

**Review of the
Automated Fingerprint Identification System (AFIS)
And
California Identification System (Cal-ID)
Memorandum of Understanding**

Prepared for the
Board of Supervisors of the
County of Santa Clara

Prepared by the
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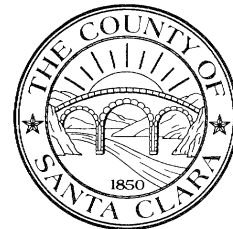
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March 5, 2009

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March 5, 2009

Supervisor Ken Yeager, Chair
Supervisor Dave Cortese, Vice Chair
Board of Supervisors Finance and Government Operations Committee
70 West Hedding Street, 10th Floor
San Jose, CA 95110

Dear Supervisors Yeager and Cortese:

In accordance with the authority of the Board of Supervisors provided in Article III, Section 302 (c) of the County Charter, we were directed to conduct a comprehensive management audit of the Office of the District Attorney during FY 2007-08. The audit began on July 26, 2007, and a draft report was issued on January 23, 2008. Included in the audit scope was a review and analysis of the operations of a memorandum of understanding (MOU) governing fingerprint identification services provided by the City of San Jose to the County of Santa Clara and the other 14 cities within the County. This agreement is known as the Automated Fingerprint Identification System (AFIS)/California Identification System (Cal-ID) MOU. Because audit fieldwork related to the AFIS/Cal-ID MOU was not complete when the management audit of the Office of the District Attorney was issued in January 2008, the MOU portion of the audit was severed and subsequently completed in 2009.

The first County-wide fingerprint identification agreement was entered into by the participating agencies in 1987 for purposes of equitably sharing the County-wide costs of fingerprint identification. Pursuant to the current AFIS/Cal-ID MOU, fingerprint identification services under this agreement are budgeted at \$3,143,003 in FY 2008-09. During the 22 years since its implementation, the operations of the MOU and its predecessor agreements were not audited by any of the participating cities or the County. This audit focused on a recent five-year period from FY 2002-03 through FY 2006-07. The audit identified four primary issues including:

- Population-based cost sharing is not equitable, and results in overcharging some agencies and undercharging others.
- Approximately \$375,000 of payments made to the AFIS/Cal-ID Trust Fund were incorrectly deposited during three of the five fiscal years examined.

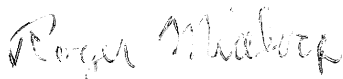
- The AFIS/Cal-ID Local Policy Board has not adopted written policies for its governance as required by the 2002 memorandum of understanding, resulting in excess reserve balances in the AFIS/Cal-ID Trust Fund.
- The AFIS/Cal-ID Local Policy Board has not adopted a multi-year expenditure plan to encumber approximately \$3.7 million of unexpended SB 720 monies as required by State law.

The first finding determined that the current population-based cost sharing methodology is not equitable, since it does not mirror actual costs based on usage by the participating agencies. As a result, six cities and the County are overcharged by approximately \$802,000 annually, while nine cities and a variety of State, federal and local law enforcement agencies are undercharged by a like amount. The second finding determined that approximately \$375,000 of payments made by cities, during three of the five fiscal years reviewed, had not been correctly deposited in the AFIS/Cal-ID Trust Fund maintained by the City of San Jose, or remained in the City's General Fund resulting in lost interest to the trust fund. In addition, it was determined that the AFIS/Cal-ID Local Policy Board had not developed written policies pertaining to the establishment of reserves in the AFIS/Cal-ID Trust Fund, nor had it adopted an expenditure plan to satisfy the encumbrance requirements pertaining to \$3.7 million of unexpended SB 720 monies on deposit in the County Treasury.

Pursuant to the direction of the Finance and Government Operations Committee, the draft report was distributed to the members of the AFIS/Cal-ID policy board, which includes the Chief of Police of the City of San Jose and the City of Los Altos, the City Manager of the City of Los Altos Hills, the Mayor of the City of Santa Clara, the District Attorney, the Sheriff and the representative of the Board of Supervisors, Supervisor Gage. An exit conference was held with the Manager of the San Jose Police Department Operations Support Services Division (OSSD), which includes the staff who perform the AFIS/Cal-ID fingerprint identification services. The San Jose Police Department OSSD Manager reported that they were in general agreement with the facts contained in the report and would not be providing a written response for inclusion in the final report, since the recommendations were either directed at County staff, or involved policy decisions to be made by the AFIS/Cal-ID policy board.

We would like to thank the staff of the San Jose Police Department for their assistance during the course of this review of the AFIS/Cal-ID MOU.

Respectfully Submitted,



Roger Mialocq
Board of Supervisors Management Audit Manager

Staff:
Jeff Segol

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The Central Identification Unit of the San Jose Police Department, which performs the AFIS/Cal-ID fingerprint identification function for law enforcement agencies in the County, provided informal written comments to the draft report. We were also advised that the Unit was in substantial agreement with the facts contained in the report, but deferred response to the recommendations to the AFIS/Cal-ID Local Policy Board.

Introduction

The FY 2007-08 Management Audit Program of the Board of Supervisors of the County of Santa Clara is authorized pursuant to Article III, Section 302(c) of the County Charter. Pursuant to that authority, the Board of Supervisors directed its Management Audit Division to conduct a comprehensive management audit of the Office of the District Attorney. The task plan for the management audit included a review and analysis of the AFIS/Cal-ID Program, in which the County is a participant. In addition, the AFIS/Cal-ID Program is governed by a Memorandum of Understanding among the County and the 15 cities, and provides specific authority for all participating entities to audit relevant records of the City of San Jose, which operates the program, at any time. Because the inquiry into AFIS/Cal-ID required assistance of the City of San Jose Police Department in obtaining data related to the inquiry, in order not to delay the issuance of the management audit report on the Office of the District Attorney, the Management Audit Division chose to separate the AFIS/Cal-ID review from the remainder of the audit. This report represents the review of the financial operations of the memorandum of understanding for the fiscal years FY 2002-03 through FY 2006-07.

Purpose, Scope and Audit Methodology

The purpose of the review was to examine the financing practices of the AFIS/Cal-ID Program to determine if the allocation of money to the program from various sources has been adequately accounted for in program financial records, and to examine whether those financial allocations (share of charges for services received) from various program participants were equitable.

As part of this review, we interviewed representatives from the Santa Clara County Sheriff's Department involved with AFIS/Cal-ID and related fingerprinting programs, the District Attorney of Santa Clara County, who participates in the AFIS/Cal-ID Random Access Network (RAN) board of directors which oversees funding of AFIS/Cal-ID in Santa Clara County, and managers and staff of the City of San Jose Police Department Central Identification Unit, which carries out the fingerprint identification functions provided by the AFIS/Cal-ID Program.

We also reviewed the AFIS/Cal-ID/RAN Local Policy Board minutes, relevant statutes, Memoranda of Understanding and other documents related to operation of the AFIS/Cal-ID Program. We also reviewed and drew samples from data entry logs reporting fingerprinting workload for the Central Identification Unit, for the purposes of determining how much of its workload is generated by various law enforcement agencies within Santa Clara County.

This report includes two findings regarding financial aspects of the AFIS/Cal-ID program in Santa Clara County. First, we found that during a five-year period from Fiscal Year 2002-03 through Fiscal Year 2006-07, some payments by cities for AFIS/Cal-ID program services had not been deposited in the program trust fund, understating the trust fund balance and reducing interest income due the fund in the name of those cities and the County. Second, the AFIS/Cal-ID Trust Fund as of June 30, 2008, maintained a

contingency and equipment reserve of \$803,278, which substantially exceeded the 20 percent reserve policy for that fund. Correcting these accounting issues would enable the City of San Jose to refund excess monies to the participating entities. To fund the FY 2008-09 AFIS/Cal-ID Program budget, \$400,000 of the June 30, 2008 surplus balance was distributed to the participating agencies (excluding San Jose) leaving an estimated \$31,072 of additional surplus available once all of the aforementioned corrections have been made.

In addition, our review found that population, currently used as the basis for cities and County agencies to calculate each entity's equitable share of AFIS/Cal-ID costs, does not appear to have any relationship to each entity's use of AFIS/Cal-ID services. Furthermore, a number of non-County and non-city law enforcement agencies are not charged at all for AFIS/Cal-ID services, even though those entities generate workload for the program through arrests. Basing contributions to the program on actual use of services was determined to be a more equitable approach, since every agency would pay the identical cost for each unit of service it received.

History and Background on the AFIS/Cal-ID Program

The California Identification System (Cal-ID) is an automated system maintained by the California Department of Justice for retaining fingerprint files and identifying latent fingerprints. Under State law established in 1985 (Penal Code Section 11112.1 et. seq.), local law enforcement agencies were allowed to access this system through a Random Access Network (RAN) that provided them direct access to the fingerprint system. Counties were given the option of entering into the RAN system, and were required to establish a RAN Board to oversee it, including County and city law enforcement and governmental representatives, whose role is to determine the placement of RAN equipment in the County, and to develop procedures to regulate use and maintenance of the RAN equipment, subject to guidelines and procedures of the Department of Justice.

In 1987, the County and cities entered into such an agreement to access the Cal-ID system for analysis of latent fingerprints, those collected at crime scenes. The jurisdictions agreed to share in system equipment and operational costs. In addition, under the agreement, the City of San Jose agreed to use its existing SOLVE fingerprint system for the purpose of identifying arrestees using fingerprints taken from them when they are booked, either at the County jail or by being cited and released by law enforcement agencies. This identification process is known as "10-print" analysis, since prints of all 10 fingers and the palms of an arrestee are taken at the time of booking. The 10-print process is also used to enter fingerprints from first-time arrestees into the Cal-ID system.

In 1997, the County and the City of San Jose entered into a separate agreement to replace the SOLVE system with a more modern Automated Fingerprint Identification System (AFIS). This agreement stated that the County would pay 55 percent of costs for the new equipment, the City 45 percent, but that the equipment would be housed within the City of San Jose Police Department, as SOLVE had been. Although the basis

for the division of costs between the City and County was not included in documents for the 1997 agreement, County staff who helped implement it reported that the basis was the breakdown of bookings in FY 1995-96 by the City of San Jose versus those by the County and all other non-city law enforcement agencies in the County. A review of relevant statistics supports that interpretation, and there is no record of why other cities were not asked to share in the cost of the AFIS equipment.

Currently, operation of the AFIS/Cal-ID system in the County of Santa Clara is governed by a memorandum of understanding approved by the County and the 15 cities in October 2002. The terms of this agreement included a requirement that the District Attorney's Office pay for 26.8 percent of the AFIS/Cal-ID budget, and that the remaining costs would be shared among the County and the 15 cities based on each entity's share of the County's population, with the County's share representing the unincorporated area. Although Section A.4 of Exhibit A to the 2002 MOU specifies "...the Santa Clara County District Attorney's Office whose share will be 26.8% of the entire budget..." the County share of costs for all four County AFIS/Cal-ID users, including the Department of Correction, Probation, the Office of the District Attorney, and the Medical Examiner-Coroner, is budgeted in the County Information Services Department (ISD) budget.

Under this memorandum, the participating jurisdictions use live-scan equipment to send electronic images of fingerprints taken from arrestees to the San Jose Police Department Central Identification Unit. That Unit provides staff 24-hours a day to conduct 10-print reviews, matching the fingerprints received to existing fingerprints in the AFIS/Cal-ID database to definitively identify arrestees. The fingerprint staff also assesses the quality of the fingerprints taken in the booking location, and requests that prints that are not clear be retaken. As a result, this function ensures the quality of fingerprints taken from first-time arrestees.

In addition, the Central Identification Unit staff, which includes 21 positions, provides analysis of latent fingerprints, those collected at crime scenes, comparing them to the AFIS/Cal-ID database for possible identification of criminal suspects. Latent analysis is conducted for most of the law enforcement jurisdictions in the County, with the exception of the Sheriff's Department. The Sheriff's Department has one fingerprint examiner position assigned to latent print analysis. This position conducts all latent print analysis for the Department, which provides law enforcement services for the unincorporated area, the cities of Cupertino, Saratoga and Los Altos Hills, the Valley Transportation Authority, and the County park system. In addition, the Sheriff has two clerical positions that correct criminal history errors identified as part of the AFIS/Cal-ID 10-Print function. These corrections are typically situations where a single individual with multiple criminal identification numbers are identified, although other types of errors are also found and fixed.

Section 1. AFIS-Cal-ID Program Cost Sharing Methodology

- In FY 1987-88, the County and the 15 cities within the County entered into an agreement to equitably share the costs of implementing an enhanced fingerprint identification system known as the Cal-ID Program. The original FY 1987-88 agreement was subsequently replaced by a FY 2002-03 Memorandum of Understanding (MOU), under which the Central Identification Unit of the San Jose Police Department provides fingerprint identification services for law enforcement agencies throughout the County. The FY 2002-03 agreement is referred to as the AFIS/Cal-ID MOU.

Under the FY 2002-03 MOU, the 15 cities and the County unincorporated area share 73.2 percent of total AFIS/Cal-ID fingerprint identification costs on a proportionate basis in accordance with each city's (and the unincorporated area's) percentage of population. Based on a 1997 report to the Board of Supervisors, the remaining 26.8 percent of total annual costs are charged to the County to pay for fingerprint identification services provided to County departments, including the Department of Correction, Probation and the Office of the District Attorney.

- However, an analysis of actual total AFIS/Cal-ID program costs and usage during CY 2007, by all of the cities and the County, showed that population based charges are substantially different from the actual costs of AFIS/Cal-ID services provided to each agency. Using actual CY 2007 AFIS/Cal-ID usage by agency to distribute budgeted FY 2008-09 costs, it was determined that population based fees overcharge six cities and the County by approximately \$802,664, while nine cities and the unincorporated area are undercharged by \$629,513. In addition, various State, federal and local law enforcement agencies are not charged at all for \$173,152 of fingerprint identification costs.
- By renegotiating the current MOU to provide for charges to all MOU participants based on actual usage and related costs, the MOU objective of sharing the costs of the AFIS/Cal-ID Program on an equitable basis would be achieved, and each AFIS/Cal-ID member agency would only be charged for the actual cost of services that it received.

Background

On January 1, 1986, Penal Code Sections 11105 and 11112.1 et seq, implementing a State-wide automated fingerprint system, became effective. These code sections provided State funding for counties to partially fund automated fingerprint equipment, and to participate in a State-wide system giving each participating county direct access to the State Department of Justice's electronic fingerprint files. On April 26, 1988, the Board of Supervisors adopted a resolution

authorizing the County Executive to enter into an agreement between the County and the incorporated cities in the County to provide local law enforcement agencies access to the Cal-ID system and equitably share the costs thereof. Because the Central Identification Unit of the City of San Jose Police Department had recently acquired an automated fingerprint system known as the San Jose On-Line Latent Print Verifier and Encoder (SOLVE), at a cost of \$1.5 million, it was agreed that the City of San Jose would operate the central fingerprint system for the County, rather than the Sheriff's Department, in order to avoid unnecessary and duplicative equipment acquisition costs. Consequently, a companion agreement to the authorizing Board resolution was executed by the cities and the County on April 26, 1988, and the San Jose Police Department Central Identification Unit also became known as the Cal-ID Program. Subsequently, the 1988 Cal-ID agreement was amended several times and was eventually replaced in 2002 by a MOU that superceded all prior agreements, and became known as the AFIS/Cal-ID MOU.

MOU Objective to Equitably Share Costs of Fingerprint Identification

The objective of the AFIS/Cal-ID Memorandum of Understanding (MOU), in addition to allowing local law enforcement agencies within the County direct access to the Cal-ID system for fingerprint verification, was to allocate equitably among the participating agencies the costs of establishing and maintaining the system. Without the benefit of actual usage and cost data, based on the recommendation of the Chief of Police of the City of Mountain View and the Cal-ID policy board, it was agreed that costs would be shared proportionately between the cities and the County unincorporated area, based on population. Also, the initial Cal-ID agreement exempted the City of San Jose from paying any of the implementation and operating costs, since the City had paid the \$1.5 million cost to acquire the SOLVE automated fingerprint system. The remaining 14 cities and the County shared the annual Cal-ID costs based on each agency's proportionate amount of the total County population, with the County's proportion being determined based on the population of the unincorporated area.

Determination of County Share of Costs

In 1997, the City of San Jose and County of Santa Clara entered into a second agreement to share the costs of purchasing and operating a new Automated Fingerprint Identification System (AFIS). Pursuant to this cost sharing agreement, the City of San Jose would pay 45 percent and the County 55 percent of the AFIS system acquisition costs and the annual operating costs, after deducting the annual Cal-ID payments received from the other 14 cities participating in the Cal-ID program. A May 7, 1997 memorandum from the County Executive to the Board of Supervisors introduced the 55 percent County to 45 percent City of San Jose cost sharing arrangement when the County Executive requested approval of the proposed AFIS acquisition and operating agreement by the Board of Supervisors. The 55 percent portion attributed to the

County is believed to have represented all FY 1995-96 bookings and the related fingerprint identification work that were not the financial responsibility of any of the 15 cities within the County, while the 45 percent portion represented bookings attributable to the City of San Jose, as shown in Table 1.1 at the end of this section. This 55 percent County share of total County and City of San Jose AFIS costs equates to 26.8 percent of total AFIS/Cal-ID program costs charged to the County and all 15 cities.

On March 9, 2000, Chief Lansdowne of the City of San Jose Police Department presented an analysis to the Santa Clara County Police Chiefs Association of the cost and feasibility of combining the Cal-ID and AFIS programs. The analysis reported that, "Since the County of Santa Clara's contribution cannot be based on population, its portion of the overall operating budget remained the same at 26.8 percent." Subsequently, on October 8, 2002, the County and the 15 participating cities executed a Memorandum of Understanding (MOU) regarding the consolidation of the County-wide automated fingerprint identification system (AFIS), including the Cal-ID program. The 2002 MOU superceded and replaced all previous agreements, and as amended, it is the current agreement under which the Cal-ID and AFIS fingerprint identification systems operate in the County of Santa Clara.

Analysis of the 2002 MOU

Pursuant to the 2002 MOU, there are two charges to the County. One general charge for all fingerprint identification services provided to County departments, including Probation, Correction, and others, is made to the County Information Services Department (ISD)¹. This charge is also referred to as the CJIC charge. A second charge is made to the Sheriff, related to costs associated with the unincorporated area and other Sheriff fingerprint needs. Under the 2002 MOU, the combined program is known as the AFIS/Cal-ID Program. The cost sharing provisions of the 2002 MOU specified that all of the AFIS/Cal-ID program costs would be shared among all of the parties to the agreement, based on each party's percentage share of the total population of the participating parties, after County ISD paid 26.8 percent of the total annual AFIS/Cal-ID program cost.

The basis of the 26.8 percent charge to County ISD that was implemented in the 2002 MOU was determined by comparing the County's FY 1999-00 budgeted cost of the AFIS program (\$433,440), to the total AFIS program cost (\$788,072) that was being shared between the County and the City of San Jose on a 55 percent to 45 percent basis, and then calculating the percentage (26.8 percent) that \$433,440 equaled out of the total \$1,618,945 FY 1999-00 combined budget of the Cal-ID and AFIS programs. However, as shown in Table 1.1, the 55 percent figure was based on FY 1995-96 bookings and related fingerprint identification

¹ This charge is part of the ISD budget, even though the MOU states that the District Attorney should pay it, because the AFIS/Cal-ID program is considered part of the County's criminal justice data collection function, as is CJIC which is also budgeted in and administered by ISD.

work associated with County law enforcement agencies, and approximately 28 mainly State and federal non-County law enforcement agencies. In addition, further analysis of the components of the 55 percent of bookings attributed to be County responsibility shows that many of these bookings and subsequent 10-print submissions to Cal-ID pertain to persons remanded to jail by the court to await trial or to serve sentences resulting from prior arrests and convictions by city police agencies.

Comparison of Changes in AFIS/Cal-ID Workload Based on Changes in the Number of Persons Booked by Law Enforcement Agencies Participating in the MOU

In order to evaluate changes in demand for AFIS/Cal-ID fingerprint verification services among the AFIS/Cal-ID participating cities and the County, actual booking data from FY 1995-96 and FY 2006-07 were compared. To obtain an indication of the equity of the AFIS/Cal-ID cost sharing methodology based on the population of each participating agency, actual changes in population proportions during the same period were also analyzed. Table 1.2 shows that the percentage change in the number of persons booked by each police agency between FY 1995-96 and FY 2006-07 varied widely, with five agencies showing an increase in the number of bookings by up to 15.90 percent, and 11 agencies showing a decrease in the number of bookings by as much as 95.00 percent. The median change in booking volume was a decrease of approximately 18.56 percent.

Table 1.3 shows the percentage change in the proportionate share of population by agency between January 1, 1996 and January 1, 2007. While Table 1.2 shows that fingerprint verification workload varied significantly from city to city with some cities showing increased demand for fingerprint verification and other cities showing significantly decreased demand, at the same time, changes in the proportionate share of population upon which AFIS/Cal-ID charges are based, varied very little between the participating cities. Therefore, even though some cities experienced a significant change in demand for fingerprint verification services, the proportionate cost of such services remained relatively constant between the participating cities, as did each city's proportionate share of AFIS/Cal-ID costs.

Consequently, since the clearly stated intent of the MOU and the prior Cal-ID agreements was to "equitably share" the costs of the system, we conducted a detailed analysis of actual usage by agency, and the actual costs of the fingerprint identification services provided by the AFIS/Cal-ID Program.

Analysis of Actual Requests for Fingerprint Identification by Agency

10-Print Identification Services

The AFIS/Cal-ID Program provides two types of services to law enforcement agencies. These services are referred to as 10-Print and Latent Print identification services. The 10-Print services are primarily required as a part of the booking process, in order to positively identify the person arrested. Consequently, every police and other law enforcement agency, including the California Highway Patrol, U.S. Bureau of Immigration, California Department of Corrections, U.S. Marshal's Office, San Jose State University Police, Amtrak Police, Federal Bureau of Investigation, Internal Revenue Service, and many others that book prisoners into the County jails, automatically submit the fingerprints of the arrested persons to Cal-ID for identification. In FY 2007-08, the AFIS/Cal-ID Program processed 77,957 10-Print requests.

Although the 2002 MOU Section B.2.4 of Exhibit B - Operational Responsibilities requires the City of San Jose to provide annual statistics to the AFIS/Cal-ID Policy Board, including the number of 10-Print queries by agency, the Central Identification Unit of the San Jose Police Department does not keep or provide such statistical data by agency (Attachment 1.1). Consequently, it was necessary to extract fingerprint identification request data from the Automated Fingerprint Identification System (AFIS) transaction log maintained by the Central Identification Unit (also referred to as the AFIS/Cal-ID Unit) of the San Jose Police Department. This log records 100 percent of all fingerprint identification requests received by the AFIS/Cal-ID Unit of the San Jose Police Department from the 28 AFIS live-scan fingerprint machines located in law enforcement agencies throughout the County. In order to ensure an accurate estimate of each law enforcement agency's usage was obtained from the FY 2007-08 transaction log, a systematic random sample was selected from the 77,957 10-Print requests received during the fiscal year. The sample included one day from each of 52 weeks of FY 2007-08, and totaled more than 11,000 fingerprint identification requests. Table 1.4 shows the results of the sample and the projected portion of the AFIS/Cal-ID workload that was generated by each requesting agency during FY 2007-08.

Latent Print Identification Services

The second category of fingerprint identification service provided to law enforcement agencies by the AFIS/Cal-ID Unit is Latent Print identification. Unlike a complete set of full fingerprints that are applied in the 10-Print process, Latent Print cases involve the identification of fingerprints obtained from crime scenes. The identification of persons based on such prints is much more difficult and time consuming, since the quality of the prints are not as good, the number of prints available to analyze for identification purposes are fewer, there is often much less known about the source of the prints, such as sex, age and other

factors, and the processing of the prints to get them into the AFIS/Cal-ID computer is a tedious and time consuming procedure.

The AFIS/Cal-ID Unit does track the number of Latent Print cases submitted by each agency. In CY 2007, a total of 4,383 Latent Print cases were received and worked by 14 fingerprint examiners in the AFIS/Cal-ID Unit of the San Jose Police Department. These cases required the examination and comparison of 18,541 latent prints for the requesting law enforcement agencies that comprise the AFIS/Cal-ID Program in the County. Table 1.5 shows the distribution of the latent print work by requesting agency, as reported by the AFIS/Cal-ID Unit of the San Jose Police Department for CY 2007. Usage of latent print identification services by participating city police agencies accounted for 94.8 percent of total latent print analysis by the San Jose Police Department AFIS/Cal-ID Unit. Approximately 4.1 percent of the usage was requested by the County District Attorney and the Medical Examiner-Coroner. The remaining 1.1 percent of usage related to requests by federal, State and other non-County law enforcement agencies and a small number of requests by the Sheriff when the Sheriff's fingerprint examiner was not available due to vacation or other leave.

Analysis of the City of San Jose Police Department AFIS/Cal-ID Unit Costs to Perform 10-Print and Latent Print Services

The FY 2008-09 San Jose Police Department AFIS/Cal-ID Unit budget amounts to \$3,143,003 and includes a staff of 21 positions, with two Supervisors, five Senior Latent Fingerprint Examiners, 13 Latent Fingerprint Examiner I/II, and one computer support position as shown in Table 1.6.

In order to distribute the \$3,143,003 FY 2008-09 AFIS/Cal-ID Unit budgeted costs between the 10-Print and Latent Print identification functions, it was necessary to devise an analytical approach that would produce an accurate estimate of the actual time expended on each function, since most AFIS/Cal-ID staff perform both functions, and the Unit does not maintain any type of timekeeping records at the functional level of detail. Based on the San Jose Police Department AFIS/Cal-ID Unit operational and accounting records that were available, the analytical approach used was to:

- (1) Determine the total number of staff hours worked by each AFIS/Cal-ID Unit staff member during CY 2007,
- (2) Interview selected staff persons to obtain their estimate of the percentage of time each person believed he or she performed Latent Print versus 10-Print work,
- (3) Analyze the 2007 Monthly Latent Print Case Assignment Log to determine the exact number cases completed by each staff member,

- (4) Interview an AFIS/Cal-ID Supervisor to obtain an estimate of the percentage of time each staff member expended in CY 2007 working on 10-print and latent print cases, while considering the actual number of productive hours each staff member worked and the actual number of latent print cases each completed.
- (5) Calculate the total number of AFIS/Cal-ID Unit staff hours devoted to 10-print and Latent Print work, and
- (6) Calculate the approximate actual cost of fingerprint identification services provided to the law enforcement agencies participating in the AFIS/Cal-ID MOU, based on the approximate FY 2008-09 average cost budgeted to process 77,957 10-Prints and 18,541 Latent Prints.

To execute the analytical approach described above, we interviewed the supervisors and several staff assigned to Latent Print cases to determine the approximate percentage of their time that was devoted to Latent Print versus 10-Print work. We were able to obtain actual work hours by individual staff member for CY 2007 from City payroll records. We were also able to determine the number of Latent Print cases completed by each staff member during CY 2007 from the Monthly Latent Print Case Assignment Log. The log accounted for 4,383 cases completed in CY 2007 by the staff assigned Latent Print cases. Using this information, we were able to calculate the approximate number of hours each staff devoted to Latent Print and 10-print work, the approximate total number of hours devoted to Latent Print and 10-print work, and the percentage of total work hours that were accounted for by the Latent Print and 10-print functions. This information was then used in combination with the AFIS/Cal-ID Unit FY 2008-09 budget to determine the approximate FY 2008-09 average cost per latent print and 10-print examination. These costs were calculated to amount to \$83.18 and \$20.50, respectively. This information is shown in Table 1.7.

Recomputation of FY 2007-08 AFIS/Cal-ID Program Cost Sharing Based on Actual Usage Rather Than Population

Based on the 49.56 percent Latent Print work to 50.44 percent 10-Print work distribution shown in Table 1.7, these percentages were used in Table 1.8 to recompute the FY 2008-09 actual AFIS/Cal-ID charges to each of the 15 cities and the County based on actual usage, as shown in Table 1.4 and Table 1.5, rather than based on each agency's percentage of population, as prescribed by the MOU. Table 1.8 also shows that the current cost sharing methodology in the AFIS/Cal-ID MOU, that has been used for more than 20 years, does not equitably distribute costs. Based on the recomputation of the FY 2008-09 AFIS/Cal-ID budget, six cities were overcharged by approximately \$167,341,

nine cities and the Sheriff's Office were undercharged by approximately \$629,513, the four County users² of AFIS/Cal-ID services (excluding the Sheriff who is separately charged) were overcharged by approximately \$635,323, and various State, federal and local agencies were not charged at all for services amounting to approximately \$173,152.

Overcharges to six cities appears to have resulted from lower crime rates, averaging 9.87 violent and property crimes per 1,000 population, and a corresponding lower utilization of AFIS/Cal-ID services. Conversely, the nine cities that were undercharged averaged 16.11 violent and property crimes per 1,000 population, and higher utilization of AFIS/Cal-ID services. As an example, Gilroy, which was undercharged by \$115,444, is shown in Table 1.9 to have the highest crime rate in the County, with 20.28 violent and property crimes per 1,000 population, while Saratoga, which was overcharged by \$38,852, is shown in Table 1.9 to have one of the lowest crime rates in the County, with 9.64 violent and property crimes per 1,000 population, and did not have any latent print work performed by the AFIS/Cal-ID Unit of the San Jose Police Department, since all of its latent print work is performed by the Sheriff.

The overcharge to the County AFIS/Cal-ID users resulted from the flat rate of 26.8 percent of total costs charged to the County annually. Because the County uses only 4.0 percent of latent print services provided by the AFIS/Cal-ID Unit, while the cities use approximately 95 percent of total latent print services, the 26.8 percent charge to the County for both 10-Print and latent print services significantly overstated County charges, by approximately \$635,323. Conversely, charges to the Sheriff were understated by approximately \$80,785, due to the high volume of 10-print activity that is generated by the Sheriff annually. Many of the Sheriff's bookings and subsequent 10-print submissions to the AFIS/Cal-ID Unit pertain to persons remanded to jail by the court to await trial or to serve sentences resulting from prior arrests and convictions by city police agencies³. In addition, approximately 36 State, federal and local agencies accounted for more than 8,000 bookings and related 10-print and latent print work referred to the AFIS/Cal-ID Unit, but such agencies are not billed by the County, resulting in approximately \$173,152 of AFIS/Cal-ID costs that are paid by the County, but not reimbursed.

Because the current charge methodology is inaccurate and not equitable, the parties to the MOU should amend the charge methodology to provide for cost sharing based on actual usage of AFIS/Cal-ID services. In order to implement an actual cost system of charging AFIS/Cal-ID agencies, the San Jose Police

² The four County users of Cal-ID services, excluding the Sheriff, include the Department of Correction, Probation, the Office of the District Attorney, and the Medical Examiner-Coroner.

³ These bookings should be attributed to fingerprint costs charged to the original arresting agency, which can be obtained from the form prepared by the court ordering the remand, which is faxed to the Main Jail.

Department Central Identification Unit should begin using daily activity sheets to account for the time of each Fingerprint Examiner between latent print and 10-print work. In addition, the San Jose Police Department Central Identification Unit should track and report the number of 10-Print queries by arresting agency, as specified in the 2002 MOU⁴. Reporting should occur quarterly, or as specified by the Board. Such tracking could be accomplished based on existing information entered into the AFIS/Cal-ID system, but would require a programming modification. This information will enable Police Department accounting staff to annually calculate the actual average cost per latent print and 10-print examination, and to establish an annual rate per examination as a basis for charging the AFIS/Cal-ID members during the subsequent fiscal year. The annual rate determination is a simple computation as shown in Table 1.8. Because the first year of transition to an actual cost basis will increase costs for some agencies, the available fund balance could be proportionately applied against each agency's charges for that year to mitigate such increases. Future year charges could be calculated based on a three or five-year average utilization by each agency, in order to minimize fluctuation in annual AFIS/Cal-ID charges.

Consequently, the County members of the AFIS/Cal-ID/RAN Local Policy Board should propose a renegotiation of the 2002 MOU to modify the cost sharing provisions to an actual cost basis, rather than the existing population based methodology. In addition, pursuant to County Ordinance Code Section A14-56 and California Government Code Section 29550, the County should bill federal, State, local government and special district law enforcement agencies for their share of the \$173,152 of AFIS/Cal-ID costs currently being paid by the County. However, although Government Code Section 29550 provides the County with specific authorization to charge local government and special district law enforcement agencies for booking services, no such explicit authorization is provided for billing State and federal agencies. Nevertheless, there is no prohibition against billing for these services, and the County currently bills and is paid by State and federal agencies for a number of law enforcement services.

CONCLUSION

The cost sharing method used since 1987 to equitably share AFIS/Cal-ID costs among the cities and the County, based on each agency's percentage share of population, is not equitable. Significant discrepancies, totaling approximately \$629,496, annually exist between costs based on usage versus costs based on population, resulting in some agencies being overcharged and others being

⁴ At the exit conference, SJPDP provided a written response that it believes it has followed the provisions of the MOU and provided statistics as required. It further reported that the requirement to provide statistics for "verifications and identifications by agency" has been interpreted to apply only to latent print work. However, the deputy county counsel, who prepared the MOU, asserts that the language of Section B.2.4 of Exhibit B to the MOU explicitly requires the City to provide the number of 10-Print queries by agency.

undercharged. In addition, numerous federal, State and other law enforcement agencies are not charged at all for fingerprint identification services costing approximately \$173,152.

RECOMMENDATIONS

It is recommended that the County members of the AFIS/Cal-ID/RAN Local Policy Board, including the District Attorney, Sheriff and representative of the Board of Supervisors:

- 1.1 Propose to the AFIS/Cal-ID member agencies that the MOU be renegotiated to change the annual cost sharing methodology to actual costs of 10-Print and Latent Print services. Because the first year of transition to an actual cost basis will increase costs for some agencies, the available fund balance could be proportionately applied against each agency's charges for that year to mitigate such increases. Future year charges could be calculated based on a three or five-year average utilization by each agency, in order to minimize fluctuation in annual AFIS/Cal-ID charges. (Priority 1)
- 1.2 Determine the appropriate County department or office to quarterly bill State, federal, local government and special district law enforcement agencies for their share of AFIS/Cal-ID costs currently being paid by the County, and implement a process for the AFIS/Cal-ID Unit of the San Jose Police Department to quarterly provide the necessary information to the County department or office. (Priority 2)

It is recommended that the City of San Jose Police Department-Central Identification Unit:

- 1.3 Begin using daily activity sheets to accurately track Fingerprint Examiner time spent on the Latent Print and 10-Print functions. (Priority 1)
- 1.4 Collect and report the number of 10-Print queries by each law enforcement agency on a periodic basis (such as quarterly) as required by Section B.2.4 of Exhibit B of the 2002 MOU. (Priority 1)

SAVINGS/COSTS/BENEFITS

The implementation of these recommendations would establish an equitable method of sharing AFIS/Cal-ID costs among law enforcement agencies in the County, and would ensure that each agency only paid for fingerprint services it received as a result of its own law enforcement activities within its own jurisdiction.

Table 1.1

**FY 1995-96 Bookings In County of Santa Clara Jail Facilities
By Law Enforcement Agency**

Agency Count	Name of Agency	FY 1995-96 Bookings
County of Santa Clara		
1	SCC DEPARTMENT OF CORRECTION	17,069
2	SANTA CLARA CO SHERIFFS DEPARTMENT	6,646
3	ADULT PROBATION	216
4	DISTRICT ATTORNEY'S OFFICE	109
5	SCC SPECIAL ENFORCEMENT TEAM (SCCSET)	36
6	SCC TRANSIT PROTECTIVE SERVICES	427
	Total County of Santa Clara	24,503
Other Law Enforcement Agencies:		
7	CALIF HIGHWAY PATROL - SJ	2,769
8	CALIFORNIA DEPT CORRECTIONS - PAROLE	947
9	ALL OTHER AGENCIES	758
10	UNIV STATE POLICE - SAN JOSE STATE	414
11	HOLLISTER-GILROY CHP	174
12	STANFORD UNIVERSITY PD	125
13	REDWOOD CITY CHP	77
14	U.S. MARSHAL	72
15	DOJ BUREAU NARC ENF	28
16	CALIFORNIA DEPT OF CORRECTIONS	27
17	CALIFORNIA YOUTH AUTHORITY	26
18	FEDERAL BUREAU INVESTIGATION SJ	22
19	REGIONAL AUTO THEFT TASK FORCE	9
20	FOOTHILL COLLEGE PD (OBSOLETE 1/1/05)	3
21	WEST VALLEY COLLEGE POLICE DEPT	3
22	ALCOHOL, TOBACCO & FIREARMS SJ	2
23	AMTRAK POLICE	2
24	CALIFORNIA STATE POLICE	2
25	FED BUREAU OF INVESTIGATION SF	2
26	SAN JOSE CITY COLLEGE POLICE DEPT	2
27	SJ UNIFIED SCHOOL DISTRICT PD	2
28	U.S. SECRET SERVICE	2
29	BUREAU NARCOTICS & DANGEROUS DRUGS SF	1
30	CALIF HIGHWAY PATROL - INV SERV OAKLAND	1
31	HUMANE SOCIETY OF SANTA CLARA VALLEY	1
32	NASA AMES POLICE (FORMERLY MOFFETT PD)	1
33	SAN JOSE/EVERGREEN COLLEGE DISTRICT PD	1
	Total Other Law Enforcement Agencies	5,473
	Total County and Other Law Enforcement Agencies	29,976
Cities		
34	SAN JOSE POLICE DEPARTMENT	23,788
35	SAN JOSE AIRPORT POLICE	2
36	SUNNYVALE DEPT PUBLIC SAFETY	3,198
37	GILROY POLICE DEPARTMENT	2,692
38	SANTA CLARA POLICE DEPARTMENT	2,304
39	MILPITAS POLICE DEPARTMENT	1,871
40	MOUNTAIN VIEW POLICE DEPARTMENT	1,629
41	PALO ALTO POLICE DEPARTMENT	1,433
42	CAMPBELL POLICE DEPARTMENT	1,043
43	MORGAN HILL POLICE DEPARTMENT	1,013
44	CUPERTINO (Sheriff)	972
45	LOS GATOS POLICE DEPARTMENT	761
46	LOS ALTOS POLICE DEPARTMENT	367
47	SARATOGA (Sheriff)	181
48	LOS ALTOS HILLS (Sheriff)	20
49	MONTE SERENO (Los Gatos PD)	9
50	MONTE SERENO (Sheriff)	6
	Cities Subtotal	41,289
	Total FY 1995-96 Bookings	71,265

Analysis of County & Other Agencies vs. City of San Jose

	Number	Percent
County and Other Agency Subtotal	29,976	55.75%
City of San Jose	23,790	44.25%
Total	53,766	100.00%

Table 1.2

**Comparison of Prisoners Booked in County of Santa Clara Jails
By Law Enforcement Agencies Participating in the AFIS/Cal-ID Program
FY 1995-96 vs FY 2006-07**

Name of Agency	FY 1995-96 Bookings	FY 2006-07 Bookings	Increase (Decrease)	Percent Change
Mountain View	1,629	1,888	259	15.90%
Monte Sereno *3	15	17	2	13.33%
Santa Clara County *4	29,976	32,203	2,227	7.43%
San Jose*1	23,790	24,322	532	2.24%
Milpitas	1,871	1,890	19	1.02%
Palo Alto	1,433	1,407	(26)	-1.81%
Santa Clara	2,304	2,119	(185)	-8.03%
Campbell	1,043	923	(120)	-11.51%
Los Gatos	761	566	(195)	-25.62%
Morgan Hill	1,013	710	(303)	-29.91%
Sunnyvale	3,198	1,949	(1,249)	-39.06%
Los Altos	367	204	(163)	-44.41%
Gilroy	2,692	1,224	(1,468)	-54.53%
Saratoga *2	181	62	(119)	-65.75%
Cupertino *2	972	109	(863)	-88.79%
Los Altos Hills *2	20	1	(19)	-95.00%
Total Bookings	71,265	69,594	(1,671)	-2.34%

*1 Includes San Jose Airport

*2 Sheriff bookings for these contract cities

*3 Monte Sereno includes bookings by both the Los Gatos Police Department and the Sheriff.

*4 Includes bookings by all County agencies and all non-city law enforcement agencies

Table 1.3**Comparison of AFIS/Cal-ID Agencies Proportionate Share of Population vs Prisoner Booking
FY 1996 to FY 2007**

	Population 1/1/96	Percent of Total	Population 1/1/07	Percent of Total	Percentage Increase/(Decrease) in Proportionate Share of Population	Percentage Increase/(Decrease) In County Jail Prisoner Booking
San Jose	853,700	52.67%	972,190	53.85%	1.18%	2.24%
Gilroy	34,200	2.11%	49,571	2.75%	0.64%	-54.53%
Morgan Hill	28,100	1.73%	38,360	2.12%	0.39%	-29.91%
Cupertino	43,850	2.71%	55,078	3.05%	0.35%	-88.79%
Santa Clara	98,500	6.08%	114,066	6.32%	0.24%	-8.03%
Monte Sereno	3,300	0.20%	3,559	0.20%	-0.01%	13.33%
Los Altos Hills	7,825	0.48%	8,592	0.48%	-0.01%	-95.00%
Milpitas	60,000	3.70%	66,472	3.68%	-0.02%	1.02%
Saratoga	29,750	1.84%	31,352	1.74%	-0.10%	-65.75%
Los Altos	27,450	1.69%	28,061	1.55%	-0.14%	-44.41%
Palo Alto	58,800	3.63%	62,520	3.46%	-0.16%	-1.81%
Los Gatos	29,100	1.80%	29,362	1.63%	-0.17%	-25.62%
Campbell	38,450	2.37%	39,689	2.20%	-0.17%	-11.51%
Sunnyvale	126,800	7.82%	135,514	7.51%	-0.32%	-39.06%
Mountain View	72,000	4.44%	73,149	4.05%	-0.39%	15.90%
County (Unincorp Area)	109,000	6.72%	97,779	5.42%	-1.31%	7.43%
Total	1,620,825	100.00%	1,805,314	100.00%		

Table 1.4

**10-Print Sample Selected from the SJPD Central ID Unit AFIS Log to Project
CY 2007 Fingerprint Identification Requests by Law Enforcement Agency**

Scanner Number	Location of AFIS Scanner	Total Sample	Percent	Projected CY 2007
County Agencies:				
11, 32, 33	County-DOC-Male/Female Booking	371	3.33%	2,596
7	County-Main Jail Commit Desk	199	1.78%	1,391
6	County-Main Jail Commit Desk	0	0.00%	0
10	County-Elmwood	1	0.01%	7
5	County-Sheriff	379	3.40%	2,649
11, 32, 33	County-Sheriff	990	8.87%	6,915
24	County-Sheriff	0	0.00%	0
28	County-Sheriff	0	0.00%	0
21	County-Sheriff-South County	24	0.22%	168
4	County-District Attorney	0	0.00%	0
35	County Probation-Adult	200	1.79%	1,398
11, 32, 33	County Probation-Adult	20	0.18%	137
36	County Probation-Juvenile	164	1.47%	1,146
11, 32, 33	County Probation-Juvenile	39	0.35%	273
Total County Agencies		2,387	21.40%	16,680
11, 32, 33	Other Law Enforcement Agencies	1,134	10.17%	7,925
City Police Agencies:				
3	SJPD	244	2.19%	1,705
12	SJPD-Adult Pre Processing	1,239	11.11%	8,660
27	SJPD-Juvenile Pre Processing	123	1.10%	860
25	SJPD-Fingerprint Unit	216	1.94%	1,510
31	SJPD Adult Pre Processing	2	0.02%	14
11, 32, 33	SJPD	2,776	24.89%	19,402
Total City of San Jose		4,600	41.24%	32,150
23	Campbell	23	0.21%	161
11, 32, 33	Campbell	137	1.23%	956
11, 32, 33	Cupertino	39	0.35%	273
20	Gilroy	385	3.45%	2,691
11, 32, 33	Gilroy	78	0.70%	547
14	Los Altos	23	0.21%	161
11, 32, 33	Los Altos	20	0.18%	137
22	Los Gatos	9	0.08%	63
11, 32, 33	Los Gatos	59	0.53%	410
34	Milpitas	50	0.45%	349
11, 32, 33	Milpitas	274	2.45%	1,913
11, 32, 33	Monte Sereno	0	0.00%	1
19	Morgan Hill	299	2.68%	2,090
15	Mountain View	403	3.61%	2,817
11, 32, 33	Mountain View	59	0.53%	410
13	Palo Alto	28	0.25%	196
11, 32, 33	Palo Alto	98	0.88%	683
16	Santa Clara	305	2.73%	2,132
11, 32, 33	Santa Clara	176	1.58%	1,230
11, 32, 33	Saratoga	7	0.07%	52
26	Sunnyvale	289	2.59%	2,020
11, 32, 33	Sunnyvale	274	2.45%	1,913
Total Cities		3,033	27.20%	21,203
Total Sample		11,154	100.00%	77,957

Table 1.5

**CY 2007 Latent Print Cases Received and Number of Prints Compared
By Local Law Enforcement Agency as Reported by the
SJPD Central Identification Unit**

Law Enforcement Agency	Number of Cases Received	Number of Prints Compared	Percent of Latent Print Usage
City Agencies:			
San Jose PD	2,060	9,512	51.3%
Sunnyvale PD	538	1,999	10.8%
Gilroy PD	352	1,349	7.3%
Milpitas PD	349	1,320	7.1%
Santa Clara PD	208	1,040	5.6%
Los Gatos PD	94	616	3.3%
Campbell	151	531	2.9%
Mountain View PD	96	521	2.8%
Palo Alto PD	75	351	1.9%
Morgan Hill PD	49	179	1.0%
Los Altos PD	38	133	0.7%
Monte Sereno	4	24	0.1%
Cupertino	0	0	0.0%
Los Altos Hills	0	0	0.0%
Saratoga	0	0	0.0%
Subtotal City Police Agencies	4,014	17,575	94.8%
Percent of Total	91.6%	94.8%	
County Agencies:			
District Attorney	93	477	2.6%
Medical Examiner-Coroner	227	290	1.6%
County Agencies Total (CJIC)	320	767	4.1%
Percent of Total	7.3%	4.1%	
Federal, State and Non-County Agencies	40	129	0.7%
Percent of Total	0.9%	0.7%	0.0%
Unincorporated Area (Sheriff)	9	70	0.4%
Percent of Total	0.2%	0.4%	0.0%
Total	4,383	18,541	100.0%
	100.0%	100.0%	

Table 1.6

**San Jose Police Department AFIS/Cal-ID Program Budget
FY 2008-09**

Number	Description	Amount
<u>Personal Services</u>		
1	Network Engineer	\$ 113,994
13	Latent Fingerprint Examiner II	1,319,319
5	Senior Fingerpring Examiner	588,390
2	Latent Fingerprint Examiner Supervisor	<u>243,675</u>
21	Total Salaries and Fringe Benefits	2,265,378
	Night Shift Differential-Swing	18,720
	Night Shift Differential-Midnight	21,840
	Overtime-Holiday (Fingerprint Examiner II)	106,531
	Overtime-Holiday (Sr. Fingerprint Examiner)	<u>46,535</u>
	Total Night Shift Differential & Holiday Overtime	193,626
	Total Personal Services	2,459,004
<u>Contractual Services and Materials and Supplies</u>		
	AFIS Maintenance	162,323
	More Hits Maintenance	10,950
	AFIS 21 Maintenance	9,500
	Intelli-Tech Halon Maintenance	1,500
	Copier Rental, Supplies and Maintenance	3,000
	Mainframe Computer Room Cleaning	1,000
	AMFAX Maintenance	800
	Supplies and Film	14,004
	Training	12,000
	Professional Dues and Certification	2,100
	Data and Telephone Lines	<u>4,100</u>
	Total Contractual Services and Materials and Supplies	221,277
<u>Incirect Costs</u>		
	City of San Jose Overhead (27.611% of Salaries)	459,721
	Total FY 2008-09 Cal-ID Budget	\$ 3,140,003

Table 1.7

**Analysis of Staff Costs for Latent Print and 10-Print Work
Based on FY 2008-09 Budgeted Costs and CY 2007 Actual Staff Hours and Workload**

Job Class	Estimated Productive Hours*2	CY 2007*3		Estimated Total Hours:		Estimated Total Costs:	
		Salary and Fr Ben Cost	Cost Per Prod Hour	Latent Print Work	10-Print Work	Latent Print Work	10-Print Work
Sr Fingerprint Exam	1,780.5	\$ 141,008	\$ 79	1,424	356	\$ 112,806	\$ 28,202
Sr Fingerprint Exam	1,708.0	141,008	82.56	1,281	427	105,756	35,252
Sr Fingerprint Exam	2,140.0	142,028	66.37	1,819	321	120,724	21,304
Sr Fingerprint Exam	1,997.0	142,166	71.19	1,797	200	127,949	14,217
Sr Fingerprint Exam	1,571.0	126,635	80.61	1,100	471	88,645	37,991
Fingerprint Exam II	2,098.0	126,631	60.36	1,678	420	101,305	25,326
Fingerprint Exam II	1,699.0	108,617	63.93	1,444	255	92,324	16,293
Fingerprint Exam II	1,593.0	118,902	74.64	1,274	319	95,122	23,780
Fingerprint Exam II	1,517.0	126,629	83.47	1,138	379	94,972	31,657
Fingerprint Exam II*	2,119.5	126,684	59.77	1,696	424	101,347	25,337
Fingerprint Exam 1	1,685.5	118,733	70.44	84	1,601	5,937	112,796
Fingerprint Exam 1	1,261.5	120,125	95.22	63	1,198	6,006	114,119
Fingerprint Exam 1	1,595.0	118,852	74.52	0	1,595	0	118,852
Fingerprint Exam 1	1,650.5	126,634	76.72	0	1,651	0	126,634
Fingerprint Exam 1	1,733.5	121,191	69.91	0	1,734	0	121,191
Fingerprint Exam 1	1,963.0	126,634	64.51	0	1,963	0	126,634
Fingerprint Exam II*	1,746.0	120,266	68.88	0	1,746	0	120,266
Fingerprint Exam II*	0.0	0	0.00	0	0	0	0
Supervisor	1,670.0	150,236	89.96	828	842	74,464	75,772
Supervisor	1,660.0	144,129	86.82	823	837	71,437	72,692
Network Engineer		137,012				67,909	69,103
Services and Supplies		180,623				89,525	91,098
City Overhead		375,260				185,996	189,264
Total	33,188	\$ 3,140,003		16,450	16,738	\$ 1,542,224	\$ 1,597,779

Projected Distribution of Hours Between Functions

49.56%	50.44%
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Projected FY 2008-09 Average Cost Per Print Examination

\$ 83.18	\$ 20.50
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*1vacant

*2 Productive hours based on actual staff hours worked in 2007.

*3 Actual 2007 salary and benefit costs were used, but total program costs were based on the FY 2008-09 Cal-ID approved budget

Table 1.8

Analysis of FY 2008-09 AFIS/Cal-ID Costs by Agency Based on Actual 2007 Usage vs Population

Agency	Activity		Actual Cost			Current Cost Apportionment Based on Population*5	Over/(Under) Charge Based on Actual Cost
	10-Prints	Latent Prints	Based on \$20.50 Per 10-Print	Based on \$83.18 Per Latent Print	Combined Total		
	CY 2007	CY 2007					
City Agencies:							
San Jose PD*1	32,150	9,512	658,936	791,200	1,450,136	1,237,776	(212,360)
Gilroy PD	3,237	1,349	66,352	112,209	178,560	63,116	(115,444)
Sunnyvale PD	3,933	1,999	80,604	166,275	246,879	172,535	(74,344)
Milpitas PD	2,262	1,320	46,368	109,796	156,164	84,624	(71,540)
Los Gatos PD	452	616	9,260	51,238	60,498	37,383	(23,115)
Campbell PD	1,117	531	22,897	44,168	67,065	50,529	(16,536)
Mountain View PD	3,227	521	66,130	43,336	109,466	93,134	(16,332)
Santa Clara PD	3,361	1,040	68,894	86,506	155,400	145,224	(10,176)
Morgan Hill PD	2,090	179	42,831	14,889	57,720	48,839	(8,881)
Monte Sereno	22	24	451	1,996	2,447	4,532	2,085
Los Altos Hills	1	0	20	0	20	10,942	10,922
Los Altos PD	297	133	6,095	11,063	17,158	35,727	18,569
Palo Alto PD	879	351	18,013	29,196	47,209	79,599	32,390
Saratoga	52	0	1,066	0	1,066	39,918	38,852
Cupertino	273	0	5,601	0	5,601	70,124	64,523
Subtotal City Police Agencies	53,353	17,575	1,093,517	1,461,873	2,555,390	2,174,002	(381,388)
Percent of Total	68%	95%	68%	95%	81%	69%	
County Agencies:							
District Attorney*4	0	477	0	39,676	39,676	*3	*3
Medical Examiner-Coroner	0	290	0	24,122	24,122	*3	*3
Department of Correction	3,994	0	81,857	0	81,857	*3	*3
Probation Department	2,954	0	60,543	0	60,543	*3	*3
County Agencies Total *6	6,948	767	142,400	63,798	206,198	841,521	635,323
Percent of Total	9%	4%	9%	4%	7%	27%	
Federal, State and Non-County Agencies:							
	7,925	129	162,422	10,730	173,152	0	-173,152
Percent of Total	10%	1%	10%	1%	6%	0%	
Sheriff-*2							
	9,731	70	199,441	5,823	205,264	124,479	-80,785
Percent of Total	12%	0.4%	12%	0.4%	7%	4%	
Total	77,957	18,541	1,597,779	1,542,224	3,140,003	3,140,003	0

SUMMARY:**10-Print Latent Print**

● Average Cost Per Unit of Service

20.50**83.18**

● 6 Cities Overcharged:

(Cupertino, Los Altos, Los Altos Hills, Monte Sereno, Palo Alto, and Saratoga)

167,341

● 9 Cities and the Sheriff Undercharged:

(Campbell, Gilroy, Los Gatos, Milpitas, Morgan Hill, Mountain View, San Jose, Santa Clara and Sunnyvale)

-548,729

● District Attorney and other County Departments Overcharged

635,323

● Federal, State and other government agencies undercharged

-173,152

*1 Includes San Jose Airport Police

*2 Includes unincorporated, special enforcement units, and informal bookings

*3 The fixed 26.8 percent charge to the DA for all County departments amounted to \$841,521 versus actual usage of \$206,198.

*4 No 10-Prints were identified in the sample as originating from the District Attorney's livescan terminal.

*5 \$1 added to current cost apportionment total of 3,140,002 to reconcile to budget of \$3,140,003.

*6 County agency costs are budgeted in the CJIC budget of the County Information Services Department.

Table 1.9

Comparison of AFIS/Cal-ID Charges vs Crime Rates

Rank	City	Population	Calendar Year 2005*1				Over/(Under) Charge Based on Actual Cost
			Violent Crimes	Property Crimes	Total Violent & Property Crimes	Crime Rate Per 1,000 Population	
1	LOS ALTOS HILLS	8,607	2	50	52	6.04	10,922
2	LOS ALTOS	28,104	10	208	218	7.76	18,569
3	SARATOGA	31,401	21	228	249	7.93	38,852
4	CUPERTINO	55,162	56	476	532	9.64	64,523
5	MONTE SERENO	3,565	0	35	35	9.82	2,048
6	SUNNYVALE	135,721	232	1,323	1,555	11.46	(74,344)
7	MORGAN HILL	38,418	60	427	487	12.68	(8,881)
8	LOS GATOS	29,407	37	353	390	13.26	(23,078)
9	MOUNTAIN VIEW	73,262	302	932	1,234	16.84	(16,332)
10	SANTA CLARA	114,238	190	1,770	1,960	17.16	(10,176)
11	SAN JOSE	973,672	3,492	13,372	16,864	17.32	(212,359)
12	CAMPBELL	39,748	71	635	706	17.76	(16,536)
13	PALO ALTO	62,615	91	1,038	1,129	18.03	32,390
14	MILPITAS	66,568	195	1,016	1,211	18.19	(71,540)
15	GILROY	49,649	203	804	1,007	20.28	(115,444)

Average Crime Rate of Cities Overcharged based on Current Methodology 9.87

Average Crime Rate of Cities Undercharged based on Current Methodology 16.11

*1 CY 2005 crime statistics was the most recent available by city from the State Department of Justice.

Section 2. AFIS/Cal-ID Program Cost Accounting

- Financial provisions of the AFIS/Cal-ID Memorandum of Understanding (MOU) assign financial and administrative responsibility for the AFIS/Cal-ID Program to the City of San Jose, including acting as trustee over all funds paid to the City for operations of the AFIS/Cal-ID Program, maintaining an interest bearing trust account for all funds received from the County and the participating cities, and billing all participating entities for their share of program costs.
- A review of the City's AFIS/Cal-ID Program accounting during the five fiscal years from FY 2002-03 through FY 2006-07, determined that some payments by cities were deposited in the City's General Fund and not transferred to the AFIS/Cal-ID Trust Fund during FY 2005-06 and FY 2006-07, understating the AFIS/Cal-ID Trust Fund balance of the County and the participating cities by approximately \$180,000. Conversely, in FY 2002-03, the City made duplicative deposits to the Trust Fund amounting to approximately \$195,000, which were not discovered and corrected until FY 2003-04.

In addition, the stated contingency and equipment reserve policy of the AFIS/Cal-ID Local Policy Board, permits the County and the participating cities to maintain reserves in an amount up to 20 percent of the annual operating budget. However, as of June 30, 2008, the AFIS/Cal-ID Trust Fund balance amounted to \$803,278, or 42 percent of the FY 2008-09 net expenditure budget that is funded by the County and the participating cities. Since the AFIS/Cal-ID program significantly underspends its annual budget, the \$803,278 Trust Fund balance amounted to 58 percent of FY 2007-08 actual Trust Fund expenditures.

Lastly, the AFIS/Cal-ID Local Policy Board has not developed and adopted written policies and procedures as required by the MOU, nor has it developed and adopted an expenditure plan for unexpended SB 720 monies as required by State law.

- By implementing the recommendations in this report, including the City of San Jose fully correcting the \$375,000 of prior-year accounting discrepancies in the AFIS/Cal-ID Trust Fund, and refunding the remaining excess balance in the AFIS/Cal-ID Trust Fund to the cities and the County, prior program overcharges and accounting discrepancies can be corrected and the AFIS/Cal-ID Local Policy Board will be in compliance with the MOU requirements.

Cal-ID Program Accounting Discrepancies

Pursuant to the 2002 Cal-ID MOU, the City of San Jose has specific obligations to account for monies received from agencies participating in the Cal-ID Program,

including maintaining a separate trust account, collecting annual charges from each agency, calculating monthly Cal-ID expenditures to deduct from the trust account, and apportioning interest on trust account balances. Consequently, in addition to evaluating whether the population based charge methodology achieves the objective of the Cal-ID MOU to “equitably” share costs, we performed a limited review of the administration of the City’s Cal-ID trust account from FY 2001-02 through FY 2006-07. Our review identified the following issues:

- (1) In FY 2002-03, the AFIS/Cal-ID participating cities and the County agreed to use \$150,000 from the AFIS/Cal-ID Trust Fund balance to reduce their total annual cost of the AFIS/Cal-ID Program for that fiscal year. However, the City of San Jose was erroneously included in the cost reduction calculations, which should not have occurred, since the monies in the trust fund do not include City of San Jose funds. As a result, the cities and the County did not receive the full \$150,000 cost reduction that they had approved. Instead, the cities and the County made a combined overpayment of \$58,532 in FY 2002-03. This \$58,532 overpayment and the accumulated interest remain in the trust fund and are a part of the trust fund reserves that amounted to \$803,278 as of June 30, 2008.
- (2) Also during FY 2002-03, the City of San Jose transferred monies from its General Fund into the AFIS/Cal-ID Trust Fund following receipt of annual payments by the cities and the County. Included in a November 26, 2002 transfer was \$195,715 from the City of San Jose General Fund into the AFIS/Cal-ID Trust Fund, reportedly for payments made by the cities of Los Altos Hills, Milpitas, and Sunnyvale. However, those payments had not yet been made, and were not made until January 16 and January 30, 2003, at which time these amounts were again deposited into the AFIS/Cal-ID Trust Fund. The duplicative transfer of \$195,715 from the City General Fund to the AFIS/Cal-ID Trust Fund was not discovered and corrected until December 10, 2003. During the intervening 11-month period, the Trust Fund received excess interest of approximately \$5,513, which should be returned to the City of San Jose General Fund.
- (3) In FY 2005-06, the cities of Milpitas, Morgan Hill and Saratoga made payments of \$112,532 that were deposited by the City of San Jose into its General Fund, but never transferred to the AFIS/Cal-ID Trust Fund. The Milpitas payment of \$55,748 was received on September 13, 2005, the Saratoga payment of \$26,148 was received on September 26, 2005, and the Morgan Hill payment of \$30,636 was received on January 6, 2006. After researching the processing of these payments, San Jose transferred \$112,532 from its General Fund to the AFIS/Cal-ID Trust Fund on January 28, 2008 to correct the processing oversight. In addition, the City should transfer an additional \$11,738 of interest that was earned by the General Fund during

the period of time the monies remained in the City's General Fund erroneously.

- (4) In FY 2006-07, on November 16, 2006, the City of Milpitas made its annual AFIS/Cal-ID payment of \$58,275 to the City of San Jose. However, the City of San Jose deposited this payment in its General Fund without subsequently transferring it to the AFIS/Cal-ID Trust Fund in FY 2006-07. During FY 2007-08, San Jose determined that the FY 2006-07 payment by the City of Milpitas remained in its General Fund, but rightfully belonged to the AFIS/Cal-ID Trust Fund. On August 13, 2007, the City transferred the Milpitas payment from its General Fund to the AFIS/Cal-ID Trust Fund. Consequently, the City should also deposit approximately \$2,014 of accumulated interest in the AFIS/Cal-ID Trust Fund that had been deposited in the General Fund while the Milpitas payment was in the General Fund.

As of June 30, 2008, the AFIS/Cal-ID Trust Fund cash balance amounted to \$803,278. On March 29, 2000, the AFIS/Cal-ID Local Policy Board approved a policy that the Trust Fund should maintain an operating reserve and an equipment reserve, each equaling up to 10 percent of the annual AFIS/Cal-ID Trust Fund budget. The FY 2008-09 AFIS/Cal-ID Program total budget amounted to \$3,140,003, including City of San Jose overhead charges. Deducting the \$1,237,776 portion of the budget pertaining to the City of San Jose, the net FY 2008-09 AFIS/Cal-ID budget which pertains to the AFIS/Cal-ID Trust Fund is \$1,902,227. Consequently, the maximum amount of the each reserve should be \$190,223, or a combined total of \$380,446. Therefore, the June 30, 2008 excess reserve balance amounted to \$422,832 (\$803,278-380,446). However, the AFIS/Cal-ID Local Policy Board approved a \$400,000 refund from the Trust Fund excess reserves in the adoption of the FY 2008-09 annual budget. Consequently, the excess reserves in the Trust Fund at the time of this report amount to approximately \$22,832.

The combined net amount of items discussed above result in an adjusted excess Trust Fund reserve balance of \$31,072. These excess reserves should be refunded to each agency in accordance with its percentage of contribution to the AFIS/Cal-ID Trust Fund for FY 2008-09, as shown in the Table 2.1 on the next page. Because the City of San Jose does not contribute to the AFIS/Cal-ID Trust Fund, it would not receive any refund. However, in order to ensure improved accuracy of the AFIS/Cal-ID Program annual budget allocations and accounting transactions and minimize the need for future refunds, the Chief Fiscal Officer of the City of San Jose Police Department should be included in the review process of the monthly and annual AFIS/Cal-ID accounting entries. In addition, the AFIS/Cal-ID participating agencies should conduct periodic audits of the City of San Jose AFIS/Cal-ID budget apportionments, Trust Fund deposits and expenditures, and interest allocations every three to five years to ensure the accuracy of such transactions which exceed \$3,000,000 annually.

Table 2.1
FY 2008-09
Percentage Share of Costs
AFIS/Cal-ID Restricted Trust Fund Participating Agencies

<u>Agency</u>	<u>Percent</u>	<u>Amount of Refund</u>
Campbell	2.656%	\$825
Cupertino	3.686%	1,146
Gilroy	3.318%	1,031
Los Altos	1.878%	584
Los Altos Hills	0.575%	179
Los Gatos	1.965%	611
Milpitas	4.449%	1,382
Monte Sereno	0.238%	74
Morgan Hill	2.567%	798
Mountain View	4.896%	1,521
Palo Alto	4.185%	1,300
Santa Clara	7.634%	2,372
Saratoga	2.098%	652
Sunnyvale	9.070%	2,818
Unincorporated (Sheriff)	6.544%	2,033
County Info Svcs Dept (ISD)*	<u>44.239%</u>	<u>13,746</u>
Total	<u>100.000%</u>	<u>\$31,072</u>

* The County Information Services Department pays for the AFIS/Cal-ID services provided to the Department of Correction, Office of the District Attorney, Medical Examiner-Coroner, and Probation Department.

AFIS/Cal-ID Local Policy Board Policies and Procedures

In addition to the accounting discrepancies described above, the AFIS/Cal-ID MOU requires the Local Policy Board to administratively develop written policies pertaining to the use of excess monies maintained in the AFIS/Cal-ID Trust Fund. Although the AFIS/Cal-ID Trust Fund has had surplus balances since FY 1988-89, no written policies and procedures have been developed to govern the appropriation and expenditure of these funds. However, the minutes of the AFIS/Cal-ID Local Policy Board meeting of March 29, 2000 report that the Board voted on and approved a policy pertaining to a contingency reserve and an equipment reserve, each in an amount up to 10 percent of the annual operating budget. Furthermore, Section A.5.6 of the 2002 Memorandum of Understanding specifically require that the AFIS/Cal-ID Local Policy Board, "... shall develop written policies regarding the maintenance and use of the Reserve." Nevertheless, no such written policies have been developed since the approval of the 2002 MOU. Consequently, the Local Policy Board should consider the adoption of written policies and procedures to govern the

appropriation and expenditure of excess AFIS/Cal-ID Trust Fund monies as required by the 2002 MOU.

SB 720 Funding

The SB 720 Program was added to the California Vehicle Code in 1997 as Section 9250.19. This code section permits a county board of supervisors to add \$1.00 to the annual vehicle registration fee of each vehicle registered in its county, if the board adopts a resolution to authorize assessing of the fee exclusively for purposes of enhancing law enforcement capacity to provide automated mobile and fixed location fingerprint identification of individuals who may have operated a motor vehicle while under the influence of alcohol or drugs.

SB 720 funds are received by the County of Santa Clara and deposited in a trust fund administered by the Office of the District Attorney. The District Attorney is required to submit an annual report to the State Controller not later than November 1 of each year, showing the financial and operating results of the use of SB 720 monies, including how the expenditure of such funds benefited the motoring public.

Section 9250.19(h) of the California Vehicle Code requires the State Controller to notify the Department of Motor Vehicles to suspend collection of the \$1.00 fee for any participating county that does not fully expend or encumber all of the monies received in each fiscal year by the end of that same fiscal year. Table 2.2 (attached) shows that the County has had an unexpended fiscal year end balance ranging from \$1.7 million to as much as \$4.3 million since instituting the SB 720 program in the County of Santa Clara in FY 1998-99. Based on the SB 720 annual reports submitted to the State Controller, as well as the minutes of the AFIS/Cal-ID/RAN board, and the County's SB 720 trust fund accounting reports, the County has not been in compliance with California Vehicle Code Section 9250.19(h). While the annual State Controller reports refer to AFIS/Cal-ID/RAN Board goals for future fingerprint identification enhancements, the County's accounting records do not reflect any specific designation of unexpended fund balance, or encumbrance of funds for specific projects. Further, none of the annual budget documents or AFIS/Cal-ID/RAN Board minutes reflect the consideration and adoption of a future capital improvement expenditure plan, as described in California Vehicle Code Section 9250.19(h). Specifically, the Code requires participating counties to annually encumber any unexpended monies received during each fiscal year by (1) identifying and approving specific future equipment or programmatic expenditures related to enhancement of fingerprint identification, and (2) developing and approving a specific acquisition or implementation schedule related to the approved fingerprint enhancement expenditures.

Consequently, by not later than June 30, 2009, the AFIS/Cal-ID/RAN Board should develop and approve an expenditure plan for the current unexpended SB 720 fund balance of approximately \$3.7 million, including a specific expenditure schedule for each equipment expenditure or program included in the approved expenditure plan. Depending on the specific expenditures and the related costs, a multi-year (three or five-year) plan may best meet the needs of the Board, and satisfy the requirements of California Vehicle Code Section 9250.19(h).

CONCLUSION

Since FY 1988-89, the City of San Jose has administered the AFIS/Cal-ID Trust Fund on behalf of the County and the 14 participating cities, pursuant to a series of agreements and the current memorandum of understanding. During the five-year period from FY 2002-03 through FY 2006-07, several accounting discrepancies occurred, resulting in overcharges to participating AFIS/Cal-ID agencies, and payments by AFIS/Cal-ID agencies not being deposited in the AFIS/Cal-ID Trust Fund. Also, the AFIS/Cal-ID/Ran Board has not complied with State law requiring establishment of a specific expenditure plan with implementation dates for use of unexpended SB 720 vehicle registration monies. The City should provide greater scrutiny over the accounting of the AFIS/Cal-ID Trust Fund, the participating agencies should audit the Trust Fund at least every three to five years, and the AFIS/Cal-ID/Ran Board should adopt a specific expenditure plan for unexpended SB 720 monies.

RECOMMENDATIONS

It is recommended that the Chief Fiscal Officer of the City of San Jose Police Department:

- 2.1 Annually review the AFIS/Cal-ID budget calculations and apportionments as well as the accounting transactions pertaining to the AFIS/Cal-ID Trust Fund, and report any discrepancies to the AFIS/Cal-ID/RAN Board in a timely manner.

It is recommended that the County and the participating cities whose financial contributions to the AFIS/Cal-ID Program are accounted for in the City of San Jose's AFIS/Cal-ID Trust Fund:

- 2.2 Audit the AFIS/Cal-ID Trust Fund every three to five years to ensure the accuracy of: (1) AFIS/Cal-ID budget apportionments between participating agencies, (2) Trust Fund deposits of participating agency payments, (3) expenditures charged to the

Trust Fund, and (4) interest allocations by the City to the Trust Fund.

It is recommended that the AFIS/Cal-ID/RAN Local Policy Board:

- 2.3 Develop and adopt written policies and procedures pertaining to the establishment and expenditure of Trust Fund reserves, and other policies of the Board that should appropriately be contained in a written policy and procedure manual.
- 2.4 Develop and adopt a multi-year expenditure plan by not later than June 30, 2009 for the SB 720 unexpended fund balance of approximately \$3.7 million, including an expenditure schedule for each planned equipment acquisition or program.

SAVINGS/BENEFITS

The implementation of these recommendations would fully correct, prior accounting discrepancies during the five year period FY 2002-03 to FY 2006-07, would provide a one-time refund of approximately \$31,072 to the agencies that contribute to the AFIS/Cal-ID restricted trust fund, and would formalize unwritten AFIS/Cal-ID/RAN Local Policy Board policies in accordance with the MOU. Auditing of the AFIS/Cal-ID Trust Fund would ensure that revenues and expenditures of the AFIS/Cal-ID Trust Fund were accounted for accurately. The cost of periodic audits would vary depending on the frequency and whether such audits were performed by participating agency staff or contract auditors. Development and adoption of a multi-year expenditure plan for the unexpended SB 720 fund balance would bring the County into compliance with California Vehicle Code Section 9250.19(h).

Table 2.2
ANALYSIS OF SB 720 REVENUES AND EXPENDITURES

Agency	FY 1998-99	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
Revenue											
New Revenue	297,556	1,410,574	1,490,917	1,484,168	1,459,234	1,421,356	1,450,612	1,458,050	1,483,348	1,494,393	1,491,171
Carryover from Previous FY	297,556	297,556	1,666,130	2,502,882	3,504,115	3,279,534	4,316,616	2,083,724	1,385,328	2,456,861	3,375,767
Total Available	297,556	1,708,130	3,157,047	3,987,050	4,963,349	4,700,890	5,767,228	3,541,774	2,868,676	3,951,254	4,866,938
Expenses											
Historic (not recurring)											
Repayment to GF for LEA	(240,500)										
CIU Staffing				(178,749)							
SJPD & Milpitas			(180,000)			27,541					
Interoperable Communications Grant							(739,680)				
AFIS					(1,300,000)			65,686			
SO Fingerprint Comparison (one-time)										(138,238)	
NIST Archive Expansion (4 Yr. Capacity)			(150,000)								
Livescans											
Current											
Mugshot System - Ongoing Maintenance			(279,165)	(197,919)	(207,815)	(207,815)	(2,771,632)	(1,810,317)	(207,815)	(207,815)	(175,430)
Livescans maintenance			(45,000)	(48,798)	(56,000)	(64,000)	(64,000)	(207,815)	(64,000)	(64,000)	(218,205)
Admin support		(42,000.00)		(57,469)	(120,000)	(140,000)	(108,192)	(64,000)	(64,000)	(64,000)	(64,000)
DPFN Records Correction								(140,000)	(140,000)	(165,434)	(165,434)
Crime Lab Image Capture Hardware (one-time)											(22,000)
Upgrade Dig. Enhancement Sys (one-time)											(48,000)
Total Expenditures	(42,000)	(654,165)	(654,165)	(482,936)	(1,683,815)	(384,274)	(3,683,504)	(2,156,446)	(411,815)	(575,487)	(693,069)
Unexpended Fund Balance	1,666,130	2,502,882	3,504,115	3,279,534	2,083,724	4,316,616	1,385,328	2,456,861	3,375,767	4,173,869	

County of Santa Clara

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Dolores A. Carr
District Attorney

MEMORANDUM

To: Roger Mialocq
Board of Supervisors Management Audit Manager

From: Dolores A. Carr, District Attorney *Dolores A Carr*

Date: February 13, 2009

Re: **Response to Draft Audit Report on the Cal-ID Program MOU**

We are generally supportive of the recommendations contained in the Draft Audit Report on the Cal-ID Program MOU, dated February 5, 2009, as long as the corrections and concerns set forth below are addressed.

Technical Corrections:

- Page 3, 1st full paragraph, 2nd sentence, reads.... "The terms of this agreement included a requirement that the *District Attorney's Office* pay for 26.8 percent..." It is ISD (actually CJIC) that has always paid this amount, therefore I recommend use of "County," "ISD," or "CJIC" as opposed to District Attorney's Office. This is in keeping with the terminology used elsewhere in the report (particularly page 6, 1st full paragraph under Analysis of the 2002 MOU).
- Page 10, 1st full paragraph under Recomputation of FY 2007-08..., 3rd sentence refers to the District Attorney's Office and other County Departments being overcharged. The DA's Office does not pay into Cal-ID and cannot therefore be overcharged. Recommend referring simply to County Departments and striking reference to the DA's Office.
- Page 11, 1st full paragraph, 1st sentence again refers to the District Attorney being overcharged. Refer to my comments in the above bullet point. Recommend changing terminology to refer to "County," "ISD," or "CJIC."
- Page 12, 1st sentence under RECOMMENDATIONS, reads ... "It is recommended that the *Office of the District Attorney*:" This recommendation should include the holders of all County seats on the RAN Board (DA, Sheriff, and Supervisor Gage), not merely the DA.

Operational Concerns / Recommendations:

- Page 12, Recommendation 1.1, proposes the MOU be amended to a cost sharing methodology based upon actual usage, not population. Might you consider altering this recommendation slightly to charge an average of the past five years of usage in order to prevent wide swings in charges to cities and County departments year to year? This would make budget planning easier while still addressing the inequities cited in your report.
- Although not specifically stated in the recommendations on page 12, I assume it is implicit that Cal-ID would commence billing state and federal agencies for their submissions. Might I recommend this be spelled out more clearly, but also that it be acknowledged that we may not be able to collect on these invoices? I would recommend billing state and federal agencies, but not budgeting for the revenue in the Cal-ID budget due to the lack of the ability to enforce payment. Any actual payment receipts from state and federal agencies would be on top of charges to cities and County Departments causing an increase in the Cal ID Reserve Fund. This overage in the Reserve Fund could then be credited back to the user agencies proportionately as a rate reduction in the following year.