

**California Victim Compensation and Government Claims Board**  
**Open Meeting Minutes**  
**January 15, 2015, Board Meeting**

The California Victim Compensation and Government Claims Board (Board) convened its meeting in open session at the call of Marybel Batjer, Secretary, California Government Operations Agency, at 400 R Street, Sacramento, California, on Thursday, January 15, 2015, at 10:05 a.m. Also present was Board member Richard Chivaro, Deputy State Controller and Chief Counsel, acting for and in the absence of Betty T. Yee, Controller. Board Member Ramos, San Bernardino County District Attorney, participated in the meeting via teleconference.

Board staff present included Executive Officer Julie Nauman and Chief Counsel Wayne Strumpfer. Tisha Heard, Board Liaison, recorded the meeting.

The Board meeting commenced with the Pledge of Allegiance.

**Item 1. Approval of Minutes of the December 11, 2014, Board Meeting**

The Board unanimously approved the minutes of the December 11, 2014, Board Meeting.

**Item 2. Public Comment**

None.

**Item 3. Executive Officer Statement**

The Executive Officer Statement was postponed to the February 19, 2015, meeting.

**Item 4. Contract Report**

Contractor: Western Blue an NWN Co., 4VCGC190  
Contract Amount: \$63,445.75  
Contract Term: 3 Years

Contractor: Evolve Technology Group (EPlus), 4VCGC215  
Contract Amount: \$57,793.32  
Contract Term: 3 Years

Contractor: Pacific Business Technologies LLC, 4VCGC2XX  
Contract Amount: \$77,666.09  
Contract Term: 3 Years maintenance

The Board unanimously approved the Contract Report.

**Item 5. Legislative Update**

The Legislative Update was postponed to the February 19, 2015 meeting.

**Item 6. Government Claims Program**

**Consent Agenda (Nos. 1-445)**

Nicholas Wagner, Manager, Government Claims Program informed the Board that item number 218 (620972), the claim of Frank C. Alegre, was removed from the consent agenda to allow the claimant the opportunity to address the Board and item number 277 (621210), the claim of Pamela Williams, was removed from the consent agenda at the request of the claimant.

The Board unanimously approved the consent agenda for numbers 1-445, as amended, with the exception of item numbers 218 and 277.

**Consent Agenda Appearance**

**Item 218, 620972**

**Claim of Frank C. Alegre Trucking, Inc.**

Claimant Frank C. Alegre appeared and addressed the Board on behalf of Alegre Trucking, Inc. Peter Ackeret was in attendance on behalf of the California Department of Transportation.

Nicholas Wagner, Manager, Government Claims Program explained that Frank C. Alegre Trucking (Alegre) sought compensation in an amount exceeding \$25,000 from the California Department of Transportation (Caltrans) for lost profits. Government Claims Program staff recommended that the Board reject the claim because the issues raised were complex and outside the scope of analysis and interpretation typically undertaken by the Board.

Mr. Alegre stated that in 2013 his company he had a contract with R&L Brosamer to provide trucking services on the I-5 project in Stockton. He explained that Jay Titus of R&L Brosamer (Brosamer) informed him that he needed help getting rid of grindings, ground up highways, that were contaminated with fabric. He agreed to haul the grindings to his location for an agreed upon price. Alegre continued hauling the grindings the following year until a Caltrans engineer wrote a letter to Brosamer advising that they had to use a specific trucker. Mr. Alegre stated that Caltrans overstepped its boundaries when it told the contractor where to take the grindings and who to hire. He commented that it was unfair that all of the people who were getting the grindings were all the same gender.

Chairperson Batjer asked Mr. Alegre to clarify whether he meant the people were the same gender.

Mr. Alegre stated that the resident engineer, trucker, and the person who owned the place where the grindings were taken were all the same nationality.

Chairperson Batjer explained that gender referred to male and female, not a person's nationality.

Mr. Ackeret recommended that the Board reject the claim because the issues raised by Mr. Alegre were complex and raised issues of law and fact that would be best resolved by a court.

Chairperson Batjer asked Mr. Alegre to provide the specific dollar amount of his government claim.

Mr. Alegre stated that the amount of his claim exceeded \$25,000 by a great deal and totaled as much as \$100,000.

Board member Chivaro asked Mr. Alegre to clarify whether his company had a contract with Caltrans.

Mr. Alegre stated that he did not have a contract with Caltrans. Caltrans had a contract with R&L Brosamer.

The Board unanimously adopted the staff recommendation and rejected the claim due to its complexity.

#### **Item 7. Applications for Discharge From Accountability for Collection**

Mr. Wagner stated that 13 State agencies requested discharge from accountability for collection of debt totaling \$902,883.58.

According to the Office of the State Controller and, if applicable, the Office of the Attorney General, the applicants met the criteria for discharge from further accountability for collection and the criteria for authorization to close the accounts. The State Controller's Office audited the applications and determined that they met the criteria for discharge. For all items exceeding the monetary jurisdiction of the small claims court, the Office of the Attorney General advised, in writing, that collection was not justified by the cost or is improbable.

Government Claims Program staff recommended that the Board approve the requests pursuant to Government Code section 13940, et seq.

The Board unanimously adopted the staff recommendation and approved the requests.

**Item 8. Claim of Steven Hypolite (Pen. Code § 4900 et seq.)**

Claimant Steven Hypolite was not in attendance. Larenda Delaini, Deputy Attorney General, was in attendance on behalf of the Department of Justice, Office of the Attorney General.

Wayne Strumpfer, VCGCB Chief Counsel, explained that Claimant was convicted of lewd acts upon a child under the age of 14, with the sentencing enhancement that he committed great bodily injury upon the child, and was sentenced to 15 years to life in prison. Claimant had numerous appeals and habeas corpus writs denied. Claimant was paroled in 2013. The hearing officer recommended that the Board deny the claim brought under Penal Code section 4900.

Ms. Delaini stated that the Attorney General's Office requested the Board adopt the proposed decision and reject Claimant's claim for compensation pursuant to Penal Code section 4900. She explained that the proposed decision was supported by substantial evidence and was based on an accurate statement and application of the law in that area. Claimant's conviction for committing a lewd and lascivious act on his seven-year old foster child infecting her with genital herpes remained in place and Claimant had not established his innocence before the Board.

Ms. Delaini commented Claimant's rebuttal, which he did not provide to the Attorney General's Office, instead, it was provided by the hearing officer, suggested that the proposed decision must be rejected for the following reasons: (1) claimant never claimed that he did not have herpes simplex II, as stated in the hearing officer's Determination of Issues. Ms. Delaini stated that the allegation was untrue. She stated that Claimant's entire claim was concerned with the fact that the prosecutor falsely claimed that he had genital herpes. She explained that according to the experts who testified at trial, and those transcripts were submitted to the hearing officer for consideration, herpes simplex II is genital herpes. The hearing officer's finding was supported by substantial evidence; (2) the prosecutor knowingly introduced false material testimony that claimant's blood tested "equivocal" for the herpes I.G.M. antibody. Ms. Delaini explained that the prosecutor presented expert testimony from a doctor who interpreted the blood test results and opined that the antibody was sort of in the equivocal range. The judge advised the jury that they were free to reject the expert's opinion in that area and adopt a different determination of the facts. The hearing officer's determination was also supported by substantial evidence; (3) Claimant suggested that the victim's sex stories were false and physically impossible because she was a "pure virgin" and had a mental propensity to make up false sexual molestation stories. Ms. Delaini explained that Claimant did not present any evidence to the hearing officer to suggest that the victim was a "pure victim" or that she had a mental propensity to make up such stories. The hearing officer did not have evidence from which he could consider making such a finding.

Ms. Delaini stated that Claimant's remaining contentions about the genital herpes testing and his theory on autoinoculation were adequately addressed by the hearing officer and those findings were supported by substantial evidence. Claimant had not demonstrated that he was innocent of the lewd and lascivious acts for which he was convicted in 1997. Claimant's conviction remains in place and no state or federal court has been willing to declare Claimant factually innocent or grant him habeas reliefs based on the same meritless complaints that he presented to the Board.

Finally, Ms. Delaini stated that the hearing officer's proposed decision was supported by substantial evidence and was based on an accurate statement and application of the law and therefore the proposed decision should be adopted and the claim rejected.

Board member Ramos commented that Ms. Delaini provided an excellent summary of the case. He stated that he was in agreement with the hearing officer's recommendation and would move the recommendation of the hearing officer.

The Board unanimously adopted the hearing officer's recommendation and denied the Claimant's claim for compensation.

**Item 9. Claim of Susan Mellen (Pen. Code § 4900 et seq.)**

Claimant Susan Marie Mellen was in attendance. Deirdre O'Connor, Founder and Executive Director, Innocence Matters, addressed the Board on behalf of Ms. Mellen. Larenda Delaini was in attendance on behalf of the California Department of Justice, Office of the Attorney General.

Wayne Strumpfer, VCGCB Chief Counsel, explained that Ms. Mellen was convicted of first-degree murder with special circumstances. On September 18, 2014, Innocence Matters filed a petition for writ of habeas corpus asserting that Ms. Mellen was factually innocent, had been convicted entirely on false testimony, and received an unfair trial when the trial prosecutor withheld exculpatory evidence and the trial defense attorney failed to provide effective representation. On October 10, 2014, the Los Angeles District Attorney's Office conceded the merits of Ms. Mellen's habeas petition. On November 21, 2014, the Los Angeles County Superior Court granted Ms. Mellen's writ of habeas corpus and reversed her conviction pursuant to Penal Code section 1485.55, subdivision (b), on the grounds that she had conclusively established her innocence of the charges for which she had been convicted.

Mr. Strumpfer explained that the hearing officer recommended that the Board approve the proposed decision and recommend that the Legislature make an appropriation to pay the claim of Susan Mellen in the sum of \$597,200.00 for 5,972 days that she was incarcerated.

Ms. O'Conner thanked everyone involved in expediting Ms. Mellen's claim. She explained that it had been a long journey for Ms. Mellen.

Ms. Delaini stated that the Attorney General's Office did not have an opportunity to investigate the matter due to the current state of the law, but noted that in the Superior Court the Los Angeles District Attorney's Office conceded that claimant could meet her burden of proving her innocence by a preponderance of the evidence pursuant to Penal Code section 1485.55(b). The Superior Court found Claimant innocent and consequently the Board was mandated to recommend an appropriation to the legislature because claimant spent 5,972 days in prison. She stated that the Attorney General's Office agreed with the proposed decision that the recommendation should be in the amount of \$597,200.00.

Chairperson Batjer commented that a great injustice was committed against Ms. Mellen; however, she was glad to see it rectified. She stated that as Chair of the Board, she was pleased to move toward the legislature for compensation for the 5,972 days of Ms. Mellen's life that was taken away from her.

The Board unanimously adopted the hearing officer's recommendation and allowed Ms. Mellen's claim for compensation pursuant to Penal Code section 4900 et seq. in the amount of \$597,200.00 for being wrongfully imprisoned for 5,972 days.

**Victim Compensation Program**

The Board commenced the Victim Compensation Program portion of the meeting at 10:27 a.m.

### **Panel Discussion on Victim Service Delivery Models**

Executive Officer Nauman moderated the Panel Discussion on Victim Service Delivery Models.

Dr. Bitu Ghafoori, Ph.D., Director of Long Beach Trauma Recovery Center, Coordinator of Marriage and Family Therapy Program Professor, explained that the Long Beach Trauma Recovery Center (LBTRC) is a university-based team of mental health professionals working in collaboration with local partners to serve a diverse group of victims of crime and violence. The local partners include the Long Beach Police Department, Los Angeles County District Attorney, Long Beach City Prosecutor, local hospitals, community-based agencies, and local schools, colleges, and universities. The LBTRC service delivery model is based primarily on the UCSF model. The goal is to provide services in an efficient manner that includes, among many others, direct mental health services, case management, linkages to medical care, coordination of care between professionals serving victims of crime, assistance with the CalVCP application process, and training to law enforcement on the effects of crime. The LBTRC provides a training program to Master's level students studying counseling, marriage/family therapy, and social work.

As a university-based center with experts in the field of traumatic stress on staff, the LBTRC is also conducting research on the efficacy of its services and their model. Due to the many barriers to serving underserved victims of crime and violence that include stigma, the prohibitive cost, transportation, and childcare costs, the LBTRC aims to remove some of the known barriers to mental health care. The LBTRC provided education and outreach and intervention services to the most underserved, including racial and ethnic minorities, the poor, and the uninsured. Long Beach in particular has a disproportionately high number of individuals who have experienced trauma, violence, and loss. Long Beach has double the incidences of sexual assault and four times the rate of domestic violence compared to other areas of Los Angeles County. The LBTRC's goal is to create a better quality of life for those individuals by bringing mental health care, advocacy, outreach, and education as well as services to diverse victims of trauma and their families. LBTRC's vision is to serve as many individuals as possible and to continue to strengthen partnerships and work with family justice centers in the future.

Chairperson Batjer asked Dr. Ghafoori how many clients the LBTRC served annually and whether those individuals were referred to the LBTRC by law enforcement.

Dr. Ghafoori stated that the LBTRC has been open seven months and has served approximately 200 individuals. She explained that law enforcement referred many clients; however, the local hospitals have been a big referral source.

Jennifer Young, LCSW, Program Director of Special Service for Groups Trauma Recovery Center, participated via teleconference. Ms. Young stated that Special Service for Groups (SSG) is a community-based trauma recovery center serving all ages. She explained that SSG is unique because it attaches their services by mobilizing their services where the need arises. The SSG team is a multidisciplinary team with many backgrounds. A resource specialist at the onsite resource center provides walk ins, a therapist provides one-on-one clinical studies, and a psychiatrist provides psychological testing. There is a case management navigation system for linkage support. The navigation system assists with navigating all the services needed so that clients do not have to do it alone. SSG opened its doors in late April 2014 and has serviced over 400 individuals from 5 to 78 years of age. The barriers encountered are limited resources within the community. There is a great need for shelter and rapid re-housing. SSG's future goal is expansion and to keep stable and solid relationships with law enforcement.

Chairperson Batjer asked Ms. Young how SSG was formed and whether SSG served LA County and surrounding cities.

Ms. Young explained that SSG serves LA County and the surrounding cities. Some clients come from further away because they do not want to receive the services in their own city. The director of SSGs Homeless Outreach Program Integrated Care System (HOPICS) realized a need for individuals to process their crime-related experiences. Consequently, when the grant became available, the director applied for it.

Dr. Alicia Boccellari, Ph.D., Director of Psychosocial Medicine, University of California, San Francisco Trauma Recovery Center Professor, explained that the UCSF Trauma Recovery Center (Center) was created in 2001 in partnership with CalVCP. UCSF was able to collaborate closely during the four-year period when UCSF had the initial block grant. The Centers accomplishments would not have been possible without the help of the Board and the support of the legislature. In July 2013, SB 71 was enacted resulting in the creation of additional trauma recovery centers in Long Beach and Los Angeles. The Centers model has shown to be more accessible to victims of violent crime and more cost effective than customary care. The Center serves San Francisco's most vulnerable individuals who are victims of violent crime including sexual assaults, domestic violence, gunshot injuries, human trafficking, and family members of homicide victims. The Center serves people from all walks of life, but most are poor and without resources; violence and poverty go hand in hand. The Centers model uses a flexible and comprehensive approach in treating victims of crime. The model emphasizes three integrated modes of service: assertive outreach, clinical case management, and evidence-based, trauma-focused, mental health services. Although the Center accepts referrals throughout San Francisco and from law enforcement, many clients are identified at San Francisco General, a Level I trauma center. Staff approach clients in the emergency department or after they are admitted to the hospital with injuries related to their violent crime. The Center's model of care is to meet people where they are. Staff visits clients in hotels, apartments, the projects, and homeless encampments. It is a stepped care model, a single point of contact with a trauma specialist who collaborates with clients to initially focus on safety and stabilization. In contrast to other models where the responsibilities are divided between different staff across different agencies, a single clinician, with support of the rest of the team, provides assertive outreach, case management, evidence-based psychotherapy, advocacy, and substance abuse treatment. The model ensures coordination across various systems of care. As a result, victims are not likely to fall through the cracks. Some of the case management services offered are help with completing CalVCP applications, other financial entitlements, arrangements for safe housing, filling out police reports, linkages to medical care, linking with the San Francisco police department, the District Attorney, assisting with linkage to religious communities, and assistance with returning to work. Mental health services include mental health debriefing, crisis intervention, and time limited evidence based individual and group therapy.

The TRC serves more than 700 patients per year and provides services in more than 13 languages. The TRC model is cost effective. It costs 34% less than traditional mental health services.

Honorable Nancy O'Malley, Alameda County District Attorney, Alameda County Family Justice Center (ACFJC), participated via teleconference. DA O'Malley explained that in 2004 she conducted an assessment in Alameda County to see what a typical woman who is the victim of domestic violence with a child accessing services experienced. It was discovered that the woman would have to access 25 different locations and navigate seven different systems independent of each other, making the ability to navigate all the different services impossible. The ACFJC co-located all professionals who would provide services to victims of domestic violence. In July 2005 the ACFJC began providing services to individuals and families experiencing domestic violence, stalking, sexual assault and exploitation, child abuse, child abduction, elder and dependent adult abuse, and human trafficking. The ACFJC is a one-stop center with 30 onsite and over 50 offsite agencies and programs. Victims receive services through client navigators (on-site consultants). Services include domestic violence counseling, case management, children's counseling, shelter/housing assistance,

CalVCP application assistance, and criminal justice information and assistance, among many others.

The ACFJC serves 12,000-14,000 annually, including 2,500 kids. Forty percent of ACFJC clients are Spanish speaking. Everyone who works at the ACFJC is trained in cultural competence. The ACFJC offers many programs including P.U.L.S.E and Camp Hope. As a branch of the Alameda County Library, the AFJFC offers P.U.L.S.E. (Pop Up Library Services for Everyone). P.U.L.S.E. is a vending machine containing library books for adults and children in English and Spanish. Clients of the ACJFC can get their own P.U.L.S.E. library card to be used as often as they like to check out books. Camp Hope is a partnership between Kidder Creek Camp, Mount Hermon, Inc., and the National Family Justice Center Alliance that focuses on providing children who are victims of family violence the opportunity to build relationships with other children who share similar experiences and to provide them with a safe, fun, and engaging camping experience so they can just be children.

Casey Gwinn, Esq., President, National Family Justice Center Alliance (NFJCA) presented a PowerPoint presentation. Mr. Gwinn discussed the findings of a recent study focused on the Adverse Childhood Experiences (ACE) score, a score that attributes one point for each category of exposure to child abuse and/or neglect. A number of individuals in the study had a score of 4 out of 10. The finding suggests that certain experiences are major risk factors for the leading causes of illness and death as well as a poor quality of life.

Mr. Gwinn explained that most agencies are isolated from one another with law enforcement, therapists, prosecutors, and shelters, among others, spread out at different locations. He stated that there are family justice centers in 20 different countries and 90 in the United States. The vision is to focus on hope and healing. The challenge is scalability. The NFJCA served between 35,000-40,000; however, they cannot meet all of the needs. Therefore, the NFJCA is looking to their partners to come together. Discussions need to occur with individuals who have evidence-based outcomes doing trauma work. Additionally, there needs to be better third-party billing processes to get people to provide their services free of charge then be reimbursed instead of a crime victim having to pay for it. If the Board is the payer of last report, then the victim should not have to pay for those services.

The NFJCA will hold its 15<sup>th</sup> annual Family Justice Conference in San Diego on April 21-23, 2015. The theme is "Health Matters, Hope Heals: What Every Professional Needs to Know About Trauma." The three-day conference will focus on trauma-informed practices for professionals in diverse fields, survivors, and other social change professionals.

Chairperson Batjer thanked the panelists for the inspiring and educational discussion.

### **Closed Session**

Pursuant to Government Code section 11126(c)(3), the Board adjourned into Closed Session with the Board's Executive Officer and Chief Counsel at 11:37 a.m. to deliberate on proposed decision numbers 1-65.

### **Open Session**

The Board reconvened into Open Session pursuant to Government Code section 11126 (c)(3) at 11:45 a.m. The Board adopted the hearing officer's recommendations for proposed decision numbers 1-65.

### **Adjournment**

The Board meeting adjourned at 11:46 a.m.