



Solano Transportation Authority

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Members:

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July 31, 2006

Via Certified US Mail

Solano County Grand Jury
Hall of Justice
600 Union Avenue
Fairfield, CA 94533

RE: Response of Solano Transportation Authority (STA)/Solano Transportation Improvement Authority (STIA)

Dear Grand Jurors:

Preliminary Observations

It is always sad to see the deterioration of a once great institution but it is clear that the Solano County Grand Jury has become an entity whose hall marks are those of conjecture and opinion rather than facts; the furtherance of personal political agendas; and simple laziness or ineptitude leading to misstatements of fact and a general failure to provide a balanced and equitable evaluation of those public agencies and public issues the Grand Jury chooses to study.

For a full analysis of the Grand Jury in modern California—including the misuse and misapplication of Grand Jury powers—I would recommend the book “Grand Juries in California” by Bruce T. Olson. Mr. Olson notes that the institution of the Grand Jury is damaged when jurors act on hearsay, opinion and assumptions and when they undertake careless investigations. Those (mis)actions, particularly when coupled with undeclared conflicts of interest on the part of grand jurors, results in subjective, self-serving reports and destructive Grand Jury service.

General Responses to Requests for Information

Either STA Executive Director Daryl Halls or I personally oversaw the preparation of the response to each request for information from the Grand Jury. Each and every request was:

1. Fully answered and documented.
2. Answered on or before the date by which the requested for the information was to be provided.
3. Included a request that we be contacted if any of the information was incomplete or if additional information was needed. Neither Mr. Halls nor I was ever contacted by any Grand Juror to ask for additional information or to clarify or expand upon the responses made on behalf of STA.

Here are some examples of our offers of assistance in gaining additional information if so desired by the committee:

- a. September 14, 2005----“Thank you and please feel free to call with any questions and/or concerns regarding these items.”
- b. October 13, 2005----“In conclusion, I hope this memo is of some assistance to the Grand Jury. If there are other questions you’d like me to prepare a memo on, please do not hesitate to contact me.”
- c. December 8, 2005----“Thank you and please feel free to call me at (707) 424-6075 if you have any further questions.”
- d. February 21, 2006----“If these additional materials don’t meet your needs then would you please do me the courtesy of contacting me personally? Perhaps in that way I can get clear on what you seek and help you obtain the material you need. I can be reached at STA by calling (707) 424-6075. However, as I am only here on a part-time basis, you can also try calling my cell phone: (541) 531-8588.”

Here is a matrix of the information prepared when the committee asked for information from STA. As noted, each response was made promptly, in writing and with specific attachments to address the questions posed. The single exception to the attachment of documents was to the request for all purchase/expense/credit card/etc reports for FY 2003-2004 since those filled three (3) “banker boxes” and STA did provide a complete set to the Grand Jury committee.

Here is the matrix on requests and responses:

	Nature of Request	Date Requested for Reponse	Date of Response
1.	Acronyms/policies	September 20, 2005	September 14, 2005
2.	Personal Appearance	October 13, 2005	October 13, 2005
	Note that for this appearance I prepared a history of STA/STIA.		
3.	Executive Director’s Contract	November 23, 2005	November 17, 2005
4.	Financial Records	December 8, 2005	December 8, 2005
	These were provided at the December 8th meeting with the Grand Jury Committee.		
5.	11 Questions	Received Dec. 14, 2005 (There was no due date.)	January 3, 2006
6.	Executive Director’s Expenses	February 24, 2006	February 17, 2006

Timing of Grand Jury Report

The Grand Jury played fast and loose with the electoral process for, it clearly appears, some political agenda was at play on the part of one or more grand jurors. The last contact we had with the committee was the response provided on February 17th. The report was written and submitted to County Counsel for review and that review was completed by April 21st. The Grand Jury then held onto the report until June 1st and then sent the report via mail with a two day time limit for

any response—the letter arrived on the date the response was due; then refused to hold the report for 4 days until the election; and then allowed the press to pick up the report rather than sending it in the mail as it had done with STA. It is clear that the Grand Jury acted in a biased manner in the processing of the report to interfere in the electoral process. In summary, the Grand Jury purposefully used the timing of the report for political purposes.

Statutory Responses to Grand Jury

Finding #1: The Solano Transportation Authority Citizens Advisory Committee is primarily composed of county and city government employees. To paraphrase the recommendation: appoint more private citizens.

Does STA plan to implement the Grand Jury's suggestions? No, as this finding is not factually correct.

The STIA's Citizen Advisory Committee is composed of citizens representing a wide variety of community, governmental, business, and special interest groups. The interests represented range from chambers of commerce, environmental groups, public safety, local government, education, health, agriculture, transportation, and air quality. A total of 62 groups were invited to participate of which only 14 were local officials. The STIA did publicize the importance of this committee with media releases to the local newspapers and numerous public forums were held both by the Citizen's Advisory Committee and at the community level in each of the seven cities. There was extensive media coverage of these meetings.

Finding #2: STA/STIA meetings are inadequately announced. To paraphrase the recommendation: meeting notices should be placed in a major newspaper in each of Solano County's seven cities.

Does STA plan to implement the Grand Jury's suggestion? No as STA follows statutory notice requirements.

The State Legislature establishes the legal standard for notice of the meetings of public agencies. The STA/STIA meetings are all publicly noticed and follow the public notice provisions of the Ralph M. Brown Act by advertising the meeting in a newspaper of general circulation in the County. In addition, a copy of the meeting agenda is provided to each city and Solano County and is posted at Suisun City Hall, the location of the meetings, and at the County Board of Supervisors. And, further, in addition the STA/STIA distributes a copy of its agenda to nearly a hundred individuals and all meeting agendas are posted on the STA website. The local media often attend meetings of the STA/STIA and provide extensive coverage of transportation issues involving the STA/STIA. Based on the subject matter, some meetings are better attended than others. The meeting attended by one or more representatives of the Grand Jury may or may not have been well attended.

If the Grand Jury feels there should be a change in the law relative to notices under the Brown Act, they are urged to contact the State Legislature.

Finding #3: STA/STIA transportation acronyms limit public participation at meetings. The recommendation was to have a public announcement that the list of acronyms is part of each agenda.

Does STA plan to implement the Grand Jury suggestion? In part.

The STA does provide a list of transportation acronyms as an attachment to each agenda. This is provided to serve as a guide for the public regarding terms and items being discussed and/or considered. STA will create a large poster board and place it at each meeting with the list of acronyms and referencing this list in the agenda materials.

Finding #4. The STA has questionable accounting practices and internal controls, which cause more taxpayer-money to be spent. To paraphrase the recommendation: STA's financial analyst should direct all payments be made on time.

Does STA plan to implement the Grand Jury's suggestion? No as this finding is incorrect.

As reported previously to the Grand Jury, the delayed payments were due to the process for payment of the credit card bill in question taking longer than the abbreviated timeframe for repayment. The STA's financial analyst corrected this problem two years ago and the finding on this matter by the Grand Jury is based on accounting records from 2004, which are antiquated. The STA's independent annual audit has identified no findings pertaining to STA's accounting practices and internal controls. What is of concern is that the Grand Jury opted to make this conclusion even after they were informed the item has been addressed as outlined in their own recommendation.

In addition, the Grand Jury never asked about the amount of the late charges nor does it appear that they looked at the financial material given to them. If they had, they would have seen that a grand total of \$64.00 in credit card late charges were incurred. The fact of the matter is that:

- A credit card company changed its billing cycle.
- This led to a situation in which it was impossible to pay on time given the payment cycles of the City of Vacaville, which provides accounts payable services to STA.
- The problem was quickly discovered and fixed.
- There were \$64.00 in late charges.
- The matter had been discovered and resolved more than a year prior to the Grand Jury committee's review.

It is apparent that, from the language of this section of the Grand Jury report, that either the Grand Jury failed to review the material they requested or they purposefully used biased, inflammatory statements to make themselves look good.

Finally, since becoming an independent agency in 1997 the STA under goes an annual, independent audit and STA has implemented each suggestion proposed for improving our financial accounting. In addition, for the past eight years, STA has had individual projects or funding sources audited by Federal, State or regional funding agencies and each and every audit has been "clean."

Finding #5: The STA policy and procedure manuals mandate the Executive Director's over-involvement in day-to-day tasks. To paraphrase the recommendation: the Executive Director should delegate more administrative tasks.

Does STA plan to implement the Grand Jury's suggestion? No, as this finding appears to be the opinion of one or more members of the Grand Jury Committee and is not based on fact or the day to day operations of the STA.

Ultimate management of the STA's office activities does reside with the Executive Director. Routine tasks are already delegated to department supervisors for reviewing timecards, vacation requests, and work schedules for employees they supervise. The Executive Director performs this task for the four employees that he directly supervises. The time spent amounts to minutes per month and is appropriate to the responsibility and management oversight required for the position of the agency's employment. Pursuing and securing future project funding has always been and remains a prime objective and significant work task of the Executive Director and the STA.

Finding #6: Substantial transportation funding is spent on environmental studies that are conducted separately. To paraphrase the recommendation: STA should combine similar studies.

Does STA plan to implement the Grand Jury's suggestion? No, because we already do this as a matter of course and, had the Grand Jury been willing to ask, they would have known this and not made such a factually incorrect comment.

Yes, substantial funding is spent on initiating, completing and obtaining state and federal approvals for environmental studies for a variety of priority projects. State and Federal statutes guide the process for conducting environmental studies. The STA must follow these guidelines when conducting these studies. As with the issue of notice under the Brown Act, if the Grand Jury feels the law should be changed they are welcome to propose change to the Congress (for the National Environmental Policy Act) and the State Legislature (for the California Environmental Quality Act).

Within these constraints, the STA has already taken advantage of opportunities to combine environmental studies where feasible, economical and allowable by state and federal statute. An example of this is the STA's lead status for the environmental study for the Jepson Parkway, which combined four local corridor projects into one corridor environmental study. Other times, the reverse approach may be necessary. Some projects have complex environmental issues that can benefit from separating a project into phases with separate environmental studies to help accelerate the completion of less complicated phases of the project that can be completed faster resulting in the project being built more rapidly resulting in the significant savings of tax dollars.

In conclusion, there is no basis for this finding.

Recommendations for Improving Grand Jury Activities. I am shocked by the conduct of the Grand Jury in this matter and feel that the Grand Jury should investigate itself—in effect “physician, heal thyself.” The Grand Jury appears to have become a closed institution and needs to open up its processes and apply stringent as well as common sense standards to how it investigates and reports on local governmental activity. Here are some recommendations for the Grand Jury to consider:

1. The Grand Jury should not meet in private unless investigating criminal activity or individual misconduct.
The Grand Jury appears to be more and more concerned with personal agendas and with fostering biased reporting of public agency activities. Hiding from public helps shield the wrongdoers who now seem to permeate the Grand Jury. Holding sessions in the open with public and press in attendance will improve the image of the Grand Jury and provide “sunshine” upon those who seek to impose biased and prejudiced reporting. Frankly, to keep the proceedings of the Grand Jury hidden from public view (except when investigating crimes or individual misconduct) is fundamentally flawed and undermines the credibility of the Grand Jury.
2. Tape record or videotape all interviews.
Many grand jury reports seem very poorly thought out and have readily apparent “holes” in facts or logic. In order to avoid any issue of “he said, she said” about what may have occurred in grand jury interviews and what questions were asked and answered, each and every interview should be tape recorded or video taped so that disputes about the accuracy of Grand Jury reports can be determined.
3. No fact should be included in any report until fully verified and proven.
This would seem an elementary rule, however Grand Jury reports often include “statements of fact” that have no back-up material or other factual support and really appear to just be conjecture.
4. Eliminate Personal Opinion from reports.
As an adjunct to the comment above, there seems to be a growing trend to include personal opinion, rather than facts, in Grand Jury reports.
5. Do not use inflammatory, biased, or prejudicial words or statements.
Words have power. Using words that are intended to inflame or misrepresent or which are hyperbole should not have any place in a Grand Jury report.
6. Send out draft reports to agencies at least 2 weeks prior to the release date.
In the handling of the STA report it was sent via mail and the draft was supposed to be responded to in two calendar days. Given the use of the mail this made response within the time stated impossible. The intentional aim to interfere in the electoral process has been mentioned above. It should also be mentioned that the report was not mailed to local newspapers, we understand, but they were notified to pick up the report.

This report, was with others of the Grand Jury, was shot through with mistakes, misrepresentations and hyperbole. It would provide a much greater service to the public if reports were accurate and fairly presented. In order to accomplish this, it is recommended that agencies be given draft reports two weeks in advance so that inaccuracies can be corrected.

7. The Presiding Judge should both insure the fairness and accuracy of Grand Jury reports and should insure that the timing of the release of Grand Jury reports is not prejudicial. The presiding Judge of the Superior Court is supposed to review Grand Jury reports and should require of such reports the same degree of factual certitude of the other legal documents he or she considers in court cases. In addition, the Presiding Judge should not allow the release of Grand Jury reports that will interfere with the electoral process or which seek to influence the electorate relative to a candidate or ballot measure.

Very truly yours,



CHARLES LAMOREE
STA Legal Counsel

Cc: STA Board Members