mental Health, Probation, Alcohol & Drug Services, Ambulatory & Community Health Services and Social Services. SLS works with schools, families and referral agencies to address a variety of issues, which may be impairing a child's ability to reach their maximum learning potential. At school sites, SLS provides truancy and consultation services. Counseling, parenting skill assistance, and parent advocacy are made available to families. Education and referrals are provided to individuals in need of housing assistance, health services, nutrition and food assistance. Approximately \$121,000 in non-General Fund revenues are projected to be earned through the School-Linked Services function. The 2006-07 Budget authorizes 42 FTEs to School-Linked Services.

According to the Department, School-Linked Services (SLS) was initiated in 1994 by the Children and Youth Conference Committee and approved by the County of Santa Clara Board of Supervisors to address the lack of coordinated comprehensive services at school sites. School-Linked Services was established so that departments serving children and families could work collaboratively with school districts in high need areas of the county to provide a comprehensive array of health and human services through a multi-disciplinary service, case management approach.”¹

02– Children’s Health Initiative (NON-MANDATED): **\$2,877,688**

Formerly named Medi-Cal Outreach, Valley Children’s Health Initiative (CHI) supports the County’s Children’s Health Initiative’s goal to provide comprehensive health insurance to all children living in Santa Clara County with family income at or below 300% of the federal Poverty Level. Valley CHI provides eligibility screening for the appropriate free and low-cost children’s health insurance program; assists in the completion of the application process for Medi-Cal, Healthy Families, or Healthy Kids; educates about the health insurance enrollment and membership processes; and problem-solves issues related to enrollment and use of benefits. Approximately \$1.7 million in non-General Fund revenues are projected in FY 2006-07 for the Children’s Health Initiative function. The 2006-07 Budget authorizes 30 FTEs to the Children’s Health Initiative.

03– Mobile Health Services (NON-MANDATED): **\$277,805**

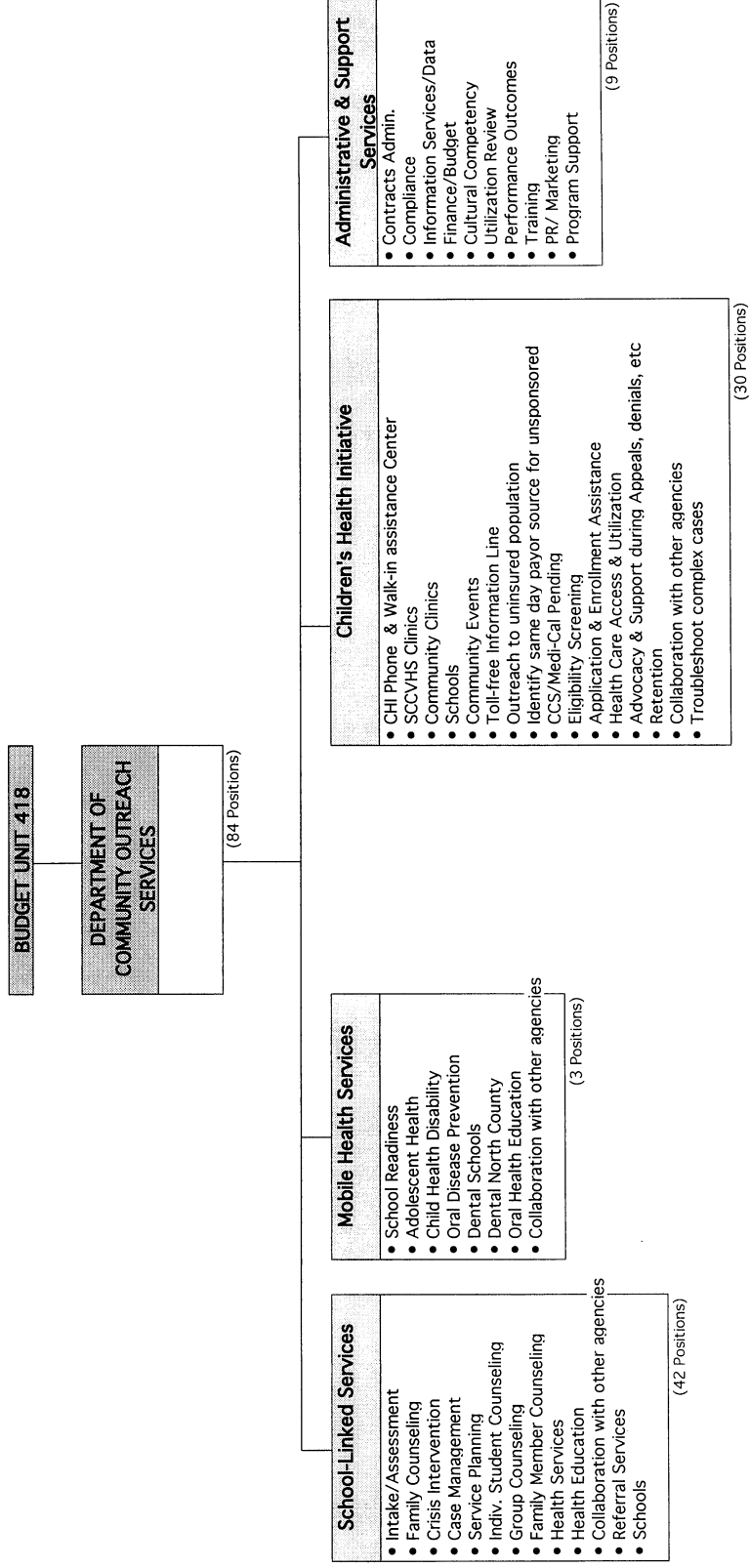
Within Community Outreach Services, Community Health Services coordinates the dispatch of the mobile health services units to aid the Santa Clara Valley Health & Hospital System in providing easily accessible healthcare services. Primary and preventive care services are provided on-site at several elementary, secondary and high school campuses, as well as local community clinics and Valley Health Centers. Approximately \$105,000 in non-General Fund revenue is projected for FY 2006-07 in the

¹ Children, Seniors and Families Committee Agenda Date: March 24, 2004, Agenda Item No. 7

Mobile Health Services function. Therefore, the General Fund subsidy for this program is \$172,805. The FY 2006-07 Budget includes 3 FTEs assigned to this function.

Total Community Outreach Services FY 2006-07 Adopted Budget	\$8,756,664
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DEPARTMENT OF COMMUNITY OUTREACH SERVICES



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MEMORANDUM

TO: Roger Mialocq, Management Audit Manager
FROM: Jennifer S. Sprinkles, Deputy County Counsel ^{JS}
RE: 418 Community Outreach Services Mandate Analysis
DATE: August 4, 2006

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written analysis of the legal mandates applicable to Budget Unit 418 regarding Community Outreach Services.

Our office reviewed the updated mandate report from Community Outreach Services (COS) and the most recent mandate analysis prepared by this office on October 21, 2004. We agree that none of the services or functions of the programs under Community Outreach Services are legally mandated. There have been no changes in the law since the last Mandate Analysis in 2004 that would mandate any of the programs under COS.

c: Margo Maida, Director, Community Outreach Services
Ann Miller Ravel, County Counsel

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MEMORANDUM

TO: Roger Mialocq, Management Audit Manager
FROM: Gita C. Suraj, Deputy County Counsel *GCS*
RE: 418 Community Outreach Services Mandate Analysis
DATE: October 21, 2004

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to the Community Outreach Service Department ("COS") of Santa Clara Valley Health and Hospital System. Below are comments or supplemental analyses about the mandates in the functional areas identified by COS.

County Counsel agrees that none of the services or functions of the programs under COS programs are legally mandated. However, when program services are provided, certain legal requirements must be met. For example, COS is legally required to comply with:

- 1) all applicable California Education Code requirements,
- 2) all applicable state and federal privacy and confidentiality laws, and
- 3) all applicable mandatory reporting laws.

The above legal requirements are only a partial list and COS is required to comply with all regulatory requirements that apply to the type of activity or service provided.

c: Margo Maida, Director, Community Outreach Services
Ann Miller Ravel, County Counsel

502 Social Services – Administration and Support Services

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Non-Mandated	1	3,935,462	100%	3,935,462	100%	0.0	0%
Mandated	0	0	0%	0	0%	0.0	0%
Total	1	3,965,462	100%	3,965,462	100%	0.0	0%
Admin/Support*4		0	0%	0	20%	0.0	0%

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=percent of total staffing

*4=Budget Unit 502 Admin/Support Services budget amounts to \$121 million and includes 308 positions, which have been distributed throughout the Mandated and Non-Mandated program areas in Budget Units 503, 504, and 505 for purposes of this function/program presentation. For informational purposes, the total Social Services Agency-wide administrative and support costs amount to \$45.4 million and include 465 positions, which is 19 percent of the 2,452.5 positions in the Agency.

Departmental Description

The Social Services Agency (SSA) provides basic safety net and protective services to vulnerable children, families and adults. SSA is organized into four budget units, including 502 – Social Services Administration, 503 – Department of Family and Children Services, 504 – Department of Employment and Benefit Services and 505 – Department of Aging and Adult Services.

The Agency has identified a total of 74 major programs and functions it provides with an authorized staff of approximately 2,452.5 positions. Most of these services are provided pursuant to federal and State mandates and are substantially subsidized. The projected FY 2006-07 Agency-wide budget amounts to approximately \$601.6 million, of which \$84.2 million or about 14.0 percent is funded from County resources. The four departments that comprise the Social Services Agency provide the following services.

The Social Services Agency Administration and Support Services (Budget Unit 502) provides the centralized administration for the Agency's three direct service budget units. These services include departmental management, fiscal, information systems, human resources and other related services. The FY 2006-07 adopted budget for Budget Unit 502 amounts to \$121.3 million and includes 308.0 positions. Although most of the \$121.3 million budget is appropriated for salary, benefit and County overhead costs, several million dollars are budgeted for numerous community based service contracts and grants. However, for purposes of this presentation, all of the positions and all but \$3.9 million of the costs have been distributed in accordance with the actual utilization of staff time and costs claimed, to the 74 direct service programs included in budget units 503, 504, and 505. Consequently, the only program remaining in Budget Unit 502 is the General Fund Contracts program, which totals \$3,935,462 and includes more than 80 community based contracts that are financed entirely from the General Fund.

FY 2006-07 Projected Budget by Program/Function

The Social Services Agency identified a total of 74 major direct service functions and programs, which it provides pursuant to federal, State and County law and policies. Most of these functions and programs are mandated by law. Some are discretionary, based on local policy. Of the 74 functions and programs, In addition to administrative and support service staffing and related costs, Budget Unit 502 includes 10 direct service functions and programs, all of which have been determined to be Non-Mandated. However, for purposes of the Mandate Study presentation nine of the programs were shifted to Budget Unit 503 and 504 based on the nature of the services provided by each program. The only remaining program in Budget Unit 502 is the General Fund Contracts program, which is shown in the following table, based on its FY 2006-07 cost, revenue, and General Fund subsidy. In addition, total Social Services Agency administration and support services costs and staffing is shown in the table below on a consolidated basis for comparative purposes with other county agencies and departments. Total Agency-wide administration costs and staffing amount to \$45.4 million and include 465 positions. These costs have been allocated between the three direct service budget units 503 – Department of Family and Children Services, 504 – Department of Employment and Benefit Services and 505 – Department of Aging and Adult Services.

<u>Function</u>	<u>FY 2006-07 Adopted Budget</u>		<u>Departmental Revenue</u>	<u>General Fund Subsidy</u>	<u>Percent</u>
	<u>Amount</u>	<u>Staffing</u>			
<u>Non-Mandated Activities</u>					
03 General Fund Contracts	<u>3,935,462</u>	<u>0.0</u>	<u>0</u>	<u>3,935,462</u>	<u>100%</u>
Total BU 502	<u>3,935,462</u>	<u>0.0</u>	<u>0</u>	<u>3,935,462</u>	<u>100%</u>
<u>Required</u>					
Admin/Support*	<u>0</u>	<u>0.0</u>	<u>0</u>	<u>0</u>	<u>0%</u>

Note:
 * Budget Unit 502 Admin/Support Services budget amounts to \$121 million and includes 308 positions, which have been distributed throughout the Mandated and Non-Mandated program areas in Budget Units 503, 504, and 505 for purposes of this function/program presentation. For informational purposes, the total Social Services Agency-wide administrative and support costs amount to \$45.4 million and include 465 positions, which is 19 percent of the 2,452.5 positions in the Agency.

Description of Programs and Functions

Administration and Support (REQUIRED): **\$45,417,208**

The Social Services Agency administration and support services function includes a total of 465 administrative and support staff, which account for approximately 19 percent of 2,452.5 staff in budget units 502, 503, 504 and 505. These positions are responsible for departmental management, accounting, budget, contract administration and monitoring, information systems, human resources, government relations and planning, training, and other related services. Because most of the direct services performed by the Social Services Agency are mandated, the County must also provide adequate administrative oversight and support services to fulfill these mandates. The amount of staff and other resources necessary to provide an 'adequate' level of funding is subject to determination by the Board of Supervisors pursuant to Government Code Sections 29063 and 29088.

NON-MANDATED PROGRAMS AND FUNCTIONS

03 - General Fund Contracts (NON-MANDATED): **\$3,935,462**

The General Fund Contracts provide funding to qualified community based organizations (CBOs), educational institutions, and governmental jurisdictions for the delivery of human services to the residents of Santa Clara County. These contracts provide services for Children and Families, Aged, Disabled, or Dependent Adults, Homeless and Transitional Housing, and Victims of Domestic Violence and their Families. A complete list of the contracts is attached.

Total Social Services – Admin and Support FY 2006-07 Adopted Budget	\$3,935,462
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Approved FY 2006-07 General Fund and Programs for Immigrant Integration (PII) Contracts

Agency Name - Project Name	Subject Funding Area	FY 2005-06 Amounts	Ongoing Funding	Proposed One-time Funding	FY 07 Approved
Outreach & Escort - Senior Outreach Program / Vietnamese Elderly Consortium	Adults	\$ 199,649	\$ -	\$ 205,638	\$ 205,638
Community Solutions	Children			\$ 150,000	\$ 150,000
Rebekah Children's Services	Children			\$ 150,000	\$ 150,000
Japanese American Community Seniors (Yu-Ai Kai) - Minority Senior Service Provider Consortium	Adults	\$ 142,018	\$ 139,842	\$ 6,440	\$ 146,282
Catholic Charities - Immigration Legal Services as Path to Citizenship	PII		\$ 130,000		\$ 130,000
Mexican American Community Services Agency - Zero Drop-Out Youth Academy Consortium	Children	\$ 122,714	\$ -	\$ 126,395	\$ 126,395
Next Door Solutions to Domestic Violence - Advocacy Collaborative County Wide Master Services.	Domestic Violence	\$ 99,030	\$ 88,365	\$ 13,638	\$ 102,003
Center for Employment Training (CET) - Immigration Legal Services as Path to Citizenship	PII		\$ 22,000	\$ 76,689	\$ 98,689
Services, Immigrant Rights and Education Network (SIREN) - Citizenship Services for Immigrant Integration	PII		\$ 84,264	\$ -	\$ 84,264
Mexican American Community Services Agency (MACSA) - MACSA Adult Day Health Care	Adults	\$ 77,709	\$ 73,749	\$ 6,293	\$ 80,042
Live Oak Adult Day Services - Adult Day Care	Adults	\$ 75,000	\$ 76,064	\$ 1,188	\$ 77,252
Bill Wilson Center - Youth Works Consortium	Children	\$ 71,000	\$ 52,531	\$ 20,600	\$ 73,131
Fresh Lifelines for Youth (FLY)--Legal Eagle Program	Children	\$ 58,390	\$ 41,201	\$ 18,942	\$ 60,143

Approved FY 2006-07 General Fund and Programs for Immigrant Integration (PII) Contracts

Agency Name - Project Name	Subject Funding Area	FY 2005-06 Amounts	Ongoing Funding	Proposed One-time Funding	FY 07 Approved
Catholic Charities - Leadership, Ethnic and Academic Pride (LEAP) Project	Children	\$ 58,371	\$ -	\$ 60,122	\$ 60,122
Community Solutions - Advocacy Collaborative County Wide Master Services.	Domestic Violence	\$ 55,522	\$ 49,542	\$ 7,647	\$ 57,189
Emergency Housing Consortium - Feed Project	Adults	\$ 54,220	\$ 55,848	\$ -	\$ 55,848
Child Advocates of Santa Clara and San Mateo Counties - Volunteer Recruitment, Training & Supervision	Children	\$ 53,872	\$ 55,489	\$ -	\$ 55,489
Billy De Frank Lesbian and Gay Community Center - Adult Services	Adults	\$ 51,907	\$ 49,261	\$ 4,204	\$ 53,465
Avenidas - Avenidas Senior Day Health Center	Adults	\$ 51,666	\$ 53,217	\$ -	\$ 53,217
Center for Employment Training (CET) - Citizenship Services for Immigrant Integration	PII		\$ 25,000	\$ 25,750	\$ 50,750
International Rescue Committee (IRC) - Immigration Legal Services as Path to Citizenship	PII		\$ 28,000	\$ 22,000	\$ 50,000
Community Health Awareness Council - Village Wellness Program	Children	\$ 47,562	\$ 25,750	\$ 23,239	\$ 48,989
Respite & Research for Alzheimer's Disease - Alzheimer's Activity Center	Adults	\$ 46,146	\$ 41,201	\$ 6,330	\$ 47,531
Children's Health Council - Healthy Development of Young Mothers and Their Children Consortium	Children	\$ 45,000	\$ 46,351	\$ -	\$ 46,351
Health Trust, The--Family Health Insurance	Children	\$ 45,000	\$ 46,351	\$ -	\$ 46,351
Sacred Heart Community Service - Families First	Children	\$ 45,000	\$ 46,351	\$ -	\$ 46,351

Approved FY 2006-07 General Fund and Programs for Immigrant Integration (PII) Contracts

Agency Name - Project Name	Subject Funding Area	FY 2005-06 Amounts	Ongoing Funding	Proposed One-time Funding	FY 07 Approved
Emergency Housing Consortium (South County)	Housing	\$ 44,819	\$ -	\$ 46,164	\$ 46,164
Bay Area Legal Aid - Legal Assistance for Low-Income Disabled Adults Project	Adults	\$ 44,772	\$ 46,116	\$ -	\$ 46,116
Sacred Heart Community Service - Turn the Tide Children's Education Program	Children	\$ 43,000	\$ 39,141	\$ 5,150	\$ 44,291
Services, Immigrant Rights and Education Network (SIREN) - Immigrant Assistance Hot Line	PII		\$ 43,775		\$ 43,775
Services for Brain Injury - Community Safety Net	Adults	\$ 42,359	\$ 43,631	\$ -	\$ 43,631
St. Joseph's Family Center Consortium - Homeless Emergency Services	Housing	\$ 42,028	\$ 38,140	\$ 5,150	\$ 43,290
InnVision the Way Home - Montgomery Street Inn	Housing	\$ 41,958	\$ 43,218		\$ 43,218
Family & Children Services - Families and Schools Together (FAST) Consortium	Children	\$ 41,805	\$ 25,751	\$ 17,309	\$ 43,060
School Health Clinics of Santa Clara County - School Health Centers	Children	\$ 40,073	\$ 41,276	\$ -	\$ 41,276
Indian Health Center - Coordinating Care for American Indian Elders	Adults	\$ 40,000	\$ 41,201	\$ -	\$ 41,201
Loaves & Fishes Family Kitchen--Loaves & Fishes Meal Project	Children	\$ 40,000	\$ 41,201	\$ -	\$ 41,201
Sunnyvale Community Services - Comprehensive Emergency Assistance	Children	\$ 40,000	\$ 41,201	\$ -	\$ 41,201
Santa Clara County Asian Law Alliance (ALA) - Legal Support for Citizenship	PII		\$ 41,199		\$ 41,199

Approved FY 2006-07 General Fund and Programs for Immigrant Integration (PII) Contracts

Agency Name - Project Name	Subject Funding Area	FY 2005-06 Amounts	Ongoing Funding	Proposed One-time Funding	FY 07 Approved
Center for Employment Training (CET) - Legal Support for Citizenship	PII		\$ 41,198	\$ -	\$ 41,198
San Jose Conservation Corp & Charter School - Earn & Learn Self-Sufficiency Program	Children	\$ 37,818	\$ 38,953	\$ -	\$ 38,953
Senior Adults Legal Assistance - Legal Assistance to Elders	Adults	\$ 36,567	\$ 37,665	\$ -	\$ 37,665
Emergency Housing Consortium - Boccardo Regional Reception Center	Housing	\$ 35,250	\$ 36,308	\$ -	\$ 36,308
Advent Group Ministries - Step Up! Program Consortium	Children	\$ 35,000	\$ 36,051	\$ -	\$ 36,051
Parents Helping Parents, Inc. (PHP) - iTECH Program	Children	\$ 34,590	\$ -	\$ 35,628	\$ 35,628
Sacred Heart Community Service - Community Food Program	Children	\$ 31,302	\$ 25,751	\$ 6,491	\$ 32,242
Santa Clara County Asian Law Alliance (ALA) - Community Education and Civic Engagement	PII		\$ 12,875	\$ 19,166	\$ 32,041
Catholic Charities - Citizenship Services in South County	PII		\$ 31,929		\$ 31,929
InnVision the Way Home -Commercial Street	Housing	\$ 30,515	\$ 31,431		\$ 31,431
Bill Wilson Center - Centre Cares	Adults	\$ 30,000	\$ 30,901	\$ -	\$ 30,901
Estrella Family Services--Kids to Camp Consortium with 17 camp agencies	Children	\$ 30,000	\$ 30,901	\$ -	\$ 30,901
InnVision the Way Home--Family Place/Georgia Travis Center	Children	\$ 30,000	\$ 30,901	\$ -	\$ 30,901

Approved FY 2006-07 General Fund and Programs for Immigrant Integration (PII) Contracts

Agency Name - Project Name	Subject Funding Area	FY 2005-06 Amounts	Ongoing Funding	Proposed One-time Funding	FY 07 Approved
Santa Clara Unified School District - Skills Plus Program	Adults	\$ 30,000	\$ 30,901	\$ -	\$ 30,901
Ethiopian Community Services - ECS Seniors Self Sufficiency Case Management Program	Adults	\$ 29,570	\$ 30,458	\$ -	\$ 30,458
Ethiopian Community Services--ECS Family Self Sufficiency Case Management Program	Children	\$ 29,570	\$ 30,458	\$ -	\$ 30,458
Santa Clara University - Katherine & George Alexander Community Law Center -Immigration Legal Services as a Path to Citizenship	PII	\$ -	\$ -	\$ 30,000	\$ 30,000
Catholic Charities - Day Break Caregivers Services Programs	Adults	\$ 28,932	\$ 29,801	\$ -	\$ 29,801
Unity Care Group, Inc. Collaboration - Transitional Housing for Youth	Housing	\$ 28,000	\$ 28,841	\$ -	\$ 28,841
Big Brothers Big Sisters - Community-Based Mentoring Program	Children	\$ 25,000	\$ 25,751	\$ -	\$ 25,751
Bill Wilson Center - 24-7 Youth Crisis Line	Children	\$ 25,000	\$ 25,751	\$ -	\$ 25,751
Catholic Charities - A Positive Response to Healthcare Challenges - Consortium	Adults	\$ 25,000	\$ 25,751	\$ -	\$ 25,751
Catholic Charities - Grandparent Caregiver Resource Center (GCRC)	Children	\$ 25,000	\$ 25,751	\$ -	\$ 25,751
Community Services Agency (CSA) - Comprehensive Emergency Assistance	Children	\$ 25,000	\$ 25,751	\$ -	\$ 25,751
Community Services Agency (CSA) - Integrated Senior Case Mgmt.	Adults	\$ 25,000	\$ 25,751	\$ -	\$ 25,751
Community Solutions--Family Advocate Program	Children	\$ 25,000	\$ 25,751	\$ -	\$ 25,751

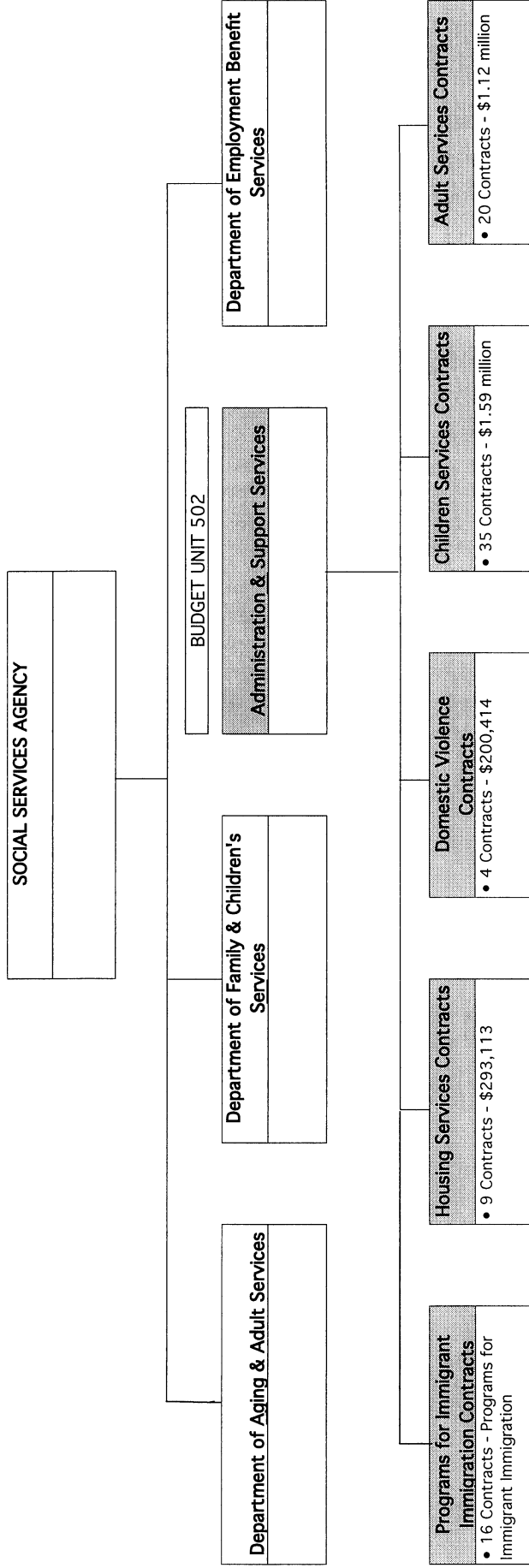
Approved FY 2006-07 General Fund and Programs for Immigrant Integration (PII) Contracts

Agency Name - Project Name	Subject Funding Area	FY 2005-06 Amounts	Ongoing Funding	Proposed One-time Funding	FY 07 Approved
Deaf Counseling Advocacy & Referral Agency (DCARA)-- Parent Connections	Children	\$ 25,000	\$ 25,751	\$ -	\$ 25,751
Family Supportive Housing, Inc. formerly Concern for the Poor - San Jose Family Shelter	Housing	\$ 25,000	\$ 23,574	\$ 2,177	\$ 25,751
Friends Outside in Santa Clara County--Steps Ahead Home Visitation Program	Children	\$ 25,000	\$ 25,751	\$ -	\$ 25,751
InnVision the Way Home - Safe Haven II	Adults	\$ 25,000	\$ 24,020	\$ 1,731	\$ 25,751
St. Joseph's Family Center - Children & Family Services, Emergency Services Consortium	Children	\$ 25,000	\$ 25,751	\$ -	\$ 25,751
Community Technology Alliance - Project SHARE	Housing	\$ 25,000	\$ 18,668	\$ 7,082	\$ 25,750
Peninsula Center for the Blind & Visually Impaired - Rehabilitation Services for the Visually Impaired of SCC	Adults	\$ 25,000	\$ 20,848	\$ 4,902	\$ 25,750
Unity Care Group, Inc., The - Foster Care and High Risk Youth Leadership Program Consortium	Children	\$ 25,000	\$ -	\$ 25,750	\$ 25,750
Sacred Heart Community Service - Citizenship Services for Immigrant Integration	PII		\$ 25,000		\$ 25,000
Santa Clara County Asian Law Alliance (ALA) - Citizenship Services for Immigrant Integration	PII		\$ 25,000		\$ 25,000
Santa Clara County Asian Law Alliance (ALA) - Immigrant Legal Services as a Path to Citizenship	PII		\$ 23,923		\$ 23,923
Asian Americans for Community Involvement - Advocacy Collaborative County Wide Master Services.	Domestic Violence	\$ 20,631	\$ 18,408	\$ 2,842	\$ 21,250
Services, Immigrant Rights and Education Network (SIREN) - Community Education and Civic Engagement	PII		\$ -	\$ 20,862	\$ 20,862

Approved FY 2006-07 General Fund and Programs for Immigrant Integration (PII) Contracts

Agency Name - Project Name	Subject Funding Area	FY 2005-06 Amounts	Ongoing Funding	Proposed One-time Funding	FY 07 Approved
Support Network for Battered Women - Advocacy Collaborative County Wide Master Services.	Domestic Violence	\$ 19,390	\$ 17,301	\$ 2,671	\$ 19,972
Billy De Frank Lesbian and Gay Community Center - Youth Services Collaboration	Children	\$ 15,000	\$ 12,875	\$ 2,575	\$ 15,450
Community Health Awareness Council - Outlet Program Collaboration	Children	\$ 15,000	\$ 12,875	\$ 2,575	\$ 15,450
Bay Area Fatherhood Conference	Children			\$ 15,000	\$ 15,000
Collins, Franci - Immigrantinfo.org Web Site Maintenance	PII		\$ -	\$ 13,210	\$ 13,210
Bill Wilson Center Collaboration - Transitional Housing for Youth	Housing	\$ 12,000	\$ 12,360		\$ 12,360
Total		\$ 2,794,725	\$ 2,743,912	\$ 1,191,550	\$ 3,935,462

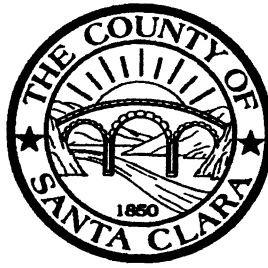
DEPARTMENT OF SOCIAL SERVICES - ADMINISTRATIVE AND SUPPORT SERVICES



Note: Budget Unit 502 Admm/Support Services budget amounts to \$1.21 million and includes 308 positions, which have been distributed throughout the Mandated and Non-Mandated program areas in Budget Units 503, 504, and 505 for purposes of this function/program presentation. For informational purposes, the total Social Services Agency-wide administrative and support costs amount to \$45.4 million and include 465 positions, which is 19 percent of the 2,452.5 positions in the

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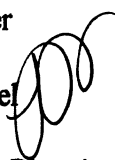


**Ann Miller Ravel
COUNTY COUNSEL**

Winifred Botha
Robert C. Campbell
Nancy J. Clark
Laurie F. Faulkner
ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Laurie F. Faulkner, Assistant County Counsel 

RE: Mandate Study Update for FY07-08 Budget Planning
SOCIAL SERVICES AGENCY BUs 502, 503, 504, 505

DATE: August 1, 2006

This office has reviewed the FY05-06 Budget and the mandate studies previously performed by this office. There are no NEW mandated programs which Social Services Agency (SSA) must perform in FY07-08, according to SSA. We have not changed our opinion or analysis regarding SSA programs in any significant manner since our most recent memos of October 2004, attached hereto.

COMMENTS

Budget Unit 502 – Social Services Administration

Veterans' Services are now under the County Executive.

Budget Unit 503 – Family and Children's Services

With regard to **Adoptions Services**, although there is no statutory mandate per se, the County has contracted with California Department of Social Services to provide adoption services, as permitted by statute, so the County is contractually obligated to perform these services in compliance with statutory governance.

The legal mandates for the **Independent Living Skills Program** should now include WIC secs. 300-399 which require DFCS to investigate and report to the court regarding abused and neglected children; Family Code sec. 3027 which requires DFCS to investigate allegations of sexual abuse that arise during Family Court custody proceedings; and Probate Code sec. 1513(c)

Memo to Roger Mialocq
Re: Mandate Study for FY08 Budget
Date: August 1, 2006
Page 2

which requires DFCS to investigate allegations of child abuse and neglect in Probate Court guardianship proceedings.

Family Drug Court/SCC Family Treatment Drug Court Headstart Program – this grant terminates Sept. 2006 so may not be in FY08 budget. The same is true of the **Green Book Grant**.

The **Children's Trust Fund for Abuse Prevention** should be added to the second section of our 2004 memo as it is a program that is 100% funded from birth certificate fees and the manner in which the funded services must be provided is regulated.

Budget Unit 504 – Employment & Benefits

A **County Maintenance of Effort (MOE)** is mandated by WIC 15204.

Budget Unit 505 – Aging and Adult Services

There are no changes to our previous analysis. (Both the 2003 and 2004 analyses are attached.)

C: Will Lightbourne
Onita Spake
Norma Doctor Sparks
Betty Malks
Rob Cecil
Mike Clark
Ann Miller Ravel

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Susan G. Levenberg
ASSISTANT COUNTY COUNSEL**

**CONFIDENTIAL MEMORANDUM
ATTORNEY-CLIENT PRIVILEGED COMMUNICATION**

TO: Roger Mialocq, Management Audit Manager

FROM: Ann Miller Ravel, County Counsel
Susan Levenberg, Assistant County Counsel
Kristin Baker, Deputy County Counsel

RE: Updated SSA Mandates Review

DATE: October 18, 2004

In 2003, the Social Services Agency (SSA) reviewed 60 of their programs and determined whether the program was mandated by law. Our office submitted a legal analysis of mandated programs in September 2003 and a second memo updating our analysis in October 2003. This memo summarizes our current legal analysis and has been reviewed and approved by SSA.

A significant portion of SSA's social welfare programs are mandated by the State and/or Federal government and are reimbursed through the State. Attached to their discussion of each program is a copy of the law that describes the program requirements.

Our office reviewed the SSA summary of each program including the attached legal authority and categorized each as either mandated programs, discretionary programs that receive 100% reimbursement, or discretionary programs that involve County Funds.

There are three different types of programs identified, programs mandated by State or Federal statute, discretionary programs that receive 100% reimbursement from State or Federal funds, and discretionary programs that require County funding.

The following list of programs are identified by SSA as mandated by State or Federal statute. We agree with their determination that some programs receive matching funds from the State and/or Federal government, some are fully reimbursed and some rely on 100% County funds. In many of these programs the specific level of service is not mandated.

Foster Home Recruitment

Supportive and Therapeutic Options (STO)

Aid to Families with Dependent Children (AFDC)

Federal Kinship Program

State Family Preservation

Emergency Assistance Foster Care

Adoption Assistance Program

Refugee Target Assistance (TAP)

CalWORKS Eligibility

Cal-Learn Eligibility

SAWS Development Project

Child Care Programs

Food Stamp Employment Training

Cal WORKS Employment

Cash Assistance (CAPI)

Medi-cal

Non-assistance Food Stamps

Cal WORKS Substance Abuse

AFDC Foster Care Benefits

Kin-GAP Program (Federal)

Adoptions Assistance Program

General Assistance Program

CalWORKS

Refugee Cash Assistance

Cash Assistance Program for Immigrants

Adult Protective Services

In Home Supportive Services

Seriously & Emotionally Disturbed

Mental Health Conservatorships (LPS)

Child Welfare (See below)

Independent Living Program (ILP)

Refugee Employment Social Services

Significant mandated programs and agency wide mandates that were not included in the SSA binder include the following:

Child Welfare program:

- that each child welfare department shall maintain and operate 24 hour emergency response system. (Welfare and Institutions Code (WIC) section 16504)
- that each child welfare department accept telephonic reports of suspected child abuse and neglect (Penal Code section 11165.9)
- that each child welfare department immediately cross report to law enforcement (Penal Code section 11166(h))
- that each child welfare department evaluate the report to determine if an in-person response is necessary (WIC 16504)
- if an in person response is necessary conduct an investigation to determine if juvenile court proceeding must be commenced (WIC 328)
- if juvenile court proceedings should be commenced, file a dependency petition (WIC 325); and
- if the child welfare agency files a petition, prepare and submit court reports as required by law (WIC 281).

Agency Wide:

- Maintenance of SSA records in a confidential manner (WIC 10850, 827 and 15633)
- Response to Public records requests (Government Code section 6250 et. seq.)
- Response to Subpoenas (Code of Civil Procedure Section 1985-1997)

Discretionary programs that receive 100% reimbursement through State or Federal funds (no County contribution) are listed below. Most of these programs have specific statutes and/or regulations that mandate the way services are provided once the County exercises its discretion to participate.

Domestic Violence Marriage Licensing
Kinship Support
Emancipated Youth Stipend
Family Treatment Drug Court
CAPIT
Child Abuse Prevention
Emergency Funds For Relatives
Green Book
Adoption
Promoting Safe and Stable Families (PSSF)
Incentives Program
SSI Advocacy

Discretionary programs that require the County to expend funds are listed below. Although County participation is discretionary, these programs have specific statutes and/or regulations that mandate the way services are provided once the County exercises its discretion to implement the program.

Veterans Services
SOS Contracts
General Fund Contracts
DV Advocate/Safety Net/Other
GA Vocational
Senior Nutrition/Council on Aging (COA)*
Child Development
Foster Home Licensing
Children's Shelter
Estate Administration
Probate Conservatorship/ Elder Abuse

Family Strength Based Services
Foster Parent \$50 Supplement
Foster Parent Child Care
Group Home Supplement
Intensive Up-Front Service Contracts
Foster Home Supplement for Sibling Group
Mental Health Patch
Foster Parent Capacity Building

* It is unclear if SSA considers this a mandatory or discretionary program. The federal law does not require the program; it provides funding through COA for a meal program for older adult's.

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503 Social Services – Family and Children's Services

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Non-Mandated	27	34,367,918	16%	16,160,824	47%	146.0	18%
Mandated	13	175,499,055	84%	8,866,131	5%	671.0	82%
Total	<u>40</u>	<u>209,866,974</u>	<u>100%</u>	<u>25,026,955</u>	<u>12%</u>	<u>817.0</u>	<u>100%</u>
Admin/Support*4	---	<u>14,411,773</u>	<u>12%</u>	<u>1,718,626</u>	<u>12%</u>	<u>148.0</u>	<u>18%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=percent of total staffing
 *4 Admin/Support costs and staffing are included in function/program totals.

Departmental Description

The Social Services Agency-Department of Family and Children's Services (Budget Unit 503) provides services to abused and neglected children to ensure that every child has a home environment free of abuse, neglect and exploitation. The Department's mandated services include the availability of professional staff on a 24 hour emergency basis to receive reports of child maltreatment; emergency response services to investigate allegations of maltreatment and to provide necessary emergency services; family maintenance services to keep families intact, family reunification services to return children home from out-of-home placement; and, permanency services to ensure children have stable and permanent families when reunification is not possible. In total, the Department budget amounts to \$209.9 million, which funds 13 mandated and 27 non-mandated programs. Comparatively, the mandated programs account for \$175.5 million, or 84 percent of the budget, but only \$8.9 million of the \$25.0 million of General Fund subsidy provided to Budget Unit 503. Consequently, the non-mandated programs account for only \$34.4 million, or 16 percent of the Department's cost, but require \$16.2 million of General Fund support since these non-mandated programs on average have a 47 percent General Fund subsidy.

FY 2006-07 Projected Budget by Program/Function

The Social Services Agency-Department of Family and Children's Services identified a total of 40 major functions and programs, which it provides pursuant to federal, State and County law and policies. County Counsel's analysis of the 40 Department of Family and Children's Services programs determined that 13 programs are mandated by law, and 27 programs are Non-Mandated. The following table provides the FY 2006-07 cost, revenue, General Fund subsidy and staffing for each function and program.

<u>Function</u>	<u>FY 2006-07 Adopted Budget</u>		<u>Departmental</u>	<u>General</u>	<u>Percent</u>
	<u>Amount</u>	<u>Staffing</u>	<u>Revenue</u>	<u>Fund Subsidy</u>	
<u>Non-Mandated Direct Services</u>					
01 Status Offen Sys Contracts	1,733,020	0.0	0	1,733,020	100%
04 Dom Viol Advoc/Food Bank	989,481	0.0	66,758	922,723	93%
05 Chld Trst Fd-Abuse Prev Contr	509,496	0.0	509,496	0	0%
06 Differential Response Path One	485,924	0.0	485,924	0	0%
07 Dom Vio Marriage Lic Fee	200,000	0.0	200,000	0	0%
08 Federal Drug Grant	371,563	0.0	371,563	0	0%
09 Foster Care Youth Initiative	160,000	0.0	160,000	0	0%
10 Dom Viol-Green Book Grant	384,689	0.0	384,689	0	0%
12 Child Abuse Prev/Trtmt	474,458	0.0	474,458	0	0%
13 CWSOIP	971,209	0.0	971,209	0	0%
14 Kinship Foster Care Emer Fd	47,380	0.0	47,380	0	0%
15 Emancipated Youth Stipends	96,674	0.0	96,674	0	0%
16 Kinship Support Svcs	117,000	0.0	117,000	0	0%
17 Children's Shelter Program	11,875,071	92.0	7,065,770	4,809,301	40%
18 Child Development Prog	2,690,587	7.0	2,603,366	87,221	3%
19 Adoptions Services	4,499,053	37.0	3,799,193	699,860	16%
20 Foster Home Licensing	<u>1,133,455</u>	<u>10.0</u>	<u>853,614</u>	<u>279,841</u>	<u>25%</u>
Subtotal	26,739,060	146.0	18,207,094	8,531,966	32%
<u>Non-Mandated-Categorical Aid Payments</u>					
21 Child Placement Services	1,190,194	0.0	0	1,190,194	100%
22 Family Strength Based Svcs	650,000	0.0	0	650,000	100%
23 Foster Parent \$50 Supl	204,000	0.0	0	204,000	100%
24 Foster Parent Child Care	400,000	0.0	0	400,000	100%
25 Group Hom Supl-\$1,000	1,338,000	0.0	0	1,338,000	100%
26 Inten Up-Front Svcs Contr	338,322	0.0	0	338,322	100%
27 Fos Home Supl for Sibl Grps	144,000	0.0	0	144,000	100%
28 Mental Health Patch	519,095	0.0	0	519,095	100%
29 Foster Parent Capacity Bldg	105,000	0.0	0	105,000	100%
30 Reserve-Out-of-Home Plac	<u>2,740,247</u>	<u>0.0</u>	<u>0</u>	<u>2,740,247</u>	<u>100%</u>
Subtotal	<u>7,628,858</u>	<u>0.0</u>	<u>0</u>	<u>7,628,858</u>	<u>100%</u>
Total Non-Mandated	<u>34,367,918</u>	<u>146.0</u>	<u>18,207,094</u>	<u>16,160,824</u>	<u>47%</u>

(Continued)

FY 2006-07 Projected Budget by Program/Function

<u>Function</u>	<u>FY 2006-07 Adopted Budget</u>		<u>Departmental</u>	<u>General</u>	
	<u>Amount</u>	<u>Staffing</u>	<u>Revenue</u>	<u>Fund</u>	<u>Percent</u>
				<u>Subsidy</u>	
<i><u>Mandated Direct Services</u></i>					
31 Child Welfare Services	87,859,533	668.0	55,776,302	32,083,231	37%
32 Promoting Safe Families	1,273,643	0	1,273,643	0	0%
33 State Fam Preserv-Perm Trf	1,363,000	0.0	907,039	455,961	33%
34 Foster Home Recruitment	200,000	0.0	124,810	75,190	38%
35 Independent Living Skills	1,119,046	3.0	1,119,046	0	0%
36 Support & Therap Options	510,870	0.0	357,609	153,261	30%
74 Realignment (BU 501)	0	0.0	<u>7,135,697</u>	<u>-7,135,697</u>	
Subtotal	92,326,092	671.0	66,694,146	25,631,947	28%
<i><u>Mandated Categorical Aid Payments</u></i>					
37 AFDC Foster Care-Benefits	55,714,728	0.0	30,564,234	25,150,494	45%
38 Kin Gap Prog-Fed-Benefits	2,443,138	0.0	2,125,530	317,608	13%
39 Adoptions Asst Prog-Benefits	21,351,422	0.0	18,211,055	3,140,367	15%
40 Emerg Asst Foster Care-Ben	1,951,803	0.0	1,366,262	585,541	30%
41 Ser Emot Distur Chldrn-Ben	1,711,872	0.0	684,749	1,027,123	60%
42 Realignment (BU 511)	0	0.0	46,986,949	-46,986,949	
Subtotal Categorical Aid	<u>83,172,963</u>	<u>0.0</u>	<u>99,938,779</u>	<u>-16,765,816</u>	<u>74%</u>
Total Mandated	<u>175,499,055</u>	<u>671.0</u>	<u>166,632,925</u>	<u>8,866,131</u>	<u>5%</u>
Total BU 503	<u>209,866,974</u>	<u>817.0</u>	<u>184,840,019</u>	<u>25,026,955</u>	<u>12%</u>
<i><u>Required</u></i>					
Admin/Support*	<u>14,411,773</u>	<u>148.0</u>	<u>12,693,147</u>	<u>1,718,626</u>	<u>12%</u>
* Administration and support service costs are included in the program costs listed above and are shown separately for comparative purposes. The \$14.4 million, 12 percent administration and support service costs was calculated excluding categorical aid payments.					

Description of Programs and Functions**Administration and Support (REQUIRED):****\$14,411,773**

The Department of Family and Children's Services administration and support services function includes a total of 148 administrative and support staff, which account for approximately 18 percent of 817 staff in the Department of Family and Children's Services - Budget Unit 503. These positions are responsible for departmental management, accounting, budget, contract administration and monitoring, information systems, human resources, government relations and planning, training, and other

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related services, and include both positions directly budgeted in Budget Unit 503 and positions allocated from the Social Services Agency central administration and support services Budget Unit 502. Because most of the direct services performed by the Social Services Agency are mandated, the County must also provide adequate administrative oversight and support services to fulfill these mandates. The amount of staff and other resources necessary to provide an 'adequate' level of funding is subject to determination by the Board of Supervisors pursuant to Government Code Sections 29063 and 29088.

NON-MANDATED PROGRAMS AND FUNCTIONS

Non-Mandated Direct Services

01 - Status Offender System Contracts (NON-MANDATED): \$1,733,020

Status Offender Services (SOS) is a prevention program providing crisis response, intervention, aftercare, and emergency shelter services to youth under eighteen (mainly runaways, curfews, truancies, and incorrigibles). The goals of the SOS program are to prevent status offenders from involvement in the juvenile justice system and prevent juvenile victimization and promote safety. This program is 100 percent financed by the General Fund.

04 - Board Inv Contracts/Dom Viol Advoc/Safety Net (NON-MANDATED): \$989,481

The Social Services Agency manages a group contracts that are primarily funded from County General Fund monies and provide services that are not State or federally mandated. These services provided support the County's Food Bank and the Domestic Violence Advocacy Program. On average, these services are funded 93 percent from the County General Fund.

05 - Children's Trust Fund -Child Abuse Prevention (NON-MANDATED): \$509,496

The children's trust fund shall consist of the fees for birth certificates, collected pursuant to Section 103625 of the Health and Safety Code, grants, gifts, or bequests from private sources to be used for child abuse and neglect prevention and intervention programs, any funds appropriated by local governmental entities to the trust fund, and any funds appropriated to the county for the trust fund by the Legislature.

Money in the children's trust fund of each county shall be used to fund child abuse and neglect prevention and intervention programs operated by private nonprofit organizations or public institutions of higher education with recognized expertise in fields related to child welfare.

06 - Differential Response Path One (NON-MANDATED): \$485,924

This program is funded by two different funding sources under the Differential Response Path One.

1. First 5 of Santa Clara County provided a grant to pilot implementation of Differential Response Path One services to non-child welfare system cases (families at risk of Abuse or neglect). The funding supports 3 staff and a data tracking

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system. The Differential Response Coordinator participates in program development and evaluation; identifies families that meet Path One criteria, refers families to community-based case management services provided by the a contract agency (Gardner Family Care), and tracks and monitors cases. The grant also funds two Family Engagement Specialists to engage families to accept Path One case management services from the contract agency.

2. The Lucile Packard Foundation for Children's Health provided a grant to be used at the discretion of the DFCS Manager over the Differential Response project for priority activities. The grant is used to pay for training staff at the contract agency providing Differential Response Path One service (Gardner Family Care), and for services and goods necessary to stabilize and strengthen families.

07 - Domestic Violence -Marriage License Fees (NON-MANDATED): \$200,000

A portion of the fee from each marriage license collected by the County is allocated to the County's Domestic Violence Trust Fund to be used to provide services to victims of domestic violence in a 24-hour a day, seven-day a week domestic violence shelter.

08 - Family Treat Drug Court Headstart Prog (NON-MANDATED): \$371,563

The purpose of this program is to expand existing drug court services, which are provided to parents charged with substance abuse and neglect and abuse of their children. The Santa Clara County Social Services Agency applied for a federal grant to implement a Family Treatment Drug Court Head Start Program. The Head Start Program is using a curriculum modeled after the federal Head Start Program but at this time is not a licensed Head Start Program. The Head Start Program is designed with age appropriate academic readiness activities, recreational activities, nutritious meals, and facilitates discussions for children 0-5 in a classroom setting. Families of children 0-17 years of age participate in a recreational Family Night evening program on a weekly basis. Participating parents learn how to effectively model the teacher's interactions with children and build a support network with other parents. This program is funded by a federal grant from the Department of Health and Human Services -Substance Abuse and Mental Health Services Administration.

09 - Foster Care Youth Initiative (NON-MANDATED): \$160,000

This program is funded by two different funding youth under the Foster Care Youth Initiative:

1. The Hewlett Foundation provided a grant of \$150,000 over three years in annual installments of \$50,000 a year to fund Individual Development Accounts (savings accounts) for emancipated foster youth.
2. On January 28, 2006, the Walter S. Johnson Foundation approved DFCS' request for a \$300,000 grant over the next three years in annual installments of \$100,000 a year to plan and implement the Connected by 25 Foster Youth Initiative. DFCS will use the Foundation's funding as the County's match to draw additional Title IV-E and other federal/state funding, if possible. The funding pays for a project coordinator, training and administrative costs related to meetings. In Santa Clara

County, the two primary strategies of the Connected by 25 Foster Youth Initiative are:

- Development of a work experience, training, and employment program that would coordinate Santa Clara County's Workforce Investment Boards, area community colleges, school districts, and employers to help foster youth prepare for and obtain jobs with high wage and high growth careers.
- Development of a transitional housing program that would provide emancipated foster youth a continuum of housing opportunities, including maintaining emancipated foster youth to continue to reside with caring, supportive, and significant adults in a family environment.
- The Walter S. Johnson Foundation also approved DFCS' request for an additional \$30,000 over the next three years in annual installments of \$10,000 a year for Foster Youth Savings Accounts. This grant requires a matching amount from the County.

10 - Dom Viol/Child Maltrmt: (Greenbook Grant) (NON-MANDATED): \$384,689

The purpose of this program is to assist the Santa Clara County Social Services Agency in creating and enhancing collaborations among domestic violence service providers, child protective agencies, and juvenile and family court in order to enhance safety and well being for domestic violence victims and their children. The funding for this program is provided by a federal grant from the Office of Justice Program -Violence Against Women Office. Funding for this program began December 01, 2000 and has been extended on a yearly basis. The program's funding was originally based on a three-year grant beginning on December 1, 2000.

12 - Child Abuse Prevention, Intervention, and Treatment (CAPIT) (NON-MANDATED): \$474,458

It is the intent of the Legislature that child abuse and neglect prevention and intervention programs be encouraged by the funding of agencies addressing needs of children at high risk of abuse or neglect and their families.

Priority is given to prevention programs through nonprofit agencies, including, where appropriate, programs that identify and provide services to isolated families, particularly those families with children five years of age or younger.

Services will be outcome based, beginning with engagement, followed by short-term outcomes, which lead to intermediate outcomes, and which ultimately result in long-term outcomes or impact. Engagement outcomes measure voluntary participation and consumer satisfaction, short-term outcomes capture the changes in knowledge, attitude, skills and aspirations of participants, and intermediate outcomes measure changes in behavior or improved family functioning as a result of reduced stress levels.

The Board of Supervisors of each county must provide to the Office of Child Abuse Prevention, no later than October 1 of each year, a list of projects funded in the prior

fiscal year and the amounts funded to, and expended by, each of the listed projects. The report includes a description of services rendered, populations served, and results of service.

13 - Child Welfare Svcs Outcome Improv Project (NON-MANDATED) \$971,209

This State funding, which does not require a county match, is to be used by county child welfare departments to support efforts to improve outcomes for children and families in the areas of safety, permanency and well-being. Funded projects are specifically to improve performance on AB 636 outcome measures identified in local System Improvement Plans. For Santa Clara County, outcomes include reducing the over representation of children of color, reducing the number of foster care placements and preventing foster care reentry. Funding was awarded in FY06 for a Relative Support Team. Funding has been requested for FY07 for Differential Response, risk assessment tools and to continue the Relative Support Team.

14 - Kinship/Foster Care Emergency Fund (NON-MANDATED): \$47,380

Kinship/Foster Care Emergency Fund is intended to be used for the purpose of removing some of the barriers to making successful placements with relative caregivers and foster parents. The program primary offers one-time assistance for necessary housing needs, such as extra beds and clothing, housing costs required in order for a relative to take a placement and pool/spa safety items.

15 - Emancipated Youth Stipends Program (NON-MANDATED): \$96,674

This State funding is to be used by county welfare departments to administer special needs stipends for emancipating foster youth. This program will provide assistance for emancipating foster youth for items such as finding affordable housing, textbooks for college or vocational training, employment searches, emergency personal needs and bus vouchers. Allocation was initiated with the Budget Act of 2001 (FY2000/01).

16 - Kinship Support Services Program (KSSP) (NON-MANDATED): \$117,000

Kinship Support Services Program is a State grants-in-aid program that provides start up and expansion funds for local kinship support services programs that provide community-based family support services to relative caregivers and the children placed in their homes by the juvenile court or who are at risk of dependency or delinquency.

17 - Children's Shelter Program (NON-MANDATED): \$11,875,071

The Children's Shelter Program consists of a 24-hour receiving center and State-licensed group care facility for children with special care requirements. In addition to serving children in need of protective custody because of abuse or neglect, the shelter program provides interim care to dependent children who are in transition from one court-ordered placement to another. Comprehensive services are provided on site including education, medical care, mental health, substance abuse counseling, workshops and recreation. While the Children's Shelter is not specifically mandated, the activities provided by the shelter are part of the mandated continuum of service care that Child Welfare agencies must provide. . This program is a 40 percent General Fund cost.

18 - Child Development Program (NON-MANDATED): **\$2,690,587**

The Child Development Program (CDP) provides subsidized child care to families who meet certain conditions of need, and at least one of the following eligibility criteria: The family is receiving public assistance; the family's income is at or below 84% of the state median, adjusted for family size; the family is homeless; the children in the family need services to protect them from abuse, neglect, or exploitation. Care is provided in licensed family day care home or licensed day care centers. The county has a legally required maintenance of effort of \$87,221 in order to receive the \$2 million program dollars. CDP pay a special rate for handicapped children to day care providers who have completed a certified training course. . This program is a 3 percent General Fund cost.

19 - Adoption Services (NON-MANDATED): **\$4,499,053**

Santa Clara County's Adoption Bureau is a State-licensed full service adoption agency. Its services include recruitment and home studies of prospective adoptive parents; counseling of parents who consider relinquishment; placement of children in adoptive homes; post adoptive supervision and supportive services, which may include financial assistance. As one of the alternative permanent plans under the mandated Permanent Placement Program, adoption has an important position in the continuum of child welfare services. State law requires that adoption be given first consideration as a permanent plan for children who cannot be returned to their original homes. This function is non-mandated although governed by Welfare and Institutions Code Sections 16100 through 16106. . This program is a 16 percent General Fund cost.

20 - Foster Home Licensing (NON-MANDATED): **\$1,133,455**

All children, court ordered dependents, who are placed in out-of-home placements must be placed in a relative's home, a non-relative extended family member's home, a licensed foster home, a Foster Family Agency (FAA) certified foster family or a group home. Counties may choose, under contract with the state, to do the licensing of foster care homes. . This program is a 25 percent General Fund cost. The Department reports that there are service benefits the County realizes by performing the licensing rather than having the State perform the licensing function. These benefits include having the ability to recruit, approve and license faster than what State staff are able to provide. The State licensing staff serve a region of the State. County staff are more closely tied to the community and are able to recruit homes that are more ethnically and culturally related to the children we serve. The need to have an adequate pool of licensed homes is critical for both reducing the Children Shelter population and having homes that match the child's needs.. If the County were to discontinue providing the foster home licensing function, the General Fund savings would amount to approximately \$279,841.

Subtotal Non-Mandated Direct Services **\$26,739,060**

*Non-Mandated Categorical Aid Payments***21 - Child Placement Services (NON-MANDATED):** **\$1,190,194**

The Child Placement Services expenditures are intended to pay for goods and services which are required to ensure the safety and/or well being of a child under unusual,

special situations and extenuating circumstances when no other funding sources are available. The Child Placement fund primarily supports child placement costs which are not covered by federal and state foster care programs or Medi-Cal, and other costs associated with goods and services for children. This program was previously known as the Director's Exception. This program is a 100 percent General Fund cost.

22 - Family Strength Based Services (FSBS) (NON-MANDATED): **\$650,000**

The Family Strength Based Services Program provides immediate access to needs-driven, family centered, and child focused services for children and their families. These services are intended to stabilize the family by building on their strengths, increasing child safety and reducing the risk factors that consequently eliminate the need to remove children from the home, and avoid out-of-home placements. . This program is a 100 percent General Fund cost.

23 - Foster Parent \$50 Supplement (NON-MANDATED): **\$204,000**

In 1999, the foster care system was in crisis due to the shortage of licensed foster homes. It was proposed to the Children and Families Committee and the Board of Supervisors that a \$50 foster care supplement rate be added to the existing foster care rate. While the supplement was not intended to eliminate the crisis, the Social Services Agency believed it would be a step towards paying a more realistic rate for the care of foster children and would help attract more foster homes and retain the homes that were currently being utilized. This program is being phased out. Other types of supplements have been implemented that have federal and State reimbursement. This program is a 100 percent General Fund cost.

24 - Foster Parent Child Care (NON-MANDATED): **\$400,000**

This program was implemented to reimburse foster parents working outside of the home for child care costs incurred during their working hours for the care of foster children placed in their home. . This program is a 100 percent General Fund cost.

25 - Group Home Supplement - \$1,000 (NON-MANDATED): **\$1,338,000**

This program provides a supplement to specific group home providers in Santa Clara County. The goal of providing supplemental funds was to help group homes who were in financial crisis stay open therefore having group home beds available to the Agency for placements. The foster care rate system does not have any recognition of variance in costs between counties. The rate is the same whether the home is in Santa Clara County or Alpine County. Originally, a supplement of \$1,000 per bed was paid to providers for a specific number of beds whether filled or vacant. As of FY 2004, providers are only paid the supplement if the bed is filled. . This program is a 100 percent General Fund cost.

26 - Intensive Upfront Services Contracts (NON-MANDATED): **\$338,322**

This program was designed to provide funds to agencies to provide intensive case management to youth and his/her family. The purpose of this program is to divert families at the front end of the intake process, thus reducing the population at the Shelter and put into place a corrective action plan within the family setting. . This program is a 100 percent General Fund cost.

27 - Foster Home Supplement for Sibling Groups (NON-MANDATED): \$144,000

This program provides a supplement to foster homes which specialize in providing foster care to sibling groups. . This program is a 100 percent General Fund cost.

28 - Mental Health Patch (NON-MANDATED): \$519,095

This program was designed to provide funds to place children in out-of-county RCL 14 group homes. All cases are reviewed by the RISC Team to determine if placement in Santa Clara County is feasible. If a placement can not be made, then the child is placed out-of-county in an appropriate facility. . This program is a 100 percent General Fund cost.

29 - Foster Parent Capacity Building (NON-MANDATED): \$105,000

The goal of this program is to provide support to foster parents and for the Foster and Adoptive Parent Association to play a role in the recruitment of foster parents. The funding is used to implement the Association's strategic plan for capacity building. . This program is a 100 percent General Fund cost.

30 - Reserve for Out-of-Home Placement Initiative (NON-MANDATED): \$2,740,247

This reserve is a set aside to mitigate the future year(s) county cost of Board approved Out-of-Home Placement Incentives. These discretionary programs are funded 100% by the General Fund, as approved by the Board to enhance programs to either improve retention of foster homes, or group homes, or to improve placement opportunities for children. The programs include an incentive to a foster parent to take siblings; providing child care reimbursement for working foster parents; and an up-front diversion program for children who might have been placed in the children's shelter. The programs all provide invaluable resources for keeping the Children's Shelter population at its current low levels. . This program is a 100 percent General Fund cost.

Subtotal Non-Mandated Categorical Aid Payments \$7,628,858

Total Non-Mandated Programs and Functions \$34,367,918

MANDATED PROGRAMS AND FUNCTIONS

Mandated Direct Services

31 - Child Welfare Services (MANDATED): \$87,859,533

The County Social Services Agency is the responsible agency for receiving and investigating by law all reports of child abuse and neglect. It is also the responsible agency for providing services to children who are dependents of the court as a result of child abuse and neglect. Child Welfare Services provides services on behalf of children alleged to be the victims of child abuse, neglect, or exploitation. The child welfare services provided represent a continuum of services that include emergency response, voluntary and court ordered family maintenance, family reunification, and permanent

placement. The individual child's case plan is the guiding principle in the provision of these services.

EMERGENCY RESPONSE (ER) COMPONENT:

ER services consist of a response system providing in-person response, when required, to reports of child abuse, neglect, or exploitation for the purpose of investigation and to determine the necessity for providing initial intake services and crisis intervention to maintain the child safely in his or her own home or to protect the safety of the child.

EMERGENCY RESPONSE ASSESSMENT (ERA) COMPONENT:

ERA is the initial intake services provided in response to reported allegations of child abuse, neglect or exploitation that is determined, based upon an evaluation of risk, to be inappropriate for an in-person investigation.

FAMILY MAINTENANCE (FM) COMPONENT

FM is designed to provide time-limited protective services to prevent or remedy neglect, abuse or exploitation for the purpose of preventing separation of children from their families. CWDs are responsible for determining the specific needs of the child and family aimed at sustaining the child in the home.

FAMILY REUNIFICATION (FR) COMPONENT

FR is designed to provide time-limited services while the child is in temporary foster care to prevent or remedy neglect, abuse or exploitation when the child cannot safely remain at home. CWDs are responsible for determining the specific service needs of the child and/or family aimed at reunifying the child with the family

PERMANENT PLACEMENT (PP) COMPONENT

PP is designed to provide an alternative permanent family structure for children who because of abuse, neglect or exploitation cannot safely remain at home and who are unlikely to ever return home. The CWDs are responsible for determining the appropriate permanent goal for the child and facilitating the implementation of that goal. These goals are defined as guardianship, adoption or long-term placement.

32 - Promoting Safe and Stable Families (MANDATED): \$1,273,643

Promoting Safe and Stable Families (PSSF) is funded by a federal grant to provide community-based family-centered services that focus on supporting and preserving families, protecting children and preventing child abuse and neglect. This is a capped program under Title IV-B. A minimum of 20 percent of PSSF funds have to be spent on each of the four components of the program (Family Preservation Services, Family Support Services, Adoption Promotion and Support, and Time-Limited Family Reunification).

33 - State Family Preservation -Permanent Transfer (MANDATED): \$1,363,000

This program was developed under the premise that there would be a permanent transfer of funds from foster care to child welfare services for counties that had a family preservation program in operation for at least three years. In accordance with Assembly Bill 2365 (Chapter 71, Statutes of 1992), the three-year requirement could be met by a

county using time periods in which the county funded and operated an approved plan for family preservation. State family preservation funds are used to pay for family assistance and other services that aid in family preservation.

34 - Foster Home Recruitment (AB2129) (MANDATED): \$200,000

As part of the Foster Care Initiative, Assembly Bill 2129 (Chapter 1089, Statutes of 1993), the Department was required to develop and implement an expanded foster parent training program, and to provide specialized training for foster parents of children with special care needs. This program reflects the cost for the enhanced foster parent recruitment program. Expansion of recruitment activities for minority and sibling placements is emphasized.

35 - Independent Living Skills Program (MANDATED): \$1,119,046

The Independent Living Skills Program provides services to foster care adolescents and emancipated youth aged 16 through 21, with the counties having the option to provide ILP services to youth aged 14 through 15. The services provided or arranged by the county welfare department should facilitate the transition of foster care children to emancipated lifestyles enabling the youth to become independent.

36 - Supportive and Therapeutic Options Prog (STOP) (MANDATED): \$510,870

Supportive and Therapeutic Options Program (STOP) enable counties to provide expanded therapeutic day services as an alternative to placement in foster care and as a means of reunifying children with their families from these placements. These services are provided to families with children and youth returning from out-of-home placement or at-risk of such placements that cannot access services through current mental health services or other funding mechanisms. Services target a broader number of children than the current child welfare services population, as they include children and youth at-risk of placement and those exiting foster care. These funds provide supportive and therapeutic services in order to prevent placement in out-of-home care and/or provide aftercare services to facilitate a successful transition to home or community from out-of-home care placements. This program is mandated pursuant to Welfare and Institutions Code Sections 16500, 16508.2 and 16508.3. Services must be non Medi-Cal reimbursable or the child must not qualify for Medi-Cal.

Subtotal Mandated Direct Services \$92,326,092

Mandated Categorical Aid Payments

37 - AFDC- Foster Care (Benefits) (MANDATED): \$55,714,728

The federal Aid to Families with Dependent Children-Foster Care (AFDC-FC) Program Provides funds for eligibility determination activities and out-of-home care on behalf of otherwise eligible children removed from the custody of a parent or guardian as a result of a judicial order with requisite findings or a voluntary placement agreement. The State AFDC- FC Program also provides out-of-home care on behalf of otherwise eligible children. Including those who are residing with a nonrelated legal guardian, relinquished for the purposes of adoption, or placed pursuant to the Indian Child

Welfare Act.

38 - Federal Kin-Gap Program (Benefits) (MANDATED): \$2,443,138

The Kin-GAP program establishes a separate payment rate for children placed with relatives who obtain guardianship. It specifically serves children who are leaving the foster care system and who enter a guardianship with a relative. The children in this program are dependent children who have been adjudicated under Section 300 of the Welfare and Institutions (W&I) Code and who have been living with a relative for at least 12 months; had a guardianship established pursuant to Section 366.26 of the W&I Code; had their dependency dismissed on or after January 1, 2000; and qualified for federal or State-only Temporary Assistance for Needy Families or Aid to Families with Dependent Children-Foster Care before dismissal of the dependency order 1.71

39 - Adoptions Assistance Program (Benefits) (MANDATED): \$21,351,422

The Adoption Assistance Program (AAP) reflects the basic cost of providing financial support to families who adopt a child with special needs. Children, eligible for AAP benefits have one of the following characteristics that are barriers to adoption: mental, physical, medical or emotional handicap; ethnic background, race, color, or language; over three years of age; member of a sibling group to be adopted by one family; or adverse parental background (e.g. drug addiction, mental illness).

40 - Emergency Assist Foster Care Prog (Benefits) (MANDATED): \$1,951,803

This premise reflects the costs associated with the Emergency Assistance (EA-FC) Program, which provides funding for benefits granted to children in emergency situations who need out-of-home placement in the Foster Care System. Eligibility is restricted to one episode in a 12-month period. This premise provides foster care (FC) for dependents and voluntary placements under the AFDC-FC Welfare Program.

41 - Seriously Emotion Dist Children (Benefits) (MANDATED): \$1,711,872

The funding for this program reflects the out-of-home board and care costs associated with children, placed in accordance with the Seriously Emotionally Disturbed (SED) Program. Assembly Bill (AB) 3632 (Chapter 1747, Statutes of 1984) and AB882 (Chapter 1274, Statutes of 1985) authorized the SED Program as a separate out-of-home component. Eligible participants are children designated as SED by the California Department of Education (CDE).

Payments may be made on behalf of SED children placed in privately operated residential facilities licensed in accordance with the Community Care Facilities Act, and shall be based on foster care rates established in accordance with Welfare and Institutions Code sections 11460 to 11467, inclusive. Most SED children are placed in group home psychiatric peer group Rate Classifications Level 12 through 14; however, some children are placed in foster family homes or foster family agencies. As there is no court adjudication, these children are eligible only for nonfederal foster care program benefits.

42 - State Realignment (BU 511) (MANDATED): **\$46,986,949**

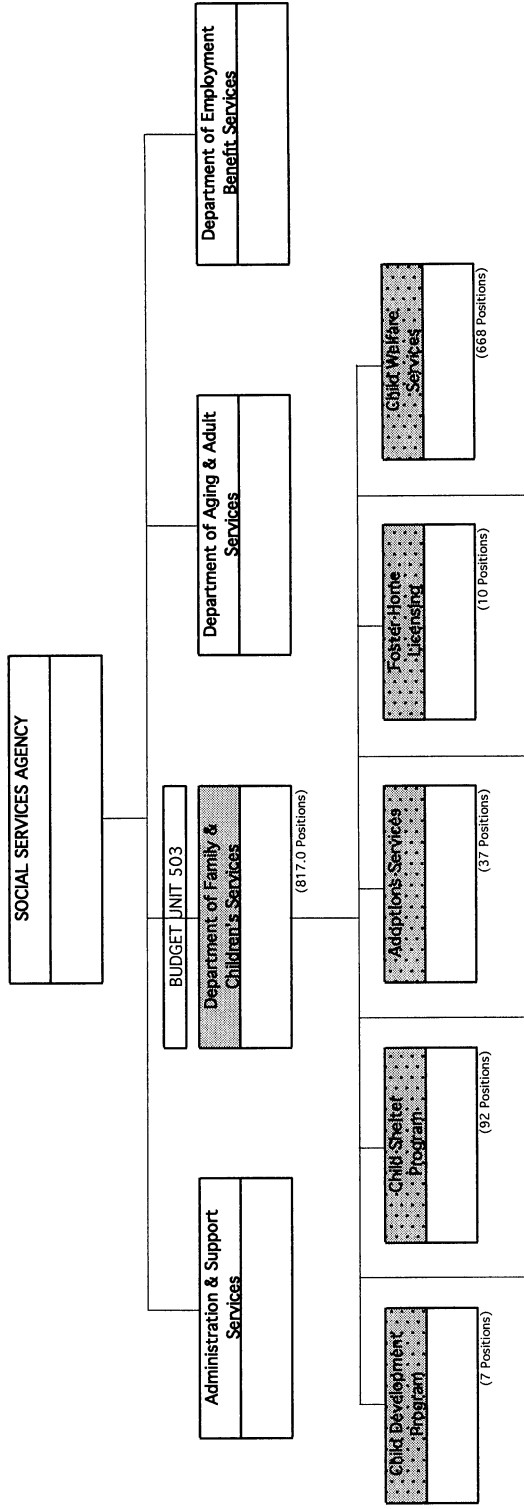
Realignment revenues are received from a dedicated ½ cent State sale tax. This revenue compensates the County for net increases in the county share of cost for welfare and social services programs that resulted from the passage of the realignment legislation in the FY 1991-92. These percentages are related to the federal, state and county sharing of program costs. Realignment revised the sharing ratio between the State and county and provided a formula to recognize increased county cost from caseload growth. Annual growth in sale tax is first applied to the social services caseload growth account and is distributed to counties, based on each county's growth from one year to the next.

Subtotal Mandated Categorical Aid Payments **\$83,172,963**

Total Mandated Programs and Functions **\$175,499,055**

Total Dept of Family and Children's Svcs FY 2006-07 Adopted Budget	\$209,866,974
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DEPARTMENT OF FAMILY & CHILDREN'S SERVICES



**OFFICE OF THE COUNTY COUNSEL
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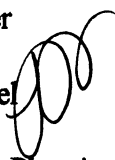


**Ann Miller Ravel
COUNTY COUNSEL**

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ASSISTANT COUNTY COUNSEL

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Laurie F. Faulkner, Assistant County Counsel 

RE: Mandate Study Update for FY07-08 Budget Planning
SOCIAL SERVICES AGENCY BUs 502, 503, 504, 505

DATE: August 1, 2006

This office has reviewed the FY05-06 Budget and the mandate studies previously performed by this office. There are no NEW mandated programs which Social Services Agency (SSA) must perform in FY07-08, according to SSA. We have not changed our opinion or analysis regarding SSA programs in any significant manner since our most recent memos of October 2004, attached hereto.

COMMENTS

Budget Unit 502 – Social Services Administration

Veterans' Services are now under the County Executive.

Budget Unit 503 – Family and Children's Services

With regard to **Adoptions Services**, although there is no statutory mandate per se, the County has contracted with California Department of Social Services to provide adoption services, as permitted by statute, so the County is contractually obligated to perform these services in compliance with statutory governance.

The legal mandates for the **Independent Living Skills Program** should now include WIC secs. 300-399 which require DFCS to investigate and report to the court regarding abused and neglected children; Family Code sec. 3027 which requires DFCS to investigate allegations of sexual abuse that arise during Family Court custody proceedings; and Probate Code sec. 1513(c)

Memo to Roger Mialocq
Re: Mandate Study for FY08 Budget
Date: August 1, 2006
Page 2

which requires DFCS to investigate allegations of child abuse and neglect in Probate Court guardianship proceedings.

Family Drug Court/SCC Family Treatment Drug Court Headstart Program – this grant terminates Sept. 2006 so may not be in FY08 budget. The same is true of the **Green Book Grant**.

The **Children's Trust Fund for Abuse Prevention** should be added to the second section of our 2004 memo as it is a program that is 100% funded from birth certificate fees and the manner in which the funded services must be provided is regulated.

Budget Unit 504 – Employment & Benefits

A **County Maintenance of Effort (MOE)** is mandated by WIC 15204.

Budget Unit 505 – Aging and Adult Services

There are no changes to our previous analysis. (Both the 2003 and 2004 analyses are attached.)

C: Will Lightbourne
Onita Spake
Norma Doctor Sparks
Betty Malks
Rob Cecil
Mike Clark
Ann Miller Ravel

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**CONFIDENTIAL MEMORANDUM
ATTORNEY-CLIENT PRIVILEGED COMMUNICATION**

TO: Roger Mialocq, Management Audit Manager

FROM: Ann Miller Ravel, County Counsel
Susan Levenberg, Assistant County Counsel
Kristin Baker, Deputy County Counsel

RE: Updated SSA Mandates Review

DATE: October 18, 2004

In 2003, the Social Services Agency (SSA) reviewed 60 of their programs and determined whether the program was mandated by law. Our office submitted a legal analysis of mandated programs in September 2003 and a second memo updating our analysis in October 2003. This memo summarizes our current legal analysis and has been reviewed and approved by SSA.

A significant portion of SSA's social welfare programs are mandated by the State and/or Federal government and are reimbursed through the State. Attached to their discussion of each program is a copy of the law that describes the program requirements.

Our office reviewed the SSA summary of each program including the attached legal authority and categorized each as either mandated programs, discretionary programs that receive 100% reimbursement, or discretionary programs that involve County Funds.

There are three different types of programs identified, programs mandated by State or Federal statute, discretionary programs that receive 100% reimbursement from State or Federal funds, and discretionary programs that require County funding.

The following list of programs are identified by SSA as mandated by State or Federal statute. We agree with their determination that some programs receive matching funds from the State and/or Federal government, some are fully reimbursed and some rely on 100% County funds. In many of these programs the specific level of service is not mandated.

Foster Home Recruitment

Supportive and Therapeutic Options (STO)

Aid to Families with Dependent Children (AFDC)

Federal Kinship Program

State Family Preservation

Emergency Assistance Foster Care

Adoption Assistance Program

Refugee Target Assistance (TAP)

CalWORKS Eligibility

Cal-Learn Eligibility

SAWS Development Project

Child Care Programs

Food Stamp Employment Training

Cal WORKS Employment

Cash Assistance (CAPI)

Medi-cal

Non-assistance Food Stamps

Cal WORKS Substance Abuse

AFDC Foster Care Benefits

Kin-GAP Program (Federal)

Adoptions Assistance Program

General Assistance Program

CalWORKS

Refugee Cash Assistance

Cash Assistance Program for Immigrants

Adult Protective Services

In Home Supportive Services

Seriously & Emotionally Disturbed

Mental Health Conservatorships (LPS)

Child Welfare (See below)

Independent Living Program (ILP)

Refugee Employment Social Services

Significant mandated programs and agency wide mandates that were not included in the SSA binder include the following:

Child Welfare program:

- that each child welfare department shall maintain and operate 24 hour emergency response system. (Welfare and Institutions Code (WIC) section 16504)
- that each child welfare department accept telephonic reports of suspected child abuse and neglect (Penal Code section 11165.9)
- that each child welfare department immediately cross report to law enforcement (Penal Code section 11166(h))
- that each child welfare department evaluate the report to determine if an in-person response is necessary (WIC 16504)
- if an in person response is necessary conduct an investigation to determine if juvenile court proceeding must be commenced (WIC 328)
- if juvenile court proceedings should be commenced, file a dependency petition (WIC 325); and
- if the child welfare agency files a petition, prepare and submit court reports as required by law (WIC 281).

Agency Wide:

- Maintenance of SSA records in a confidential manner (WIC 10850, 827 and 15633)
- Response to Public records requests (Government Code section 6250 et. seq.)
- Response to Subpoenas (Code of Civil Procedure Section 1985-1997)

Discretionary programs that receive 100% reimbursement through State or Federal funds (no County contribution) are listed below. Most of these programs have specific statutes and/or regulations that mandate the way services are provided once the County exercises its discretion to participate.

Domestic Violence Marriage Licensing
Kinship Support
Emancipated Youth Stipend
Family Treatment Drug Court
CAPIT
Child Abuse Prevention
Emergency Funds For Relatives
Green Book
Adoption
Promoting Safe and Stable Families (PSSF)
Incentives Program
SSI Advocacy

Discretionary programs that require the County to expend funds are listed below. Although County participation is discretionary, these programs have specific statutes and/or regulations that mandate the way services are provided once the County exercises its discretion to implement the program.

Veterans Services
SOS Contracts
General Fund Contracts
DV Advocate/Safety Net/Other
GA Vocational
Senior Nutrition/Council on Aging (COA)*
Child Development
Foster Home Licensing
Children's Shelter
Estate Administration
Probate Conservatorship/ Elder Abuse

Family Strength Based Services
Foster Parent \$50 Supplement
Foster Parent Child Care
Group Home Supplement
Intensive Up-Front Service Contracts
Foster Home Supplement for Sibling Group
Mental Health Patch
Foster Parent Capacity Building

*** It is unclear if SSA considers this a mandatory or discretionary program. The federal law does not require the program; it provides funding through COA for a meal program for older adult's.**

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504 Social Services – Employment and Benefit Services

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Non-Mandated	4	4,896,444	1%	441,872	9%	20.0	1%
Mandated	21	348,845,472	99%	41,094,022	12%	1,376.0	99%
Total	<u>25</u>	<u>353,741,916</u>	<u>100%</u>	<u>41,535,894</u>	<u>12%</u>	<u>1,396.0</u>	<u>100%</u>
Admin/Support*4	---	<u>25,911,433</u>	<u>12%</u>	<u>3,042,485</u>	<u>12%</u>	<u>265.0</u>	<u>19%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=percent of total staffing
 *4 Admin/Support costs and staffing are included in function/program totals.

Departmental Description

The Social Services Agency-Department of Employment and Benefit Services (DEBS) identified a total of 25 major functions and programs, which it provides pursuant to federal, State and County law and policies. In total, the Department budget amounts to \$353.7 million, which funds 21 mandated and four non-mandated programs. Excluding categorical aid payments of \$128.6 million, the Department of Employment and Benefit Services operates with a budget of approximately \$225.2 million and 1,396.0 staff positions. Comparatively, the mandated programs account for \$348.8 million, or 99 percent of the budget, with only \$0.4 million of the \$41.1 million of General Fund subsidy provided to non-mandated programs. The Department provides employment and training assistance along with temporary cash aid. Health benefit services include enrolling eligible individuals and families in the Medi-Cal program and providing health insurance coverage for all children in the County. Other benefit programs administered by the Department include food stamps, housing assistance, and assistance for persons attempting to qualify for the federal Supplemental Security Income (SSI) program.

FY 2006-07 Projected Budget by Program/Function

The following schedule lists 25 major functions and programs, provided by the Department pursuant to federal, State and County law and policies. County Counsel's analysis of the 25 DEBS programs determined that 21 programs are mandated by law, and four programs are non-mandated. The following table provides the FY 2006-07 cost, revenue, General Fund subsidy and staffing for each function and program.

<u>Function</u>	<u>FY 2006-07</u>		<u>Departmental</u>	<u>General</u>	<u>Percent</u>
	<u>Adopted Budget</u>	<u>Staffing</u>			
	<u>Amount</u>			<u>Subsidy</u>	
<u>Non-Mandated Direct Services</u>					
02 CalWorks City of San Jose	100,000	0.0	100,000	0	0%
43 SSI Advocacy Program	1,683,295	14.0	1,683,295	0	0%
44 CalWorks Incentives Program	2,432,691	0.0	2,432,691	0	0%
45 Gen Asst Vocational Prog	680,458	5.0	238,586	441,872	65%
Total Non-Mandated	4,896,444	20.0	4,454,571	441,872	9%
<u>Mandated Direct Services</u>					
46 CalWORKS Eligibility	27,617,635	284.0	13,600,209	14,017,426	51%
47 Cal-Learn	770,851	3.0	770,851	0	0%
48 Cash Asst-Immigrants Eligib	1,236,310	10.0	1,236,310	0	0%
49 CalWORKS Subst Abuse	2,626,721	0	2,409,522	217,199	8%
50 Food Stamp Employ & Trn	1,705,506	14.0	987,628	717,878	42%
51 General Assistance Eligib	4,388,259	36.0	0	4,388,259	100%
52 CalWORKS Employ Svcs	34,188,987	199.0	34,188,987	0	0%
53 Medi-Cal Eligibility	71,719,127	558.0	69,607,143	2,111,984	3%
54 Non-Asst Fd Stmp Eligib	33,294,939	158.0	25,280,485	8,014,454	24%
55 CalWORKS Child Care	19,628,599	50.0	19,628,599	0	0%
56 Refugee Cash Asst-Eligib	125,439	1.0	125,439	0	0%
57 Refugee Employ Soc Serv	793,711	0	793,711	0	0%
58 Refugee Targ Assist Prog	561,692	1.0	561,692	0	0%
59 AFDC Foster Care Eligibility	4,907,971	41.0	3,707,012	1,200,959	24%
60 Adoptions Asst Prog Eligib	600,014	5.0	600,014	0	0%
61 Automated Welfare Sys	16,001,226	16.0	16,001,226	0	0%
62 Kin Gap Prog-Federal	114,985	1.0	110,392	4,593	4%
Subtotal	220,281,971	1,376.0	189,609,219	30,672,752	14%
<u>Mandated Categorical Aid Payments</u>					
63 General Assistance-Benefits	7,969,183	0.0	0	7,969,183	100%
64 CalWORKS-Benefits	111,844,805	0.0	109,392,718	2,452,087	2%
65 Refugee Cash Assist-Ben	407,357	0.0	407,357	0	0%
66 Cash Asst Prog for Imgr-Ben	8,342,156	0.0	8,342,156	0	0%
Subtotal Categorical Aid	128,563,501	0.0	118,142,231	10,421,270	8%
Total Mandated	348,845,472	1,376.0	307,751,450	41,094,022	12%
Total BU 504	353,741,916	1,396.0	312,206,021	41,535,894	12%
<u>Required</u>					
Admin/Support*	25,911,433	265.0	22,868,948	3,042,485	12%

* Administration and support service costs are included in the program costs listed above and are shown separately for comparative purposes. The \$25.9 million, 12 percent administration and support service costs was calculated excluding categorical aid payments.

Description of Programs and Functions

Administration and Support (REQUIRED): **\$25,911,433**

The Department of Employment and Benefit Services administration and support services function includes a total of 265 administrative and support staff, which account for approximately 19 percent of 1,396 staff in the Department of Employment and Benefit Services - Budget Unit 503. These positions are responsible for departmental management, accounting, budget, contract administration and monitoring, information systems, human resources, government relations and planning, training, and other related services, and include both positions directly budgeted in Budget Unit 504 and positions allocated from the Social Services Agency central administration and support services Budget Unit 502. Because most of the direct services performed by the Social Services Agency are mandated, the County must also provide adequate administrative oversight and support services to fulfill these mandates. The amount of staff and other resources necessary to provide an 'adequate' level of funding is subject to determination by the Board of Supervisors pursuant to Government Code Sections 29063 and 29088.

NON-MANDATED PROGRAMS AND FUNCTIONS

02 - CalWORKs City Of San Jose OJT – WIA (NON-MANDATED) **\$100,000**

The OJT contract is an income generating contract with the City of San Jose. CalWORKs participants are placed in jobs and while they are in training the employer is reimbursed for 1/2 of their salary. Following the training period, it is expected that the employee will be hired by the employer.

43 - Supplemental Security Income (SSI) Advocacy (NON-MANDATED): **\$1,683,295**

Through the General Assistance (GA) Bureau's SSI Advocacy Program, Social Workers who are knowledgeable about disabilities and Social Security regulations assist disabled GA recipients to apply and be approved for Federal SSI benefits. The transition from the county funded General Assistance Program to the Federal/State-funded SSI approval means a larger monthly benefit, as well as Medi-Cal coverage for the recipients.

44 - Incentives Program (NON-MANDATED): **\$2,432,691**

Counties are awarded fiscal incentive payments for case exits due to employment, grant reductions due to earnings, and the diversion of applicants. The incentive allocations to counties are to be used for specific purposes for either the federal TANF program, or the CalWORKs Program. (This program was reduced to zero after the FY 2006-07 Approved Budget was adopted.)

45 - General Assistance Vocational Services (NON-MANDATED): **\$680,458**

The function of the Vocational Services Division within the General Assistance Bureau is to provide services to clients receiving General Assistance (GA) funds. The services include, but are not limited to, employability assessment, Public Works Program (PWP), job search assistance, educational and vocational training referral and assistance,

referral for SSI Advocacy services, etc. . This program is a 65 percent General Fund cost.

Total Non-Mandated Programs and Functions **\$4,896,444**

MANDATED PROGRAMS AND FUNCTIONS

Mandated Direct Services

46 - CalWORKs (Eligibility) (MANDATED): **\$27,617,635**

CalWORKs is a welfare program that gives cash aid and services to eligible needy California families. Eligibility workers and support staff perform eligibility determination and income maintenance functions for this program. Families that apply and qualify for ongoing assistance receive a cash grant each month to pay for housing, food, and other necessary expenses. The amount of a family's monthly assistance payment depends on a number of factors, including the number of people who are eligible and the special needs of any of those family members. The income of the family is considered in calculating the amount of cash aid the family receives.

47 - Cal-Learn (MANDATED): **\$770,851**

The Cal-Learn program provides services to encourage teen parents to stay in high school or an equivalent program and earn a diploma. Case management activities must meet the standards and scope of the Adolescent Family Life Program. Mandated activities to be performed by the county welfare department include arrangement and management of supportive services, development and review of the report card schedule, exemption and deferral recommendations, and recommendations for bonuses and sanctions, as well as good cause determinations and activities associated with fair hearings.

48 - Cash Asst Prog - Immigrants (CAPI) (Eligibility) (MANDATED): **\$1,236,310**

The CAPI program is 100% funded with State General Fund. Its purpose is to provide benefits to aged, blind, and disabled legal immigrants who successfully complete an application process. The benefits received are equivalent to those benefits that these immigrants would have received if they were eligible for the Supplemental Security Income and/or State Supplemental Payment (SSI/SSP) Program, less \$10 per individual and \$20 per couple.

CAPI recipients in the base program include the following immigrants: 1) those who entered the U.S. prior to August 22, 1996, and are not eligible for SSI/SSP benefits solely due to their immigration status; and 2) those who entered the U.S. on or after August 22, 1996, but meet special sponsor restrictions (have a sponsor who is disabled, deceased, or abusive). The extended CAPI caseload includes immigrants who entered the U.S. on or after August 22, 1996, who do not have a sponsor or have a sponsor who does not meet the sponsor restrictions of the base program.

49 - CalWORKs Subst Abuse & Ment Hlth Prog (Intra-Co) (MANDATED): \$2,626,721
AB 1542 mandated the implementation of the CalWORKs program, and counties are also required, to the extent that funding is available, to provide for the treatment of substance abuse, and/or mental/emotional difficulties that may limit or impair a CalWORKs participant's ability to make the transition from welfare to work or retain employment over a long period of time. The county welfare department and the county alcohol and drug departments, as well as the mental health department, are required to collaborate to ensure an effective system is available to provide evaluations and substance abuse treatment.

50 - Food Stamp Employment and Training Program (MANDATED): \$1,705,506
This program was established under the Food Security Act of 1985 (Public Law 99-198) to provide job search assistance, work experience and supportive services to eligible Non-Assistance Food Stamp Program recipients. Employment and training opportunities enable recipients to become self-sufficient and reduce their need for food stamps.

51 - General Assistance (Eligibility) (MANDATED): \$4,388,259
This program provides eligibility determination and the administration of benefit issuance functions for the General Assistance program in accordance with Division 9 of the Welfare and Institution Code. The purpose of the program is to assist its indigent population not aided by state and/or federal programs. GA program is 100% county funded and provides a loan to those individuals legally and lawfully residing in the county who have no other means of support. There are currently 2,652 GA cases; this is up from 2,032 last year at this time.

52 - CalWORKs Employ Svcs (Welfare to Work) (MANDATED): \$34,188,987
As a result of Public Law 104-193, the federal welfare reform legislation establishing the TANF Program, all adults receiving TANF funds must work as soon as determined ready, or after being aided for 24 months. Assembly Bill 1542 (Chapter 270, Statutes of 1997) mandates the implementation of the CalWORKs program. More recent Welfare Reform Proposal has changed the participation requirements. Effective October 1, 2004, all non-exempt adults must work or participate in other work-directed services within 60 days of receipt of TANF funds. Adults previously exempted from participation are now required to work or participate to the extent they are able to. The employment and training services provided to CalWORKs recipients include a wide variety of activities designed to assist the recipient in obtaining and retaining employment.

53 - Medi-Cal (Eligibility) (MANDATED): \$71,719,127
The California Medi-Cal Assistance (Medi-Cal) program is a federal and state funded program which pays for health care for some eligible and needy low-income residents of California. This expenditure represents the cost of the administration and eligibility determination processes of the Medi-Cal Needy Only (MNO) Program. MNO means the person is not receiving any form of federal or state welfare assistance payments. Property and income limits must also be met to receive a free Medi-Cal card. Persons/families whose income exceeds these limits may qualify for Medi-Cal, but are

required to meet a share-of-cost of their medical bills.

The Medi-Cal services Eligibility program was authorized by Welfare and Institutions Code Section 14154 which mandates the California Department of Social Services to instruct counties to modify the eligibility determination process so that eligibility for Medi-Cal is determined prior to eligibility for the TANF Program.

54 - Non-Assistance Food Stamps (MANDATED): \$33,294,939

Food Stamps is a Department of Agriculture funded assistance supplement for low-income and public assistance households(50% - USDA; 35% State GF; 15% County funds). Non-Assistance is the term used to describe those Food Stamp households not receiving public assistance grants. Households can purchase additional food with their Food Stamp EBT card. Eligibility is based upon both financial and non-financial factors, including residence and citizenship, resources and income. Most adults who are not disabled or caring for a child under six are required to register for work.

55 - CalWORKs Child Care Program (MANDATED): \$19,628,599

Funding for this program covers the cost for Stage One Child Care to the CalWORKs Program single-parent families who are newly working or beginning participation in a work activity while on aid, two-parent families who are participating in approved CalWORKs activities, former CalWORKs recipients who are unable to transfer to Stage Two or Three due to lack of available slots, and to eligible teen parents participating in the Cal Learn Program. Child care services are available to CalWORKs families with children under 13 years of age.

Assembly Bill 1542 (Chapter 270, Statutes of 1997) authorized CalWORKs Stage One Child Care. Child Care services for Cal Learn participants were authorized by Senate Bill (SB) 35 (Chapter 69, Statutes of 1993) and SB 1078 (Chapter 1252, Statutes of 1993).

56 - Refugee Cash Assistance (Eligibility) (MANDATED): \$125,439

County welfare department is responsible for the eligibility determination and grant maintenance functions of the Refugee Cash Assistance (RCA) program. The RCA program provides cash grants to refugees during their first eight months in the United States if they are not otherwise eligible for other categorical welfare programs.

57 - Refugee Employment Social Services (MANDATED): \$793,711

Refugee Employment Social Services (RESS) are provided to refugees through county welfare departments and contracting agencies. The services are funded through an annual block grant allocation by the Office of Refugee Resettlement. The funds are used to provide employment-related services, such as employability assessment, on-the-job training, English language training, and vocational training.

58 - Refugee Targeted Assistance Program (TAP) (MANDATED): \$561,692

This program provides services to refugees to enable them to be placed in employment or to receive employment training. The goal of this program is to assist refugees in attaining self-sufficiency. Targeted Assistance (TA) grants are made available to high refugee-impacted counties. Program components include employment services, work

experience, vocational training, vocational English-as-a-second-language, on-the-job training, economic development, skills upgrading, and extreme and unusual needs. In addition to regular TA funds, the federal government awards TA discretionary funds to the State for specific local projects. Local agencies develop project proposals in response to a federal announcement. The federal government selects the projects to be funded.

59 - AFDC- Foster Care (Eligibility) (MANDATED): **\$4,907,971**

The federal Aid to Families with Dependent Children-Foster Care (AFDC-FC) Program provides funds for eligibility determination activities and out-of-home care on behalf of otherwise eligible children removed from the custody of a parent or guardian as a result of a judicial order with requisite findings or a voluntary placement agreement. The State AFDC- FC Program also provides out-of-home care on behalf of otherwise eligible children, including those who are residing with a non-related legal guardian, relinquished for the purposes of adoption, or placed pursuant to the Indian Child Welfare Act. This function is mandated pursuant to Welfare and Institutions Code Sections 11461.

60 - Adoptions Assist Program (Eligibility) (MANDATED): **\$600,014**

This funds both the eligibility determination activities and the administration of benefits. The program provides the basic cost of providing financial support to families adopting a child with special needs under the Adoption Assistance Program (AAP). Children eligible for AAP benefits have one of the following characteristics that are barriers to adoption: mental, physical, medical or emotional handicap; ethnic background, race, color, or language; over three years of age; member of a sibling group to be adopted by one family; or adverse parental background (e.g. drug addiction, mental illness).

61 - State Automated Welfare System (SAWS) Proj (MANDATED): **\$16,001,226**

SAWS Statewide Project Management is performed by the Health and Human Services Data Center (HHSDC), Office of Systems Integration (OSI) in accordance with Welfare and Institutions Code Section 10823 (a), which requires the implementation of SAWS. OSI provides statewide project management for the four SAWS consortia and the Welfare Data Tracking Implementation Project.

The OSI provides state-level project management, including securing project approvals and funding, procuring and managing specialized technical consultant services and other contract services, monitoring consortia implementation and operations, reviewing, and approving selected consortia deliverables, applying early issue identification and resolution methods, managing risk, managing stakeholder involvement, and approving and tracking expenditures. Consortia are responsible for defining county-level system requirements, and for the competitive procurement of system hardware and software development, implementation support, and maintenance and operations of the consortia systems. Santa Clara County is part of the eighteen (18) county CalWIN consortia.

62 - Federal Kin-Gap Program (Eligibility) (MANDATED): **\$114,985**

This is the eligibility determination function for the Kin-Gap program. The Kin-GAP program establishes a separate payment rate for children placed with relatives who

obtain guardianship. It specifically serves children who are leaving the foster care system and who enter a guardianship with a relative. The children in this program are dependent children who have been adjudicated under Section 300 of the Welfare and Institutions (W&I) Code and who have been living with a relative for at least 12 months; had a guardianship established pursuant to Section 366.26 of the W&I Code; had their dependency dismissed on or after January 1, 2000; and qualified for federal or State-only Temporary Assistance for Needy Families or Aid to Families with Dependent Children-Foster Care before dismissal of the dependency order.

Subtotal Mandated Direct Services **\$220,281,971**

Mandated Categorical Aid Payments

63 - General Assistance (Benefits) (MANDATED): **\$7,969,183**

This program provides cash and non-cash benefits through the General Assistance program in accordance with Section 17000.5 of the Welfare and Institution Code. The purpose of the program is to relieve and support indigent residents of the County when such persons are not supported by their own means, their relatives, or other public or private resources. The level of assistance in each county is subject to the determination by the county board of supervisors pursuant to Welfare and Institutions Code Section 17000.5 and other related W&I Code sections.

64 - CalWORKs (Benefits) (MANDATED): **\$111,844,805**

CalWORKs is a welfare program that gives cash aid and services to eligible needy California families. Eligibility workers and support staff perform eligibility determination and income maintenance functions for this program. Families that apply and qualify for ongoing assistance receive a cash grant each month to pay for housing, food, and other necessary expenses. The amount of a family's monthly assistance payment depends on a number of factors, including the number of people who are eligible and the special needs of any of those family members. The income of the family is considered in calculating the amount of cash aid the family receives.

65 - Refugee Cash Assistance (Benefits) (MANDATED): **\$407,357**

County welfare department is responsible for the eligibility determination and grant maintenance functions of the Refugee Cash Assistance (RCA) program. The RCA program provides cash grants to refugees during their first eight months in the United States if they are not otherwise eligible for other categorical welfare programs.

66 - Cash Assist Prog for Immigrants (Benefits) (MANDATED) : **\$8,342,156**

The CAPI program is 100% funded with State General Fund. Its purpose is to provide benefits to aged, blind, and disabled legal immigrants entered the United States prior to August 22, 1996, or Sponsored legal immigrants entered the United States after 8/22/1996, and have a sponsor who is deceased, disabled or abusive. In addition, they are ineligible for Supplemental Security Income and /or State Supplemental Payment (SSI/SSP) Program solely due to their immigrant status. The benefits received are

equivalent to those benefits that these immigrants would have received if they were eligible for the SSI/SSP Program, less \$10 per individual and \$20 per couple.

Subtotal Mandated Categorical Aid Payments	\$128,563,501
Total Mandated Programs and Functions	\$348,845,472
Total Employment and Benefit Svcs FY 2006-07 Adopted Budget	\$353,741,916

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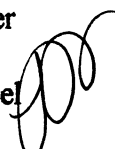


**Ann Miller Ravel
COUNTY COUNSEL**

**Winifred Botha
Robert C. Campbell
Nancy J. Clark
Laurie F. Faulkner
ASSISTANT COUNTY COUNSEL**

MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Laurie F. Faulkner, Assistant County Counsel 

RE: Mandate Study Update for FY07-08 Budget Planning
SOCIAL SERVICES AGENCY BUs 502, 503, 504, 505

DATE: August 1, 2006

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A **County Maintenance of Effort (MOE)** is mandated by WIC 15204.

Budget Unit 505 – Aging and Adult Services

There are no changes to our previous analysis. (Both the 2003 and 2004 analyses are attached.)

C: Will Lightbourne
Onita Spake
Norma Doctor Sparks
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**CONFIDENTIAL MEMORANDUM
ATTORNEY-CLIENT PRIVILEGED COMMUNICATION**

TO: Roger Mialocq, Management Audit Manager

FROM: Ann Miller Ravel, County Counsel
Susan Levenberg, Assistant County Counsel
Kristin Baker, Deputy County Counsel

RE: Updated SSA Mandates Review

DATE: October 18, 2004

In 2003, the Social Services Agency (SSA) reviewed 60 of their programs and determined whether the program was mandated by law. Our office submitted a legal analysis of mandated programs in September 2003 and a second memo updating our analysis in October 2003. This memo summarizes our current legal analysis and has been reviewed and approved by SSA.

A significant portion of SSA's social welfare programs are mandated by the State and/or Federal government and are reimbursed through the State. Attached to their discussion of each program is a copy of the law that describes the program requirements.

Our office reviewed the SSA summary of each program including the attached legal authority and categorized each as either mandated programs, discretionary programs that receive 100% reimbursement, or discretionary programs that involve County Funds.

There are three different types of programs identified, programs mandated by State or Federal statute, discretionary programs that receive 100% reimbursement from State or Federal funds, and discretionary programs that require County funding.

The following list of programs are identified by SSA as mandated by State or Federal statute. We agree with their determination that some programs receive matching funds from the State and/or Federal government, some are fully reimbursed and some rely on 100% County funds. In many of these programs the specific level of service is not mandated.

Foster Home Recruitment

Supportive and Therapeutic Options (STO)

Aid to Families with Dependent Children (AFDC)

Federal Kinship Program

State Family Preservation

Emergency Assistance Foster Care

Adoption Assistance Program

Refugee Target Assistance (TAP)

CalWORKS Eligibility

Cal-Learn Eligibility

SAWS Development Project

Child Care Programs

Food Stamp Employment Training

Cal WORKS Employment

Cash Assistance (CAPI)

Medi-cal

Non-assistance Food Stamps

Cal WORKS Substance Abuse

AFDC Foster Care Benefits

Kin-GAP Program (Federal)

Adoptions Assistance Program

General Assistance Program

CalWORKS

Refugee Cash Assistance

Cash Assistance Program for Immigrants

Adult Protective Services

In Home Supportive Services

Seriously & Emotionally Disturbed

Mental Health Conservatorships (LPS)

Child Welfare (See below)

Independent Living Program (ILP)

Refugee Employment Social Services

Significant mandated programs and agency wide mandates that were not included in the SSA binder include the following:

Child Welfare program:

- that each child welfare department shall maintain and operate 24 hour emergency response system. (Welfare and Institutions Code (WIC) section 16504)
- that each child welfare department accept telephonic reports of suspected child abuse and neglect (Penal Code section 11165.9)
- that each child welfare department immediately cross report to law enforcement (Penal Code section 11166(h))
- that each child welfare department evaluate the report to determine if an in-person response is necessary (WIC 16504)
- if an in person response is necessary conduct an investigation to determine if juvenile court proceeding must be commenced (WIC 328)
- if juvenile court proceedings should be commenced, file a dependency petition (WIC 325); and
- if the child welfare agency files a petition, prepare and submit court reports as required by law (WIC 281).

Agency Wide:

- Maintenance of SSA records in a confidential manner (WIC 10850, 827 and 15633)
- Response to Public records requests (Government Code section 6250 et. seq.)
- Response to Subpoenas (Code of Civil Procedure Section 1985-1997)

Discretionary programs that receive 100% reimbursement through State or Federal funds (no County contribution) are listed below. Most of these programs have specific statutes and/or regulations that mandate the way services are provided once the County exercises its discretion to participate.

Domestic Violence Marriage Licensing
Kinship Support
Emancipated Youth Stipend
Family Treatment Drug Court
CAPIT
Child Abuse Prevention
Emergency Funds For Relatives
Green Book
Adoption
Promoting Safe and Stable Families (PSSF)
Incentives Program
SSI Advocacy

Discretionary programs that require the County to expend funds are listed below. Although County participation is discretionary, these programs have specific statutes and/or regulations that mandate the way services are provided once the County exercises its discretion to implement the program.

Veterans Services
SOS Contracts
General Fund Contracts
DV Advocate/Safety Net/Other
GA Vocational
Senior Nutrition/Council on Aging (COA)*
Child Development
Foster Home Licensing
Children's Shelter
Estate Administration
Probate Conservatorship/ Elder Abuse

Family Strength Based Services
Foster Parent \$50 Supplement
Foster Parent Child Care
Group Home Supplement
Intensive Up-Front Service Contracts
Foster Home Supplement for Sibling Group
Mental Health Patch
Foster Parent Capacity Building

* It is unclear if SSA considers this a mandatory or discretionary program. The federal law does not require the program; it provides funding through COA for a meal program for older adult's.

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505 Social Services – Aging and Adult Services

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Non-Mandated	5	10,691,759	31%	4,936,884	46%	42.2	18%
Mandated	3	23,317,153	69%	8,768,319	38%	197.9	82%
Total	<u>8</u>	<u>34,008,911</u>	<u>100%</u>	<u>13,705,203</u>	<u>40%</u>	<u>240.1</u>	<u>100%</u>
Admin/Support*4	---	<u>5,094,003</u>	<u>15%</u>	<u>2,052,825</u>	<u>12%</u>	<u>52.0</u>	<u>22%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=percent of total staffing

*4 Admin/Support costs and staffing are included in function/program totals.

Departmental Description

The Department of Aging and Adult Services provides a wide range of support and assistance to aged and adult persons who are not fully capable of adequately sustaining themselves in the community without such intervention. These services include In-Home Support, which enable individuals to remain safely in their homes; Adult Protective Services that proactively target reported instances of abuse and neglect; Senior Nutrition services, which provides meals to approximately 3,200 persons daily; and Public Administrator/Guardian/Conservatorship services to individuals in need of such comprehensive assistance. The Department identified a total of eight major functions and programs, which it provides pursuant to federal, State and County laws and policies. In total, the Department budget amounts to \$34.0 million, which funds three mandated and five non-mandated programs, and 240.1 staff positions. Comparatively, the mandated programs account for \$23.3 million, or 69 percent of the budget and \$8.8 million of the \$13.7 million of General Fund subsidy. Non-Mandated programs account for the remaining \$10.7 million of the FY 2006-07 budget and \$4.9 million of the General Fund subsidy. On a combined basis, approximately 40 percent of Budget Unit 505 expenditures are subsidized by the General Fund.

FY 2006-07 Projected Budget by Program/Function

The following schedule lists eight major functions and programs, provided by the Department pursuant to federal, State and County laws and policies. County Counsel's analysis of the eight Department of Aging and Adult Services programs determined that three programs are mandated by law, and five programs are non-mandated. The following table provides the FY 2006-07 cost, revenue, General Fund subsidy and staffing for each function and program.

<u>Function</u>	<u>FY 2006-07 Adopted Budget Amount</u>	<u>Staffing</u>	<u>Departmental Revenue</u>	<u>General Fund Subsidy</u>	<u>Percent</u>
<i><u>Non-Mandated Activities</u></i>					
67 Public Administration	1,841,849	14.0	1,277,571	564,278	31%
68 Probate Conservatorship	2,431,335	21.3	1,277,073	1,154,262	47%
69 Council on Aging	180,493	0.0	0	180,493	100%
11 Archstone	57,530	0.0	57,530	0	0%
70 Senior Nutrition Program	6,180,552	7.0	3,142,701	3,037,851	49%
Total Non-Mandated	10,691,759	42.2	5,754,875	4,936,884	46%
<i><u>Mandated Activities</u></i>					
71 Adult Protective Services	7,248,630	60.9	3,452,477	3,796,153	52%
72 In-Home Supportive Svcs	9,385,717	79.9	7,801,429	1,584,288	17%
73 LPS Conservatorship	6,682,806	57.1	3,294,927	3,387,878	51%
Total Mandated	23,317,153	197.9	14,548,834	8,768,319	38%
Total BU 505	34,008,911	240.1	20,303,709	13,705,203	40%
<i><u>Required</u></i>					
Admin/Support*	5,094,003	52.0	3,041,178	2,052,825	22%

* Administration and support service costs are included in the program costs listed above and are shown separately for comparative purposes. The \$5.1 million administration and support service costs equal 15 percent of total BU 505 expenditures.

Description of Programs and Functions

Administration and Support (REQUIRED):

\$5,094,003

The Department of Aging and Adult Services administration and support services function includes a total of 52 administrative and support staff, which account for approximately 22 percent of the 240.1 staff in the Department of Aging and Adult Services - Budget Unit 505. These positions are responsible for departmental management, accounting, budget, contract administration and monitoring, information systems, human resources, government relations and planning, training, and other

Management Audit Division

related services, and include both positions directly budgeted in Budget Unit 505 and positions allocated from the Social Services Agency central administration and support services Budget Unit 502. Because most of the direct services performed by the Social Services Agency are mandated, the County must also provide adequate administrative oversight and support services to fulfill these mandates. The amount of staff and other resources necessary to provide an 'adequate' level of funding is subject to determination by the Board of Supervisors pursuant to Government Code Sections 29063 and 29088.

NON-MANDATED PROGRAMS AND FUNCTIONS

11 - Archstone Foundation Grant \$57,530

This is a multi-year grant based project. The budget is for \$49,995 in new revenue for FY 2006 to support the project, and future SSA budgets include \$57,530 in FY 2007 and \$5,775 in FY 2008, for a total of \$113,300. This is a project, which, funded by a Grant, is a proposal for "Enhancing the Capacity of the Faith Community to Address Elder Abuse." The project is a collaborative effort to provide education and training to strengthen faith communities and clergy awareness of elder abuse and reporting responsibilities. The project is designed to educate clergy and church leaders how to recognize abuse and where to go for help.

67 - Public Administration (NON-MANDATED*): \$1,841,849

The role of the Public Administrator is to provide for the administration of decedents' estates and burial of persons who die, as indigents, within the County of Santa Clara or have no responsible person to act on their behalf. The Public Administrator searches, marshals, manages, maximizes, protects the rights, and distributes the assets of decedents' estates according to California Probate Code 7000, California Probate Code 10810, and California Health and Safety Code 7100. The County Counsel has determined that this function is generally non-mandated, but that certain sub-program elements are mandated and should be considered prior to eliminating or reducing this program. Mandated aspects of this function include acting as public administrator on behalf of decedents for whom no personal representative has been appointed or when ordered to act as a personal representative by the court.

68 - Probate Conservatorships (NON-MANDATED): \$2,431,335

The purpose of a Probate Conservatorship, with the Public Guardian acting as Conservator, is to assist an individual who is unable to provide for his/her personal needs for physical health, food, clothing, or shelter, or who is unable to manage his/her own financial resources or resist fraud or undue influence. The Public Guardian discharges its responsibility by providing the following functions related to Probate Conservatorships: 1) Investigations, 2) Ongoing Case Management, 3) Estate Administration, 4) Accountings, 5) Public Benefits. The Public Guardian as Probate Conservator is a partner in the Financial Abuse Specialist Team (FAST), the County' multidisciplinary team to combat elder and dependent adult financial abuse.

Although the general function of the Public Guardian as Probate Conservator is not specifically mandated by the Probate Code, there are certain specific areas or services

which are mandated. The mandated activities include the requirement that the Public Guardian apply for appointment as Conservator if ordered to do so by the court. However, with the exception of certain specific instances as described above, the County Counsel has concluded that this function is generally non-mandated.

69 - Council on Aging (NON-MANDATED): **\$180,493**

Federal law requires that public agencies provide matching funds for Older American Act of 1965 monies. The matching funds used to provide Older American Acts services to the citizens of Santa Clara County must come from public agencies. The fiscal agent for administration of this matching fund reimbursement is the Council on Aging. This program is to provide compliance with these federal regulations.

70 - Senior Nutrition Program (NON-MANDATED): **\$6,180,552**

The Senior Nutrition Program function provides meals to approximately 3,200 persons daily, including about 820 persons served by home delivered meals and 2,400 persons obtaining meals served at 37 sites throughout the County. Expenditures of the Senior Nutrition Program include approximately \$3.4 million of direct meal costs and \$2.4 million of outreach, equipment and administrative costs including home delivered meals. Funding of Senior Nutrition Program costs are distributed approximately 48 percent County, 28 percent federal, 11 percent senior fees, 8 percent cities and 5 percent State. Direct meal services are provided through 21 contracts with community based organizations and cities. However, due to varying funding provisions in city contracts, significant differences exist between the financial obligations of cities. The following table reports the amount and percent of direct meal cost provided by the 11 cities with senior meals programs. The cities of Saratoga, Monte Sereno, Los Altos and Los Altos Hills, with a combined total population of approximately 70,000 persons, do not have City funded senior nutrition services available within their respective city limits. To the extent that persons in these cities access nutrition programs, such programs are operated by other adjacent cities or community service agencies. It is estimated that about 9,000 persons over the age of 60 live within these communities.

Total Non-Mandated Programs and Functions

\$10,691,759

MANDATED PROGRAMS AND FUNCTIONS

71 - Adult Protective Services (MANDATED): **\$7,248,630**

Adult Protective Services (APS) investigates reports of abuse and neglect of elders and dependent adults, assesses their needs, and provides short-term comprehensive case management services to eliminate further risk. APS also provides quality emergency response 24/7 to reports of imminent threat to life endangerment due to abuse and/or neglect, and emphasizes preventive measures. In addition, the Financial Abuse Specialist Team (FAST), in which APS is a partner, participates in loss prevention and recovery of millions of dollars in assets for the elders of our community.

72 - In-Home Supportive Services (MANDATED): \$9,385,717

The In-Home Supportive Services (IHSS) program provides domestic and personal care services to eligible aged, blind, and disabled persons who require assistance to remain safely in their homes. The program provides a variety of services, from household chores to personal care. These services enable the individual client to remain living safely in his/her own home.

IHSS is a viable alternative to out-of-home care or institutional placement. Direct client services are provided by the Individual Provider (IP) Mode of service. On-going IHSS services require an annual needs assessment; any future reassessments must be completed prior to the end of the twelfth calendar month from the last assessment. The state requires counties to administer the IHSS program.

IHSS is mandated by Welfare and Institutions Code Division 9, Part 3, Chapter 3 (Section 12300 – 12314); Welfare and Institutions Code 14132.95; CDSS Division 30-700 (30-761); AB 1682, Chapter 90, Statutes of 1999; AB 2235 Chapter 1135, Statutes of 2002. The County has an option on the mode of service delivery.

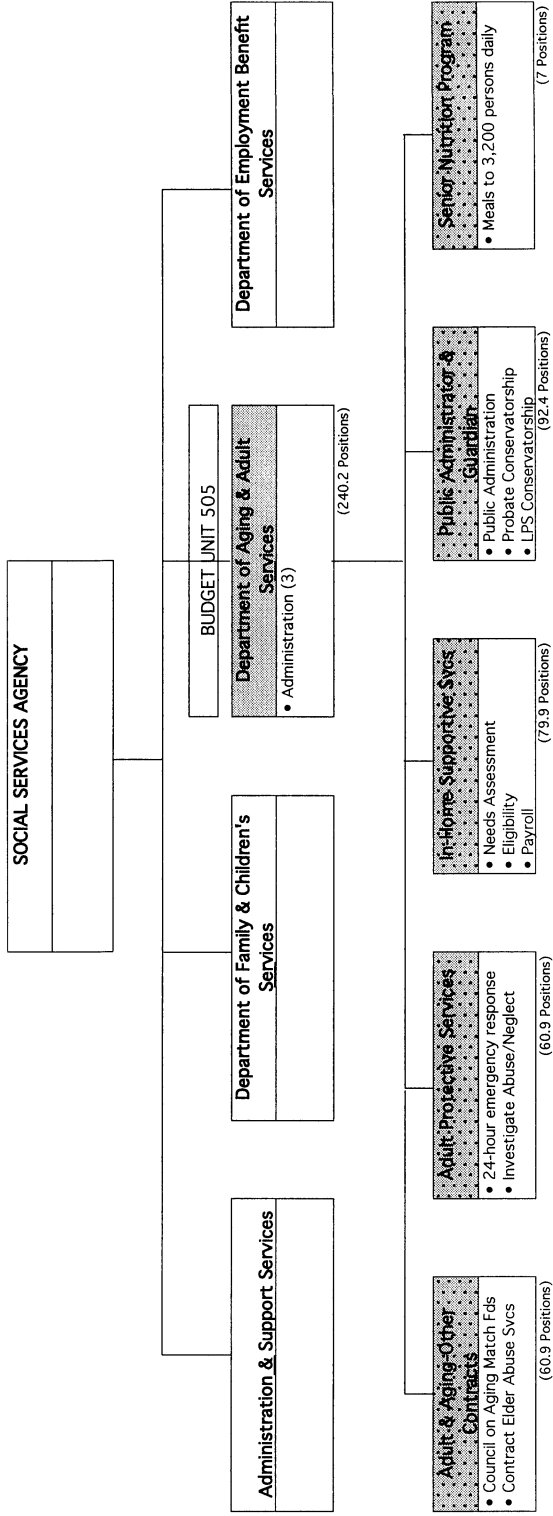
73 - LPS (Lanterman, Petris and Short) Conservatorships (MANDATED): \$6,682,806

The purpose of an LPS (Lanterman-Petris-Short Act) Conservatorship, with the Public Guardian acting as Conservator, is to assist an individual who is unable to properly provide for his/her personal needs for physical health, food, clothing, or shelter, or who is unable to manage his/ her own financial resources or resist fraud or undue influence, due to a mental disorder (gravely mentally ill). The Public Guardian provides or brokers, as advocate for an LPS conservatee, a full range of case management support services including: 1) LPS Investigations, 2) LPS Case management, 3) Estate Administration, 4) Accountings, 5) Public Benefits. In providing these client services, the Public Guardian partners with many agencies within the County and State systems, as well as other community-based organizations. LPS Conservatorships are mandated services pursuant to *Welfare and Institutions Code sections 5000 et seq.*

Total Mandated Programs and Functions \$23,317,153

Total Aging and Adult Services FY 2006-07 Adopted Budget	\$34,008,911
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DEPARTMENT OF AGING & ADULT SERVICES



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MEMORANDUM

TO: Roger Mialocq, Management Audit Manager
FROM: Laurie F. Faulkner, Assistant County Counsel
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TO: Roger Mialocq, Management Audit Manager

FROM: Ann Miller Ravel, County Counsel
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There are three different types of programs identified, programs mandated by State or Federal statute, discretionary programs that receive 100% reimbursement from State or Federal funds, and discretionary programs that require County funding.

The following list of programs are identified by SSA as mandated by State or Federal statute. We agree with their determination that some programs receive matching funds from the State and/or Federal government, some are fully reimbursed and some rely on 100% County funds. In many of these programs the specific level of service is not mandated.

Foster Home Recruitment

Supportive and Therapeutic Options (STO)

Aid to Families with Dependent Children (AFDC)

Federal Kinship Program

State Family Preservation

Emergency Assistance Foster Care

Adoption Assistance Program

Refugee Target Assistance (TAP)

CalWORKS Eligibility

Cal-Learn Eligibility

SAWS Development Project

Child Care Programs

Food Stamp Employment Training

Cal WORKS Employment

Cash Assistance (CAPI)

Medi-cal

Non-assistance Food Stamps

Cal WORKS Substance Abuse

AFDC Foster Care Benefits

Kin-GAP Program (Federal)

Adoptions Assistance Program

General Assistance Program

CalWORKS

Refugee Cash Assistance

Cash Assistance Program for Immigrants

Adult Protective Services

In Home Supportive Services

Seriously & Emotionally Disturbed

Mental Health Conservatorships (LPS)

Child Welfare (See below)

Independent Living Program (ILP)

Refugee Employment Social Services

Significant mandated programs and agency wide mandates that were not included in the SSA binder include the following:

Child Welfare program:

- that each child welfare department shall maintain and operate 24 hour emergency response system. (Welfare and Institutions Code (WIC) section 16504)
- that each child welfare department accept telephonic reports of suspected child abuse and neglect (Penal Code section 11165.9)
- that each child welfare department immediately cross report to law enforcement (Penal Code section 11166(h))
- that each child welfare department evaluate the report to determine if an in-person response is necessary (WIC 16504)
- if an in person response is necessary conduct an investigation to determine if juvenile court proceeding must be commenced (WIC 328)
- if juvenile court proceedings should be commenced, file a dependency petition (WIC 325); and
- if the child welfare agency files a petition, prepare and submit court reports as required by law (WIC 281).

Agency Wide:

- Maintenance of SSA records in a confidential manner (WIC 10850, 827 and 15633)
- Response to Public records requests (Government Code section 6250 et. seq.)
- Response to Subpoenas (Code of Civil Procedure Section 1985-1997)

Discretionary programs that receive 100% reimbursement through State or Federal funds (no County contribution) are listed below. Most of these programs have specific statutes and/or regulations that mandate the way services are provided once the County exercises its discretion to participate.

Domestic Violence Marriage Licensing
Kinship Support
Emancipated Youth Stipend
Family Treatment Drug Court
CAPIT
Child Abuse Prevention
Emergency Funds For Relatives
Green Book
Adoption
Promoting Safe and Stable Families (PSSF)
Incentives Program
SSI Advocacy

Discretionary programs that require the County to expend funds are listed below. Although County participation is discretionary, these programs have specific statutes and/or regulations that mandate the way services are provided once the County exercises its discretion to implement the program.

Veterans Services
SOS Contracts
General Fund Contracts
DV Advocate/Safety Net/Other
GA Vocational
Senior Nutrition/Council on Aging (COA)*
Child Development
Foster Home Licensing
Children's Shelter
Estate Administration
Probate Conservatorship/ Elder Abuse

Family Strength Based Services
Foster Parent \$50 Supplement
Foster Parent Child Care
Group Home Supplement
Intensive Up-Front Service Contracts
Foster Home Supplement for Sibling Group
Mental Health Patch
Foster Parent Capacity Building

* It is unclear if SSA considers this a mandatory or discretionary program. The federal law does not require the program; it provides funding through COA for a meal program for older adult's.

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MEMORANDUM

To: Roger Mialocq, Management Audit Manager

From: Larry A. Kubo, Lead Deputy County Counsel

Re: Mandate Analysis for the Office of the Public Administrator/Guardian (PA/G)
Department of Aging and Adult Services (DAAS), Social Services Agency (SSA)

Date: October 12, 2004

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to the Office of the Public Administrator/Guardian (PA/G). Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the PA/G. In addition, we are attaching the memorandum for the last mandate analysis, dated September 9, 2003, for reference purposes.

The PA/G has reorganized their program areas in the Description of Programs and Functions under both the NON-MANDATED PROGRAMS AND FUNCTIONS and the MANDATED PROGRAMS AND FUNCTIONS. The new written descriptions are clearer and a more accurate depiction of the program areas and services provided by PA/G. The legal mandates, however, remain essentially unchanged from the last mandate analysis.

- NON-MANDATED PROGRAMS AND FUNCTIONS

45-Public Administrator, Decedent Estate Administration (NON-MANDATED):

1. Mandate Source as Provided by PA/G: Probate Code sections 7600-7602, 7620 (Public Administrator (PA))
2. Level or Requirement of Mandate: Limited mandate for services; the remainder of services are discretionary, but necessary.

3. County Counsel Comments: Same legal analysis as provided in our September 9, 2003, memorandum, attached. The PA has, however, added *Probate Code section 7620* as an additional reference. This section does impose additional mandated services on the PA. They **shall** promptly petition for appointment as personal representative if no person having higher priority has petitioned (§ 7620(a)), or when the PA determines it is proper (§ 7620(b)). The PA **shall** promptly accept appointment as personal representative of an estate when so ordered by the court, whether or not on petition of the PA, after notice to the PA (§ 7620(c)).

The PA makes a credible argument that all court appointments of the PA are mandated services, since 7620(c) does not differentiate between the court's own order to appoint the PA, or the court's order to appoint based upon a petition by the PA. However, the statute states that the PA shall "accept" appointment as personal representative of an estate when so ordered by the court, whether or not on petition of the PA, after notice to the PA. The PA's argument is not persuasive as: 1) the statute clearly contemplates that no petition was filed by the PA to be appointed (accept appointment vs. petition to be appointed), and 2) the court would not notice the PA in cases in which the PA petitioned to be appointed.

→ **NOTE:** AB 2687 was approved by the Governor on September 29, 2004. This act amends Probate Code sections 58, 7601-7603, 7620, 7622, 7660-7661, and 7666, and Revenue and Taxation Code section 4986.6, relating to Public Administrators. This bill increases the duties of the Public Administrator and would impose a state-mandated local program. This bill provides that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions. **COUNTY COUNSEL AND THE PA/G WILL MONITOR THE COMMISSION ON STATE MANDATES, AND WILL PROVIDE AN UPDATE ACCORDINGLY.**

46-Public Guardian, Probate Conservatorships (NON-MANDATED):

1. Mandate Source as Provided by PA/G: Probate Code sections 1800 et al., 2920

(Public Guardian (PG))

2. Level or Requirement of Mandate: Limited mandate for services; the remainder of services are discretionary, but necessary.
3. County Counsel Comments: Same legal analysis as provided in our September 9, 2003, memorandum, attached. The PG has, however, submitted two additional proposed areas of mandated services: 1) court appointment as Conservator creates a fiduciary relationship with the Conservatee, and the services become mandated; and 2) court appointment as Conservator, based upon a referral from Adult Protective Services (APS, mandated by law), creates a "derivative" mandate for the PG which continues APS' investigation and services.

Although the two additional areas of mandated services are worthy of consideration, there does not appear to be any legal authority to require these services. In both situations, a private conservator or fiduciary could be appointed as Conservator. There is no requirement that the Public Guardian investigate or serve as Conservator, such as in the case of LPS Conservatorships.

• MANDATED PROGRAMS AND FUNCTIONS

72-Public Guardian, LPS Conservatorships (MANDATED):

1. Mandate Source as Provided by PA/G: Lanterman Petris Short Act of 1969, Welfare and Institutions Code sections 5000 et seq., 5354.5; County Ordinance Code section A18-75; Government Code sections 24000, 27430 et seq.
(Public Guardian (PG))
2. Level or Requirement of Mandate: Effectively, mandated services.
3. County Counsel Comments: Same legal analysis as provided in our September 9, 2003, memorandum, attached.

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MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Larry A. Kubo, Lead Deputy County Counsel

RE: Mandate Analysis for the Office of the Public Administrator/Guardian (PA/G)
Department of Aging and Adult Services (DAAS), Social Services Agency (SSA)

DATE: September 9, 2003

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to the Office of the Public Administrator/Guardian (PA/G). Below are comments or supplemental analyses, as needed, about the mandates in the functional areas identified by the PA/G.

The Mandate Source provided by the PA/G includes:

- *Title 42, Chapter 7, Subchapter XIX, Sections 1396 and 1396(a) of the United States Code* for Long Term Care. These services are not provided by the PA/G.
- *Lanterman Developmental Disabilities Services Act and Related Laws (January 2003)* which includes 141 pages of the Welfare and Institutions Code (Sections 4400-4905), Government Code (Sections 95000-95029), and Early Intervention Services Act (Sections 95000-95004). These services appear to be for persons who are developmentally disabled and require services through the Department of Developmental Services. These services which may include Limited Conservatorships are not provided by the PA/G.

Public Guardian - LPS Conservatorships:

1. Mandate Source as Provided by PA/G: Lanterman Petris Short Act of 1969;
California Welfare and Institutions Code
section 5000
2. Level or Requirement of Mandate: Effectively, mandated services.
3. County Counsel Comments: *The County Ordinance Code § A18-75 recognizes the Office of the Public Guardian as does Government Code §§ 24000 and 27430 et seq. LPS Conservatorships are governed by Welfare and Institutions Code §§ 5000 et. seq (Lanterman-Petris-Short [LPS] Act). Specifically, Welfare and Institutions Code § 5354.5 states that the **Public Guardian shall** serve as conservator of a person found to be gravely disabled by a court, if the court finds no other person or entity willing and able to serve as conservator. It is rare occurrence that the Court will find, and appoint, a person or entity as an LPS Conservator, other than the Public Guardian. An LPS Conservator has many difficult decisions to make on behalf of a mentally disordered patient (i.e. psychiatric treatment, psychotropic medications, placement in skilled nursing/locked facilities, medical/public benefits, etc.). The majority of these cases do not have assets to pay for private fiduciaries to act on behalf of the patients.*

*Under Welfare and Institutions Code § 5114, and County Ordinance Code § A22-19 (patterned after Government Code § 27646), the **County Counsel shall represent the County** in proceedings under Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code. These sections mandate that any judicial proceedings under this division shall be brought by the County Counsel where there are allegations that a person is a danger to others, or to himself, or gravely disabled as a result of mental disorder or impairment by chronic alcoholism. These sections further imply that the County (through the Public Guardian) shall institute proceedings under the LPS Act for LPS Conservatorships.*

Public Guardian - Probate Conservatorships:

1. Mandate Source as Provided by PA/G: Probate Code section 1800 et al.
2. Level or Requirement of Mandate: Limited mandate for services; the remainder of services are discretionary, but necessary.
3. County Counsel Comments: *Probate Code §§ 1800-1804* establish the legislative intent for Probate Conservatorships, but do not mandate the appointment of the Public Guardian as a Probate Conservator.

Under *Probate Code § 2920*, however, if a person requires a Conservatorship the **Public Guardian shall apply for Conservatorship** if the Court so orders. The Court may make an Order appointing the Public Guardian on the motion of an interested party or on its own motion. The prime example cited in the Law Revision Commission notes is where a neutral party or entity is required, in an ongoing Conservatorship proceeding, because of family disputes. The Public Guardian is frequently appointed by the Court as the Conservator of an individual as a matter of convenience to the parties or to the Court. *Section 2920* is also used to appoint the Public Guardian as Conservator after a private fiduciary has spent most of the Conservatee's assets, and the Conservatee requires an application for public benefits to assure ongoing placement and treatment in a skilled nursing facility.

Public Administrator - Decedent Estates:

1. Mandate Source as Provided by PA/G: Probate Code section 7600 et. al.
2. Level or Requirement of Mandate: Limited mandate for services; the remainder of services are discretionary, but necessary.
3. County Counsel Comments: *Probate Code §§ 7600, 7600.5 and 7600.6* list persons or entities who **shall notify the Public Administrator**: a public officer or employee who knows of property of a decedent subject to loss, injury, waste, or misappropriation; a hospital, convalescent hospital, or board and care facility when a person dies without known next of kin; a funeral

director who has control of a decedent's remains if no next of kin can be found.

If no personal representative has been appointed, the Public Administrator **shall** take prompt possession or control of property of a decedent in the county that is subject to loss, injury, waste, or misappropriation (§ 7601), and **shall** make a prompt search for other property, a will, and instructions for disposition of the decedent's remains (§ 7602). The Probate Code has **mandated** that the **Public Administrator** undertake the foregoing duties and responsibilities on behalf of decedents in the County.

cc: Robert D. Cecil, Public Administrator/Guardian
Ann Miller Ravel, County Counsel

810 Debt Service

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Non-Mandated	0	0	0%	0	0%	0.0	0%
Mandated	<u>3</u>	<u>40,150,401</u>	<u>100%</u>	<u>13,562,559</u>	<u>34%</u>	<u>1.2</u>	<u>100%</u>
Total	<u>3</u>	<u>40,150,401</u>	<u>100%</u>	<u>13,562,559</u>	<u>34%</u>	<u>1.2</u>	<u>100%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=percent of total staffing

Departmental Description

The Debt Service budget has been established to manage the County's debt obligations. The County has incurred long-term debt to pay for various capital projects. The County also issues bonds and other debt instruments on behalf of other public entities (e.g., school districts, special districts). In order to issue bonds on behalf of various public entities, the County has established the Santa Clara County Financing Authority (SCCFA), a joint powers authority for which the County Board of Supervisors sits as its Board. Local, State or federal law does not require the County to issue bonds either in its own capacity or as an agent for the SCCFA. In the case of school districts, the County could choose to authorize them to issue bonds on their own behalf. However, if the County took this approach with school districts, State law requires the County Treasurer to establish the tax rates and necessary funds or accounts to administer the debt service for the bonds. Furthermore, when the County issues bonds on behalf of itself or other public entities, the County is contractually obligated to pay the debt and perform related administrative activities for the bonds. Since the County has made the decision to issue bonds, the three functions included within the Debt Service budget are considered mandated. The FY 2006-07 Adopted Budget for Budget Unit 810 is approximately \$40.2 million. Of this amount, 66 percent is reimbursable from non-General Fund sources.

FY 2006-07 General Fund Budget by Program/Function

<u>Function</u>	<u>FY 2006-07 Adopted Budget</u>		<u>Departmental Revenue</u>	<u>General Fund Subsidy</u>	<u>Percent</u>
	<u>Amount</u>	<u>Staffing</u>			
<i>Mandated Activities</i>					
01 Debt Service Payments	38,839,971	0.0	26,584,842	12,255,129	32%
02 Mgmt / Consult Fees	1,133,875	0.0	3,000	1,130,875	100%
03 Debt Service Mgmt	<u>176,555</u>	<u>1.2</u>	<u>0</u>	<u>176,555</u>	<u>100%</u>
Subtotal	40,150,401	1.2	26,587,842	13,562,559	34%
Total	<u>40,150,401</u>	<u>1.2</u>	<u>26,587,842</u>	<u>13,562,559</u>	<u>34%</u>

Description of Programs and Functions

The County has incurred long-term debt to pay for various capital projects, including hospitals, courts, jails, etc. The decision to issue debt is discretionary. However, once the debt has been issued, the County has an obligation to pay the bondholders. Outstanding County debt amounts to approximately \$850 million.

MANDATED PROGRAMS AND FUNCTIONS

01-Debt Service Payments (MANDATED): \$38,839,971

The Debt Service Payments function pays debt and related expenses in addition to the budgeted debt at Valley Medical Center (VMC). The following table displays the County's current bond issuances and the year that they will mature.

<u>Bond Issuance</u>	<u>Year of Maturation</u>
YMCA Refunding	FY 2007-08
2005 SCCFA Series E Lease Revenue Bonds	FY 2010-11
Hospital Authority (El Camino)	FY 2015-16
1994 SCCFA VMC Part A Lease Revenue Bonds Non-Refunded	FY 2011-12
1998 Refunding SCCFA	FY 2016-17
2000 Refunding for Courts and Elmwood	FY 2016-17
2004 Housing Authority Refunding	FY 2017-18
1997 Refunding SCCFA	FY 2022-23
2003 SCCFA Morgan Hill Series C Lease Revenue Bonds	FY 2022-23
1994 SCCFA VMC Part B Lease Revenue Bonds Non- Refunded	FY 2025-26

Bond Issuance	Year of Maturation
2006 SCCFA Series I Lease Revenue Bonds	FY 2030-31
ABAG Pool (Airport Hangers)	FY 2032-33
2003 SCCFA Morgan Hill Series D Lease Revenue Bonds	FY 2032-33
2005 SCCFA Series F, G and H Lease Revenue Bonds	FY 2034-35
2006 SCCFA Series J Lease Revenue Bonds	FY 2034-35

02-Management and Consulting Fees (MANDATED): **\$1,133,875**

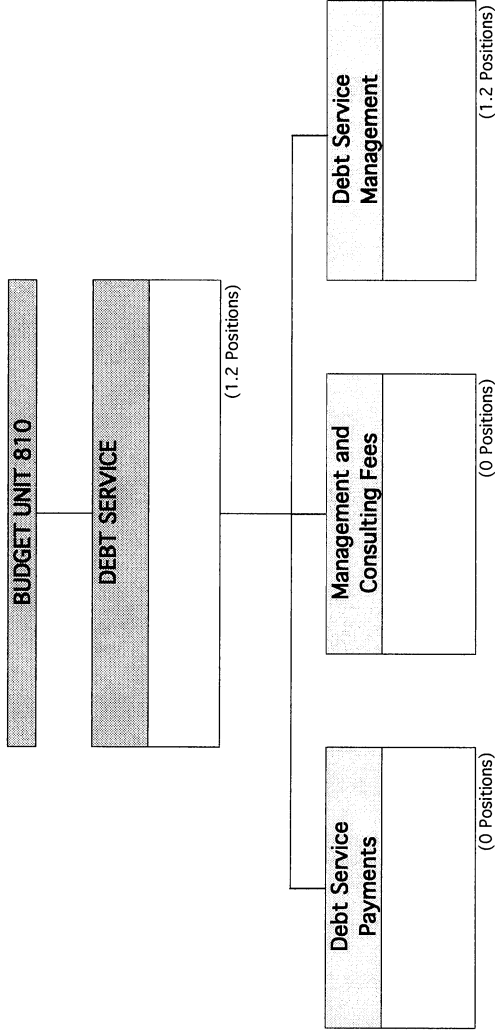
This function represents the fees associated with debt, amounting to \$1,058,875, and consulting services, amounting to \$75,000. Consultants are retained to assist the County in the full scope of its financial activities. The County seeks consulting assistance and advice regarding bonds, certificates of participation, debt defeasance, financing strategy and planning, compliance with pension obligation bonds and their appropriateness for the County, periodic review of the County's overall debt policy, Taxable TRANS and SWAPS.

03-Debt Service Management (MANDATED): **\$176,555**

The Debt Services function, which includes 1.2 authorized positions, monitors the debt issued by the County and acts as the County's representative on school debt issuance.

Total Debt Service FY 2006-07 Adopted Budget	\$40,150,401
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DEBT SERVICE



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TO: Roger Mialocq, Management Audit Manager

FROM: Lizanne Reynolds, Deputy County Counsel *LR*

RE: Debt Service Mandate Analysis [Budget Unit 810]

DATE: August 4, 2006

As requested by the County Executive and the Board of Supervisors' Management Audit Division, we are providing a written assessment of analysis of the legal mandates applicable to Budget Unit 810 regarding Debt Service.

1. Legal Basis for Mandate

The County issues bonds and other debt instruments on behalf of itself and other public entities (*e.g.*, school districts, special districts). There is no legal mandate that the County issue bonds or incur other forms of debt for County projects. With respect to school district bonds, the County could choose to authorize the school district to issue bonds on their own behalf instead of the County issuing the bonds. (Educ. Code § 15140(b).) However, the County Treasurer would still be required to establish the tax rates and necessary funds or accounts to administer the debt service for the bonds. (Educ. Code § 15140(c).)

The Santa Clara County Financing Authority ("SCCFA"), a joint powers authority for which the County Board of Supervisors sits as its Board, also issues bonds on behalf of various public entities (*e.g.*, Housing Authority, YMCA). The bonds issuances undertaken by SCCFA are discretionary.

Once bonds are issued, the County (either in its own capacity or as agent for SCCFA) is contractually obligated to pay the debt and perform related administrative activities for the bonds. The only way to eliminate these obligations is to retire the debt.

The other component of this budget unit consists of debt service for County employee home loans. These loans are discretionary.

c: John Guthrie, Finance Director
Ann Ravel

921 Valley Medical Center

FY 2006-07 Budget

<u>Functions & Programs</u>		<u>Adopted Budget</u>		<u>General Fund Subsidy</u>		<u>Staffing</u>	
<u>Type</u>	<u>Number</u>	<u>Amount</u>	<u>%*1</u>	<u>Amount</u>	<u>%*2</u>	<u>Amount</u>	<u>%*3</u>
Non-Mandated	0	0	0%	0	0%	0.0	0%
Mandated	32	647,765,701	82%	179,673,178	28%	3,924.4	82%
Admin/Support	-	<u>146,017,828</u>	<u>18%</u>	<u>38,221,569</u>	<u>26%</u>	<u>873.4</u>	<u>18%</u>
Total	32	<u>793,783,529</u>	<u>100%</u>	<u>217,894,747</u>	<u>28%</u>	<u>4,797.8</u>	<u>100%</u>

*1=percent of total adopted budget; *2=percent of adopted budget category; *3=percent of total staffing

Departmental Description

The Valley Medical Center, founded in 1876, employs nearly 5,000 county employees and has an approved FY 2006-07 annual operating budget of over \$800 million dollars. Established as an Enterprise Fund, Valley Medical Center generates revenues each year as a result of providing services to insured persons and receives other financial support from the federal government, the State of California and the Santa Clara County Board of Supervisors. This budget unit was included in the Management Audit's analysis of legally mandated functions because of the significant General Fund resources allocated to Budget Unit 921 each year, and because the Administration indicated Valley Medical Center should be included.

Utilizing a 524-bed hospital and various clinics, the Valley Medical Center provides inpatient and outpatient care services. Valley Medical Center is the only medical center in the region that provides some of the advanced services including a world-class Rehabilitation Center, Regional Burn Center, High-Risk Maternity Program, neonatal Intensive Care Unit and Trauma Center. The Valley Medical Center maintains an "open

door policy” to provide high quality, cost-effective healthcare to all residents regardless of their ability to pay.

Under California Welfare & Institution Code Section 17000 the County is the “provider of last resort” for health services to the indigent. Valley Medical Center is the method by which the Board of Supervisors has chosen to meet its mandate to provide medical care to the indigent under California Welfare & Institutions Code Section 17000. Although Section 17000 mandates the County to provide medical care to the indigent, the County has considerable discretion in setting funding levels, eligibility requirements, and service levels for these indigent care programs. The business plan in place and the Board’s decision to not define medical indigence cause the exact cost of providing this care difficult to quantify.

In early 2000, the Board of Supervisors concluded the first Subsidy Task Force and approved a final report stratifying the components of the VMC subsidy¹ and projecting its growth over time. A document provided to the Subsidy Task Force by VMC, and recently updated, clearly describes Code Section 17000 and the related policy implications for local jurisdictions:

Section 17000 of the State Welfare and Institutions Code sets forth the obligation of counties to provide or arrange for care to indigent residents, specifically including the obligation to provide such persons medical care.

Every county and every city and county shall relieve and support all incompetent, poor, indigent persons, and those incapacitated by age, disease, or accident, lawfully resident therein, when such persons are not supported and relieved by their relatives or friends, by their own means, or by State hospitals or other State or private institutions.

When enacting the Code, the Legislature did not set specific standards of aid, but rather reserved for county boards of supervisors the authority to set such standards.

Section 17001 requires counties to “adopt standards of aid and care for the indigent and dependent poor.” These standards must “provide for protection, care, and assistance to the people of the state in need, thereof...to promote the welfare and happiness of all of the people of the state by providing appropriate aid and services to all of its needy and distressed.”

At the time the Board of Supervisors first decided to operate a county hospital in order to provide the medical services mandated under California Code Section 17000, the obligation to do so in compliance with federal and State regulations began. The document submitted by Valley Medical Center to the Subsidy Task Force referenced

¹ The Components of the VMC subsidy include Vehicle License Fees, Tobacco Settlement Revenue, Unreimbursed County Services and General Fund Grant.

above also includes examples of these requirements, including JCAHO accreditation, and certification by the Centers for Medicare and Medicaid Services. These accreditation standards, and other regulations delineate staffing ratios, space requirements, and countless other specific requirements of how a service is provided, if an entity chooses to provide a specific medical service.

An analysis of the required types of service and the costs related to complying with the regulations described above is beyond the scope of this mandate analysis and would constitute a significant allocation of Management Audit staff hours. An analysis of this type could involve an examination of each of the functional areas within the Valley Medical Center to determine if the county is required to provide the specific service, and the extent to which the provision of the service contributes to the mission of the County.

Budget Discussion

The VMC FY 2006-07 Adopted Budget includes a Subsidy totaling \$169,573,995, comprised of the following components:

Table 921.1²
VMC Subsidy in the FY 2006-07 Final Budget

<u>Component</u>	<u>\$ Amount</u>
VLF Revenue Pass Through	60,000,000
Tobacco Settlement Revenue	12,000,000
Unreimbursed County Services	9,328,940
General Fund Grant	<u>88,245,055</u>
Total Subsidy:	169,573,995

Each year, the Administration coordinates efforts by the Santa Clara Health and Hospital System, the Office of Budget and Analysis, and the Board of Supervisors to minimize the growth of the General Fund subsidy necessary to continue the operation of the Valley Medical Center by identifying all appropriate revenue. The categorization of these revenues as General Fund or not depends on the specific definition applied to the term "General Fund" and the perspective of the analysis from which one considers each revenue source. Table 921.2 lists each of these additional funding sources, the amount budgeted for FY 2006-07, a description of the funding source and a designation by the Management Audit Division of whether each should be considered General Fund or not. Most of these funding sources are dynamic and would change significantly if the Board of Supervisors were to reduce services provided by Valley Medical Center or if the Board reduced the number of persons eligible to receive services by the Health and Hospital System.

² County of Santa Clara FY 2006-07 Final Budget, page 522.

**Table 921.2
Funding Sources of the VMY FY 2006-07 Budget**

<u>Component</u>	<u>Description</u>	<u>GF/Non-GF</u>	<u>Amount</u>
Patient Revenues	Reimbursement for Services	Non-GF	507,932,126
Other Revenues	Mental Health Services	Non-GF	42,917,875
SB 855	State Funds for health services	Non-GF	0
SB 1255 Revenue	Revenue from State	Non-GF	0
Realignment	Mandated for health services	Non-GF	10,565,028
Revenue Bonds	Interest on Capital Bonds	GF	872,848
Interagency	Use of Reserves	GF	<u>77,000,000</u>
Subtotal			639,287,877
VMC Subsidy in the FY 2006-07 Budget Document			<u>169,573,995</u>
Total Approved Budget for Valley Medical Center (BU 921)			808,861,872
Transfers	SCVHHS Corporate Services	Non-GF	22,177,181
Capital Budget	Cap, Equip, Debt Service	Non-GF	<u>39,652,527</u>
Subtotal of Components not included in the VMC Budget			61,829,708
Total Budget of VMC, and Funds 59 and 60			870,691,580
<u>Budgeted Loss (Unfunded Depreciation)</u>			<u>(1,538,009)</u>
BRASS VMC Total			869,153,571

As the table 921.2 illustrates, the Valley Medical Center has a total FY 2006-07 Budget of \$869,153,571 including the Capital Fund and the Fixed Assets and Debt Service Fund. Of this, a total of \$247,446,843, or 28 percent, is subsidized from General Fund sources of revenues. Components of this General Fund subsidy are provided in the Table 921.3 below:

**Table 921.3
General Fund Subsidy Allocable to Valley Medical Center**

<u>Component</u>	<u>\$ Amount</u>
VLF Revenue Pass Through	60,000,000
Tobacco Settlement Revenue	12,000,000
General Fund Grant	88,245,055
Unreimbursed Services	9,328,940
Revenue Bonds	872,848
<u>Interagency*</u>	<u>77,000,000</u>
Total Subsidy:	247,446,843

As noted earlier, the VLF revenue pass-through, tobacco settlement revenue, general fund grant and unreimbursed services comprise the VMC subsidy. Additionally, the VMC carries forward reserves each year, referred to above as Interagency, and revenue bonds are issued as well.

Compliance with Section 17000

Counties have considerable discretion in how they meet their mandate under Section 17000. San Diego County offers an example of how another large California county has met its mandate under Section 17000 in a way that is completely different than the approach of Santa Clara County. This example clarifies that it is possible to limit the amount of General Fund necessary to meet the mandate and that counties can elect to specifically define indigence and limit the number of persons eligible to receive medical services.

Since the late 1960's, San Diego County has met its obligation to provide medical care to the indigent through an arrangement with UCSD (University of California, San Diego), first through a lease agreement and eventually through the sale of the County hospital to the UCSD system³. This type of arrangement between a county and a healthcare organization is provided in Welfare & Institutions Code Section 14000.2 that states that the Board of Supervisors has the authority to:

“...transfer the maintenance, operation and management or ownership of the county hospital to the University of California or any other public agency or community nonprofit corporation empowered to operate a hospital facility upon a finding that the community services provided by the hospital could be more efficiently, effectively or economically provided by the transferee than the county.”

The Code section goes on to explain that “The intent of this section is to permit the implementation of programs for the consolidation of public hospital services in order to permit the more effective use of existing hospital facilities and retard the spiraling costs of medical care.”

San Diego County has defined indigence and operates the County Medical System (CMS) as a managed care entity to establish eligibility and manage the delivery of services by UCSD, other community hospitals and the Community Clinic system. San Diego County reports that it has set limits on the annual General Fund cost to provide medical care to the indigent. These pools set a maximum expenditure limit; excess funds are distributed to providers at the end of the year and in instances when there is no excess at the end of the year, providers must incur the loss.

The eligibility criteria for care in San Diego include US citizenship or legal permanent residency, residency in San Diego County, ineligibility for Medi-Cal and income and asset requirements.⁴ According to the previously referenced document submitted to the Subsidy Task Force by Valley Medical Center, the Santa Clara County Board of Supervisors has specifically not defined indigence, instead enacting the “open door” policy. This policy establishes the public purpose of Valley Medical Center to “provide

³ The agreement with UCSD is reported to include a clause that specifically discusses Section 17000.

⁴ County of San Diego, County Medical Services (CMS) Program Overview

quality healthcare for all persons in Santa Clara County regardless of their ability to pay.”⁵

Survey responses in FY 2003-04 regarding the provision of public medical care in the ten largest counties in California confirmed that such services are provided both by county medical centers and through various contractual and market arrangements. Six counties, including Santa Clara County, reported operating their own hospital and outpatient clinics while four reported not doing so. Eight of the counties that responded, including Santa Clara, reported operating their own pharmacies, and two reported not operating their own pharmacy.

⁵ County of Santa Clara, FY 2004 Final Budget, page 299

FY 2006-07 General Fund Budget by Program/Function

<u>Function</u>	<u>FY 2006-07 Adopted Budget</u>		<u>Departmental</u>	<u>General</u>	
	<u>Amount</u>	<u>Staffing</u>	<u>Revenue(*)</u>	<u>Fund</u>	<u>Percent</u>
				<u>Subsidy</u>	
<u>Non-Mandated Activities</u>					
None					
<u>Mandated Activities</u>					
01 Physician Services	115,994,858	508.9	85,552,090	30,442,768	26%
02 Inpatient Acute Nurse	118,697,502	808.8	87,627,291	31,070,211	26%
03 Critical Care Nursing	98,505,780	626.1	72,720,946	25,784,834	26%
04 Pharmacy Services	73,942,642	189.5	54,587,445	19,355,197	26%
05 Laboratory Services	32,563,371	194.2	24,039,596	8,523,775	26%
06 Psychiatric Services	27,346,637	224.4	10,154,106	17,192,531	63%
07 Diagnostic Imaging	20,751,712	134.9	15,319,752	5,431,960	26%
08 Facilities	18,503,689	79.0	13,660,171	4,843,518	26%
09 Therapy Services	18,412,791	157.9	13,593,066	4,819,725	26%
10 Valley Health Center	15,135,884	132.8	14,064,671	1,071,213	07%
11 Ambulatory Care	12,147,777	117.9	8,967,980	3,179,797	26%
12 Medical Records	11,074,299	126.3	8,175,495	2,898,804	26%
13 Perioperative Services	9,142,863	10.5	6,749,631	2,393,232	26%
14 Respiratory Care	8,267,335	62.1	6,103,281	2,164,054	26%
15 East Valley Clinic	7,313,756	69.9	5,399,310	1,914,446	26%
16 Food Services	6,726,853	59.1	4,966,035	1,760,818	26%
17 OPD Specialty Services	11,062,188	92.0	8,166,554	2,895,634	26%
18 Cardiovascular Services	5,722,675	18.1	4,224,710	1,497,965	26%
19 Protective Services	4,731,568	56.6	3,493,035	1,238,533	26%
20 Moorpark Primary Care	7,645,542	65.3	6,164,211	1,481,331	19%
21 Silvercreek Clinic	1,785,177	11.9	1,317,890	467,287	26%
22 Dental Services	3,886,579	24.9	2,869,230	1,017,349	26%
23 Urgent Care	2,781,647	15.5	2,053,524	728,123	26%
24 Tully Clinic	4,734,908	45.4	84,787	4,650,121	98%
25 Hospital Social Services	2,664,606	23.7	1,967,120	697,486	26%
26 South Valley Clinic	2,312,032	23.0	1,706,835	605,197	26%
27 Outpatient Oncology	1,005,320	10.4	742,168	263,152	26%
28 Rehap/Neuro Clinic	1,189,496	8.2	878,134	311,362	26%
29 Fair Oaks Clinic	1,152,831	10.4	851,066	301,765	26%
30 Radiation Therapy	1,035,781	5.5	764,655	271,126	26%
31 Moorpark Employee Hlth	842,423	6.5	621,911	220,512	26%
32 EEG Services	<u>685,179</u>	<u>4.7</u>	<u>505,827</u>	<u>179,352</u>	<u>26%</u>
Subtotal	647,765,701	3,924.4	468,092,523	179,673,178	28%
<u>Required</u>					
Admin/Support	<u>146,017,828</u>	<u>873.4</u>	<u>107,796,259</u>	<u>38,221,569</u>	<u>26%</u>
Total	<u>793,783,529</u>	<u>4,797.8</u>	<u>575,888,782</u>	<u>217,894,747**</u>	<u>27%</u>

* Departmental revenue reflects net reimbursements from other County Departments of \$12,062,890 and \$1,538,015 of unfunded costs.

**The amount of the subsidy reflects only Object 1 and 2 expenditures.

Description of Programs and Functions

Administration and Support (REQUIRED): **\$146,017,822**

Valley Medical Center includes 873.4 positions that provide Administration and Support services. The direct services performed by the Valley Medical Center are mandated. Consequently, the County must provide adequate administrative oversight and support services to fulfill these mandates. The amount of staff and other resources necessary to provide an 'adequate' level of funding is subject to determination by the Board of Supervisors pursuant to Government Code Sections 29063 and 29088.

MANDATED PROGRAMS AND FUNCTIONS

01-Physician Services (MANDATED): **\$115,994,858**

The Physician Services function includes 508.9 authorized positions. The Physician Services function is responsible for providing physician and dental care delivery to the patients of Santa Clara Valley Medical Center. This includes primary care and comprehensive specialty and subspecialty medical care as well as care for hospitalized patients at Santa Clara Valley Medical Center. Title 22 and JCAHO requires hospitals to have Physician Services.

02-Inpatient Acute Nurse (MANDATED): **\$118,697,502**

The Inpatient function includes 808.8 authorized positions. The Inpatient Acute Care Nursing function is responsible for the provision of patient care services to inpatients/outpatients in the Maternal-Child Health units (Labor & Delivery, Mother-Infant Care Center, Pediatrics/Pediatric Intensive Care Unit, Neonatal Intensive Care Unit), the Rehabilitation units (Spinal Chord Injury, Brain Injury/General Rehab, Rehab Trauma), and three Medical-Surgical units. Title 22 and JCAHO requires hospitals to have Inpatient Acute Care Nursing.

03-Critical Care Nursing (MANDATED): **\$98,505,780**

The Critical Care Nursing function includes 626.1 authorized positions. The Critical Care Nursing function is responsible for the provision of patient care services to inpatients in the Adult Intensive Care units (SICU, STU, MICU, CCU), Burn Center, Transitional Care Unit, Neurosurgery Unit, and the Operating Room/Post-Anesthesia Care Unit/Ambulatory Surgery Unit, as well as the Emergency Department, the Renal Care Center, and Endoscopy/GI Clinic. Title 22 and JCAHO requires hospitals to have Critical Care Nursing services.

04–Pharmacy Services (MANDATED): **\$73,942,642**

The provision of Pharmacy Services includes 189.5 authorized positions. The Pharmacy Services function is responsible for providing direct patient care to hospitalized and ambulatory patients at VMC and Clinics (Budget Unit 921), Mental Health (Budget Unit 412), Public Health (Budget Unit 410), and the Criminal Justice System (Budget Unit 414).

Pharmacy practice encompasses:

1. Medication therapy monitoring and evaluation;
2. Medical delivery system design;
3. Technology application to clinical practice (drug order entry systems, robotics, automated dispensing, interactive voice response system);
4. Medication dispensing and manufacturing;
5. Medication ordering, distribution, and inventory control;
6. Formulary and drug budget management in cooperation with the medical staff; and
7. Professional education of nurses, physicians, pharmacists including Pharm. D candidates.

Title 22 and JCAHO requires hospitals to have Pharmacy Services.

The expenditures associated with this function should be analyzed to determine if cost savings could be achieved either by centralizing the function and/or contracting out the function other than the inpatient pharmacy to a vendor with existing pharmacy locations around the county.

The pharmacy function could be contracted to an outside vendor that could fill prescriptions in locations throughout the county or mail refills directly to patients. This would presumably allow for the closure of most of the satellite pharmacy locations, although the inpatient pharmacy would continue to be required, operated either by County staff or a contract entity. Management Audit staff did not determine if such a change in the delivery structure of pharmacy services would be achieved in the current analysis. A previous Management Audit of Valley Medical Center included a recommendation that the Board of Supervisors “Direct the County Executive to lead a full analysis of the costs and benefits of a central pharmacy consolidation.”

05–Laboratory Services (MANDATED): **\$32,563,371**

The Laboratory Services function through Valley Medical Center includes 194.2 authorized positions. The Department of Pathology and Laboratory Medicine at Santa Clara Valley Medical Center is responsible for providing diagnostic testing, professional interpretation, and/or consultative services in the specialties of Chemistry, Special Chemistry, Clinical Toxicology, Forensic Toxicology, Urinalysis, Transfusion Service, Coagulation, Hematology, Bacteriology, Mycobacteriology, Mycology, Virology, Immunology, Parasitology, Surgical Pathology, Cytology, Fine Needle Aspiration, Post Mortum examination, Point of Care InVitro testing, and Laboratory Informatics. The Department is licensed to operate at 18 separate physical locations including the main campus and satellite clinics throughout the community. The Department serves Valley Medical Center, the Health and Hospital System (Mental Health, Public Health, Drug and Alcohol, and the Institutions), other Santa Clara County Departments (e.g. Coroner,

Department of Probation), private community hospitals, private physicians, and commercial reference laboratories. Title 22 and JCAHO requires that every hospital have Laboratory Services.

06–Psychiatric Services (MANDATED): **\$27,346,637**

The Acute Psychiatric Services division of Santa Clara Valley Medical Center consists of the Emergency Psychiatric Services (EPS) and two 25 bed Adult Inpatient Psychiatric Units which are located in the Barbara Aarons Pavilion (BAP). Patients of all ages are triaged and evaluated by a multidisciplinary team of Psychiatric staff at EPS and if psychiatric hospitalization is determined to be needed, patients are admitted to the BAP or a community Psychiatric Inpatient Facility. Inpatient Psychiatric Services consist of interventions provided by a multidisciplinary team of Psychiatric staff. Interventions consist of assessments of physical and mental status, medication management, education, social service support and discharge planning. Acute Psychiatric Services is reviewed by JCAHO.

Valley Medical Center and the Health and Hospital System have limited discretion in decreasing the psychiatric services provided to persons requiring emergency services, such as those provided at EPS and Barbara Aarons Pavilion. Therefore, the mandated required total and General Fund discretionary expenditures may be greater than the amount allocated to this function in our analysis.

A total of 224.4 authorized positions provide psychiatric services at the Valley Medical Center.

07–Diagnostic Imaging (MANDATED): **\$20,751,712**

The provision of Diagnostic Imaging services includes 134.9 authorized positions. The Diagnostic Imaging Services function is responsible for providing a full range of imaging services to inpatients at Santa Clara Valley Medical Center, outpatients cared for in VMC Clinics and patients referred by community physicians. These services include General Radiography, Fluoroscopy, Mammography, CT, MRI, Ultrasound, and Nuclear Medicine. Over 150,000 procedures are performed per year by licensed Diagnostic Imaging Technologists and Radiologists on highly technical imaging equipment. Title 22 and JCAHO requires hospitals to have Diagnostic Imaging Services. Five California counties that operate their own healthcare system responded to a survey question regarding the provision of Radiology Services. Three of the counties reported that Radiology Services are centralized and two reported that the service is provided in multiple locations.

08–Facilities (MANDATED): **\$18,503,689**

The Facilities function of Valley Medical Center includes 79.0 authorized positions. The Facilities function of Valley Medical Center is responsible for management of the buildings and grounds, maintenance, repairs, operations and budget for the SCVHHS Agency. Responsibilities include all equipment (including biomedical), telephone system operations and installation, facilities infrastructure, utilities operations and management, maintenance and repairs, Fire and Life safety management, budget, and

capital improvements associated with the SCVHHS buildings and grounds. Facility design and construction are reviewed by JCAHO and other regulatory agencies.

This function could presumably be returned to the General Services Agency of the County if the scope of capital projects and maintenance were reduced to a degree that a separate facilities department within the Health and Hospital System was no longer necessary. Management Audit staff did not determine whether such a reorganization would reduce the overall or General Fund expenditures required of this function. Also, the required expenditures related to this function are directly related to the amount of construction and renovation that takes place. Therefore, reductions in construction and renovation would reduce the required expenditures of the Facilities Department.

09–Therapy Services (MANDATED): **\$18,412,791**

The Therapy Services provided through Valley Medical Center include 157.9 authorized positions. The Therapy Services Department at Santa Clara Valley Medical Center is responsible for providing Physical Therapy, Occupational Therapy, Speech Pathology, Psychology, and Therapeutic Recreation to inpatients and outpatients, by physician referral, to all age groups. *Physical Therapy* focuses on posture, locomotion, strength, endurance, cardiopulmonary function, balance, coordination, joint mobility, flexibility and pain. *Occupational Therapy* focuses on developing adaptive skills and remediating deficits in activities of daily living (dressing, bathing etc), work performance, and making recommendations for durable medical equipment and adaptive devices. *Speech Pathology* focuses on disorders of speech, language, and voice production; cognitive impairments such as memory, organization and problem solving; and the evaluation and treatment of swallowing disorders. *Psychology Services* provides individual, group and family psychotherapy, neuropsychological assessment, behavior management, and hospital staff consultation and training. *Therapeutic Recreation* assists rehab patients in eliminating barriers to leisure, developing new leisure skills, and optimizing their leisure involvement in the community. Therapy Services is reviewed by JCAHO.

10–Valley Health Center (MANDATED): **\$17,122,299**

Valley Health Center services include pediatrics-primary, adult urgent, and specialty care, OB/GYN, cardiology, cardiac surgery, dermatology, orthopedics, urology, podiatry, comprehensive perinatal services program (CPSP), pharmacy, lab, and radiology. The provision of some level of community care appears to be mandated under § 17000 based on the fact that clinics provide at least some care that could be considered “medically necessary”. Additionally, at least one county that has contracted out the provision of medical care to the indigent includes the provision of community clinic services. A total of 147.3 authorized positions provide Valley Health Center services. Valley Health Center is reviewed by JCAHO.

11–Ambulatory Care (MANDATED): **\$12,147,777**

The provision of Ambulatory Care Health Services includes 117.9 authorized positions. Ambulatory Care Health Services include primary, urgent and specialty outpatient services. Ambulatory Care is reviewed by JCAHO.

12-Medical Records (MANDATED): **\$11,074,299**

Adequately fulfilling the Medical Records function includes 126.3 authorized positions. The Medical Records function is responsible for providing a timely record retrieval service for hospital departments as well as East Valley Clinic, Chaboya Clinic, Silvercreek Clinic, San Martin Clinic, Fair Oaks Clinic and Employee Health at Moorpark Clinic. It is also responsible for maintaining the confidentiality and security of clinical records/information, ensuring timely retrieval and accuracy of patient records, processing medico-legal correspondence in accordance with established protocols and coding of medical records. The department maintains an array of clinical coded electronic data that is required by various regulatory agencies and is utilized by the hospitals' administrative agents for marketing and planning purposes. The function includes providing transcription services of all inpatient and Ambulatory Surgery dictated documents. Title 22 and JCAHO requires hospitals to have Medical Records.

13-Perioperative Services (MANDATED): **\$9,142,863**

Perioperative (Operating Room) Services include 10.5 authorized positions. The Perioperative Services function is responsible for oversight and management of the entire continuum of care for SCVMC Operating Room for both Inpatient and Outpatient surgeries, all equipment and maintenance, materials, supplies, implants, devices, Operating Room Tissue Bank, federal and State mandated tracking, Operating Room Software Administration, and capture of hospital operating room charges. Additionally, oversight and management of SCVMC Sterile Processing, surgical instrument maintenance, clinic instrumentation sterilization, hospital equipment/crash cart distribution, rental equipment distribution, and patient equipment charges. Title 22 and JCAHO requires that hospitals have Perioperative Services.

14-Respiratory Care (MANDATED): **\$8,267,335**

The provision of Respiratory Care Services includes 62.1 authorized positions. The Respiratory Care Services function is responsible for providing quality, critical care needs to Santa Clara Valley Medical Center patients. The department provides mechanical ventilation for patients unable to or in-effectively breath for themselves, cardiopulmonary resuscitation for patients in cardiac or respiratory arrest, medication delivery via different devices such a nebulizers, meter dose inhalers, Interpulmonary Percussive Ventilator (IPV) and Intermittent Positive Pressure Breathing (IPPB) for patients who are having a difficult time breathing, oxygen therapy for patients requiring supplemental oxygen and many other therapies. Respiratory Care Services is also responsible for completing pulmonary function testing for the purpose of diagnosing and/or evaluating obstructive or restrictive breathing disorders. Respiratory Care Services is reviewed by JCAHO.

15-East Valley Clinic (MANDATED): **\$7,313,756**

The provision of services at the East Valley Clinic includes 69.9 authorized positions. East Valley Clinic services include adult urgent care, family practice, internal medicine, OB/GYN, pediatrics primary and urgent care, dental, eye, podiatry, dermatology, comprehensive perinatal services program (CPSP), pharmacy, laboratory, and radiology. East Valley Clinic is reviewed by JCAHO.

The provision of some level of community care appears to be mandated under § 17000, based on the fact that clinics provide at least some care that could be considered “medically necessary”. Additionally, at least one county that has contracted out the provision of medical care to the indigent includes the provision of community clinic services. Services provided at the clinic could be centralized at the Valley Medical Center campus and still meet the requirement of § 17000. Such a change in the structure would be contrary to the business plan and represent a departure from previous efforts of the Board of Supervisors to make services easily accessible to persons throughout the county.

16-Food Services (MANDATED): **\$6,726,853**

The provision of Food Services includes 59.1 authorized positions. The Food Services function is responsible for ordering/purchasing and delivering meals to meet the nutritional needs of the inpatients. The Clinical Dietitians are responsible for providing medical nutrition therapy to both inpatients and outpatients. Medical Nutrition Therapy consists of assessing patients for nutritional risk, developing and implementing care plans, including education, and monitoring response to interventions. The department is also responsible for the operation of the two cafeterias and catering services for the hospital. Title 22 and JCAHO requires hospitals to have Nutrition and Food Services.

17-OPD Specialty Services (MANDATED): **\$11,062,188**

The provision of Specialty Services through the Outpatient Department includes 92.0 authorized positions. Outpatient Department Specialty Services include eye, otolaryngology, orthopedics, podiatry, general surgery, plastics, pulmonary, endocrine, medical oncology/hematology, Ear, Nose, and Throat services aka urodynamics, radiation therapy, gastrointestinal, and pharmacy. OPD Specialty Services is reviewed by JCAHO.

18-Cardiovascular Services (MANDATED): **\$5,722,675**

The Cardiovascular Services function includes 18.1 authorized positions. The Cardiovascular Services function is responsible for the performance of non-invasive Cardiac diagnostic studies such as EKGs and 24-hour Holter monitoring, exercise stress treadmills, and cardiac ultrasounds for ages infant through adult and for the performance of invasive diagnostic studies such as Cardiac Angiograms. In addition to diagnostic testing, interventional procedures such as balloon angioplasties, coronary stent placement and pacemaker implants as well as other medical treatment is provided to adult cardiac patients. These services are provided for both the inpatient and outpatient population, with the inpatient arena having coverage 24 hours/day, 7 days/week. Cardiovascular Services is reviewed by JCAHO.

19-Protective Services (MANDATED): **\$4,731,568**

The function of Protective Services includes 56.6 authorized positions. The function of Protective Services is responsible for the security of all persons and property on the campus and four clinics. It includes stationery posts in the Emergency Department, EPS, and the Control Center as well as several units to respond to routine and emergent calls for service. In-depth investigations are conducted related to a variety of security events.

Protective Services management also is responsible for PBX, the Hospital Communications Telephone and Emergency Systems. Operators monitor Fire Alarms, Code announcements, on-call medical staff and answer all incoming phone calls.

The function of Protective Services could be transferred to the Sheriff's Department, as discussed in the previous management audit of Valley Medical Center and possibly reduce the General Fund resources required to support this function. Protective Services is reviewed by JCAHO.

20-Moorpark Primary Care (MANDATED): **\$5,659,127**

The provision of Primary Care services at the Moorpark facility function includes 50.8 authorized positions. Moorpark Primary Care services are Family Practice services including adult internal medicine, OB/GYN, Pediatrics and comprehensive perinatal services program (CPSP) rheumatology, diabetes, and metabolism center, geriatrics, pharmacy, radiology, and laboratory. Moorpark Primary Care is reviewed by JCAHO.

21-Silvercreek Clinic (MANDATED): **\$1,785,177**

The provision of services at the Silvercreek Clinic includes 11.9 authorized positions. Silvercreek Clinic services include OB/GYN, pediatrics, comprehensive perinatal services program (CPSP), adult internal medicine, pharmacy, and laboratory. The provision of some level of community care appears to be mandated under § 17000, based on the fact that clinics provide at least some care that could be considered "medically necessary". Additionally, at least one county that has contracted out the provision of medical care to the indigent includes the provision of community clinic services. Services provided at the clinic could be centralized at the Valley Medical Center campus and still meet the requirement of § 17000. Such a change in the structure would be contrary to the business plan and represent a departure from previous efforts of the Board of Supervisors to make services easily accessible to persons throughout the county. Silvercreek Clinic is reviewed by JCAHO.

22-Dental Services (MANDATED): **\$3,886,579**

The Dental Services function includes 24.9 authorized positions. Dental Services include preventive, basic, and restorative dental treatments. Services are provided at Chaboya Clinic, East Valley Clinic, San Martin Clinic and via two mobile units that serve other county locations. Given the severe pain that can often accompany poor dental health, the provision of some level of dental care must be provided by the County under § 17000 of the Welfare & Institutions Code. Dental Services is reviewed by JCAHO.

23-Urgent Care (MANDATED): **\$2,781,647**

The provision of Urgent Care services includes 15.5 authorized positions. Urgent Care services include adult urgent care for acute, non-life threatening conditions/situations at the Outpatient Department seven days a week. Urgent Care is reviewed by JCAHO.

24-Tully Clinic (MANDATED): **\$4,734,908**

The provision of services at the Tully Clinic includes \$114,851 for the old Chaboya Clinic and \$4,620,057 for the Tully Clinic. A total of 45.4 authorized positions are provide clinic services including internal medicine, OB/GYN, pediatrics, optometry

and ophthalmology, podiatry, dental, pharmacy, laboratory, and radiology. The provision of some level of community care appears to be mandated under § 17000 based on the fact that clinics provide at least some care that could be considered “medically necessary”. Additionally, at least one county that has contracted out the provision of medical care to the indigent includes the provision of community clinic services. Services provided at the clinic could be centralized at the Valley Medical Center campus and still meet the requirement of § 17000. Such a change in the structure would be contrary to the business plan of and represent a departure from previous efforts of the Board of Supervisors to make services easily accessible to persons throughout the county. Tully Clinic is reviewed by JCAHO.

25-Hospital Social Services (MANDATED): \$2,664,606

The provision of Social Services directly by Valley Medical Center includes 23.7 authorized positions. Medical Social Services Department of Santa Clara Valley Medical Center is responsible for social assessment and intervention services to patients and their families to promote social functioning, enable patients to utilize health care and community resources, and achieve their optimal level of overall health. Services are provided to any patient based on need. Clinical services include social assessment, counseling, planning for post hospital care and placement, financial planning and assistance, provision of information about resources for legal issues, group services, and patient advocacy. Collaborative services include consultation, community work, internal and external education, participation in organizational committees and projects, and collaboration with physicians, nurses, case managers and other members of the health care team to facilitate the provision of patient care, in both inpatient and outpatient settings. Title 22 and JCAHO requires hospitals to have Social Services.

26-South Valley Clinic (MANDATED): \$2,312,032

The provision of services at the South Valley Clinic includes 23.0 authorized positions. South Valley Clinic services include pediatrics, family practice, internal medicine, dental, comprehensive perinatal services program (CPSP), podiatry, OB/GYN, diabetic and nutrition education, pharmacy, laboratory, and radiology. South Valley Clinic is reviewed by JCAHO.

The provision of some level of community care appears to be mandated under § 17000 based on the fact that clinics provide at least some care that could be considered “medically necessary”. Additionally, at least one county that has contracted out the provision of medical care to the indigent includes the provision of community clinic services. Services provided at the clinic could be centralized at the Valley Medical Center campus and still meet the requirement of § 17000. Such a change in the structure would be contrary to the business plan and represent a departure from previous efforts of the Board of Supervisors to make services easily accessible to persons throughout the county.

27-Outpatient Oncology (MANDATED): \$1,005,320

The Outpatient Oncology function includes 10.4 authorized positions. The Outpatient Oncology function is responsible for providing cancer services and treatment. This service is only provided in the Outpatient Department of Santa Clara Valley Medical Center. This service “protects life” and is therefore mandated under § 17000.

28-Rehab/Neuro Clinic (MANDATED): **\$1,189,496**

The Rehab/Neuro Clinic includes 8.2 authorized positions. The Rehab/Neuro Clinic is responsible for care of patients with neurological needs or patients with rehabilitation needs. Patients get referred for physical therapy, occupational therapy, or other services if needed based upon their rehabilitation care plan. Rehab/Neuro Clinic is reviewed by JCAHO.

29-Fair Oaks Clinic (MANDATED): **\$1,152,831**

The provision of services at the Fair Oaks Clinic includes 10.4 authorized positions. Fair Oaks Clinic services include OB/GYN, pediatrics, and comprehensive perinatal services program (CPSP). The provision of some level of community care appears to be mandated under § 17000, based on the fact that clinics provide at least some care that could be considered “medically necessary”. Additionally, at least one county that has contracted out the provision of medical care to the indigent includes the provision of community clinic services. Services provided at the clinic could be centralized at the Valley Medical Center campus and still meet the requirement of § 17000. Such a change in the structure would be contrary to the business plan and represent a departure from previous efforts of the Board of Supervisors to make services easily accessible to persons throughout the county. Fair Oaks Clinic is reviewed by JCAHO.

30-Radiation Therapy (MANDATED): **\$1,035,781**

The Radiation Therapy function includes 5.5 authorized positions. The Radiation Therapy function is responsible for radiation treatment for patients with malignancies. This service is only provided in the Outpatient Department of Santa Clara Valley Medical Center. This service “protects life” and is therefore mandated under § 17000. Radiation Therapy is reviewed by JCAHO.

31-Moorpark Employee Health (MANDATED): **\$842,423**

Valley Medical Center provides employee physicals at the Moorpark facility in accordance with County Ordinance §A25-122. Moorpark Employee Health services include pre-employment physical examinations, clinical services for exposures to infectious diseases, immunizations, vaccinations, TB tests and symptoms review, audiogram, pulmonary function testing, respirator mask fitting, and TB respirator mask fitting. Pre-employment physicals are mandated by Labor Code § 225.2. A total of 6.5 authorized positions provide this service. Moorpark Employee Health is reviewed by JCAHO.

32-EEG Services (MANDATED): **\$685,179**

EEG Services include 4.7 authorized positions. The Clinical Neurophysiology Laboratory’s function is responsible for providing diagnostic testing for all patients with suspected neurological disorders and/or neurological complications who are seen as either inpatients or outpatients. Diagnostic testing is provided by EEG technologists to patients all age groups from neonatal to geriatric. The neurodiagnostic testing performed by the Clinical Neurophysiology Laboratory staff at SCVMC includes:

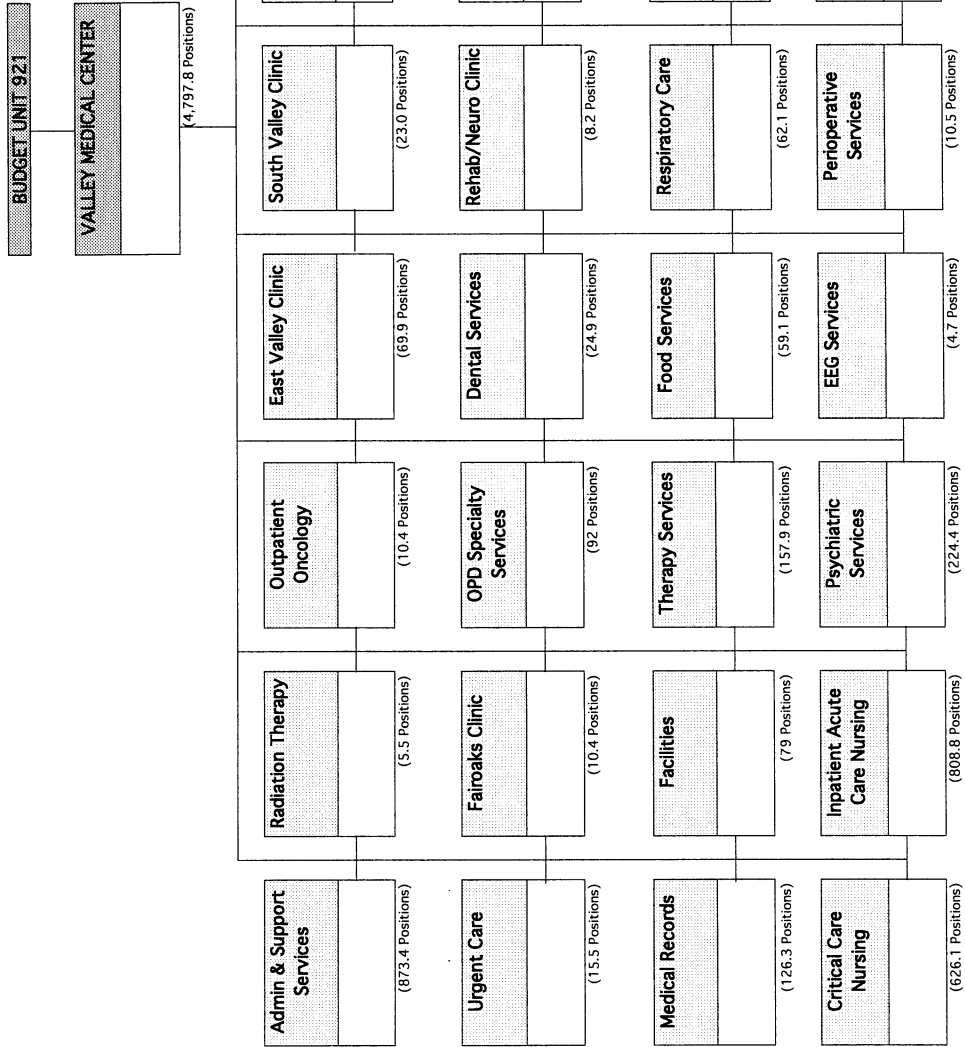
1. Routine electroencephalograms (EEGs) to evaluate how the brain is functioning;

2. Video electroencephalograms (EEGs) to monitor brain activity for epileptic events (seizures);
3. Nerve conduction studies and electromyograms (EMGs), complementary testing procedures, to evaluate different aspects of the peripheral neuromuscular system;
4. Auditory evoked potentials to evaluate function from the auditory pathway to the brainstem;
5. Visual evoked potentials to evaluate function from the visual pathway to the brain;
6. Somatosensory evoked potentials to evaluate function of the nerves from the upper and lower extremities to the spinal cord, to the brain; and
7. Polysomnography (sleep studies) to evaluate pediatric patients for sleep disorders.

EEG Services is reviewed by JCAHO.

Total Valley Medical Center FY 2006-07 Adopted Budget	\$793,783,529
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VALLEY MEDICAL CENTER



OFFICE OF THE COUNTY COUNSEL
COUNTY OF SANTA CLARA

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MEMORANDUM

TO: Roger Mialocq, Management Audit Manager
FROM: Susan Konecny Branch, Deputy County Counsel *SKB*
RE: Santa Clara Valley Medical Center Mandate Analysis
DATE: July 27, 2006

I have not received or reviewed Santa Clara Valley Medical Center's (SCVMC) mandate analysis, but I have been informed that SCVMC's functions have not changed. The legal mandate has not changed. The analysis of the County's legal obligation is the following:

The mandate applicable to SCVMC is California Welfare and Institutions Code section 17000, which imposes on counties a duty to provide medical care to indigent persons not eligible for such care under other programs. The section provides:

Every county and every city and county shall relieve and support all incompetent, poor, indigent persons, and those incapacitated by age, disease, or accident, lawfully resident therein, when such persons are not supported and relieved by their relatives or friends, by their own means, or by state hospitals or other state or private institutions.

The manner and level of service delivered under section 17000 is largely up to the County. Welfare and Institutions Code section 17001 authorizes a board of supervisors to adopt standards for the aid and care of indigents. And courts have recognized that counties have broad discretion in performing their duty under section 17000.¹ There are, however, limits to this discretion.

With regard to eligibility standards, the obligation under section 17000 extends to indigent persons who do not receive medical care from other sources. Section 17000 does not further define this group of persons, but courts have held that a county's obligation extends *at least* as far as those individuals who are not aged, blind, disabled or eligible for AFDC, and who

¹*County of San Diego v. State of California* (1997) 15 Cal.4th 68, 100.

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before 1982 would have qualified for Medi-Cal.²

With respect to the services required, courts have held that section 17000 imposes a mandatory duty to provide “medically necessary” care, not just emergency care.³ In turn, courts have defined a service as medically necessary “when it is reasonable and necessary to protect life, to prevent significant illness or significant disability, or to alleviate severe pain.”⁴

The County has chosen, as authorized by Health & Safety Code section 1441, to meet its section 17000 obligation primarily through the operation of SCVMC, but the County could choose alternate service delivery methods. Although the County may not contract away its obligation to care for the indigent sick, Health & Safety Code section 1451(e) authorizes a county to contract for health care services when the county determines that its hospital’s services should be coordinated with services provided by another source. Similarly, section 14000.2 of the Welfare and Institutions Code permits the County to integrate its services with those of other hospitals in order to eliminate segregation based on economic disability. The same section permits the transfer of the maintenance, operation and management of a county hospital to the University of California, or another public agency or a community nonprofit corporation to “more efficiently, effectively or economically” provide the services.

Cc: Sue Murphy, Director SCVMC
Kim Roberts, Acting Executive Director SCVHHS

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²*County of San Diego v. State of California* (1997) 15 Cal.4th 68, 104.

³*Id.* at 104-105.

⁴*Id.*

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MEMORANDUM

TO: Roger Mialocq, Management Audit Manager

FROM: Jared Goldman, Deputy County Counsel J.G.

RE: Santa Clara Valley Medical Center Mandate Analysis

DATE: October 25, 2004

As requested by the Board of Supervisors' Management Audit Division, we are providing a written analysis of the legal mandates applicable to Santa Clara Valley Medical Center (SCVMC).

The key mandate applicable to SCVMC is California Welfare and Institutions Code section 17000, which imposes on counties a duty to provide medical care to indigent persons not eligible for such care under other programs. The section provides:

Every county and every city and county shall relieve and support all incompetent, poor, indigent persons, and those incapacitated by age, disease, or accident, lawfully resident therein, when such persons are not supported and relieved by their relatives or friends, by their own means, or by state hospitals or other state or private institutions.

The manner and level of service delivered under section 17000 is largely up to the County. Welfare and Institutions Code section 17001 authorizes a board of supervisors to adopt standards for the aid and care of indigents. And courts have recognized that counties have broad discretion in performing their duty under section 17000.¹ There are, however, limits to this discretion.

With regard to eligibility standards, the obligation under section 17000 extends to indigent persons who do not receive medical care from other sources. Section 17000 does not further define this group of persons, but courts have held that a county's obligation extends *at least* as far as those

¹County of San Diego v. State of California (1997) 15 Cal.4th 68, 100.

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individuals who are not aged, blind, disabled or eligible for AFDC (i.e., persons eligible for other government sponsored health care programs), and who before 1982 would have qualified for Medi-Cal (note that before 1982 the State provided care to “medically indigent person[s]” under Medi-Cal).²

With respect to a service standard, courts have held that section 17000 imposes a mandatory duty to provide “medically necessary” care, not just emergency care.³ In turn, courts have defined a service as medically necessary “when it is reasonable and necessary to protect life, to prevent significant illness or significant disability, or to alleviate severe pain.”⁴

The County has chosen to meet its section 17000 obligation primarily through the operation of SCVMC, but alternate service delivery methods could be used. Health & Safety Code section 1445(e) authorizes a county to contract for health care services when the county determines that its hospital’s services should be coordinated with services provided by another source. Similarly, section 14000.2 of the Welfare and Institutions Code permits the County to integrate its services with those of other hospitals in order to eliminate segregation based on economic disability. The same section permits the transfer of the maintenance, operation and management of a county hospital to the University of California, or another public agency or a community nonprofit corporation to “more efficiently, effectively or economically” provide the services.

c: Sue Murphy, Director SCVMC
Robert Sillen, Executive Director SCVHHS

²*County of San Diego v. State of California* (1997) 15 Cal.4th 68, 104.

³*Id.* at 104-105.

⁴*Id.*