

# CALAVERAS COUNTY

CALIFORNIA'S OLDEST COURTHOUSE Est. 1850

2009 - 2010 GRAND JURY  
FINAL REPORT

## **DOUBLE SPRINGS COURTHOUSE**

California's oldest courthouse is a 160-year-old termite-resistant camphor wood structure that came from Canton, China, in 1849 in 101 packages. The original 13 by 26-foot courthouse was erected in 1850 in Double Springs, Calaveras County's first county seat.

In 2006 the building was donated in memory of Percy and Sadie Hunt to the Calaveras County Historical Society to be exhibited at the Calaveras County Museum located at 30 North Main Street in San Andreas, CA 95249. The museum is open seven days a week from 10 AM to 4 PM. A 2009 Historical Society plaque inside the courthouse recognizes that the exhibit was made possible by the vision, dedication, skill, and two years of hard work of Wally Matloch and John James.

## Calaveras County Grand Jury

P.O. Box 1414  
San Andreas, California, 95249

June 6, 2010

The Honorable John E. Martin  
Calaveras County Superior Court  
891 Mountain Ranch Road  
San Andreas, Ca. 95249

Dear Judge Martin

The 2009-2010 Civil Grand Jury, in accordance with Penal Code Section 933(a), respectfully submits its Final Report to the Calaveras County Superior Court.

This report represents many hours of research and hard work by the Grand Jury which was impaneled on July 1, 2009 as a diverse group of nineteen citizens from all areas of this county.

This years Final Report includes the findings of 13 separate investigation into County works and matters. Included are the mandated inspection and inquiry into the County Jail as well as other investigations prompted by citizens complaints. Responses from the 2008/2009 Grand Jury Report are also included.

The Grand Jury wants to thank the elected officials and the employees of the County of Calaveras County for working with us on the investigation and research areas of this report and the responses from the last years report.

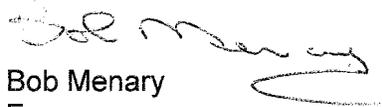
The Grand Jury thanks Judge Martin and your staff for their assistance throughout the year.

We also thank our County Council Jim Jones for his advice and for being available to us this year.

On a personal note, I would like to thank my fellow Grand Jurors for serving with me during this past year, their dedication to the County is shown in this report.

The Grand Jury feels it was an honor and privilege to serve on the Calaveras County Grand Jury during this term.

Sincerely,



Bob Menary  
Foreperson

THIS PAGE LEFT BLANK INTENTIONALLY

**2009-2010 GRAND JURY**

**FINAL REPORT**

The 2009-2010 Calaveras County Grand Jury approved this Final Report.

S/ Bob Menary  
Bob Menary, Foreperson

Date: June 9, 2010

I accept this Grand Jury Report for the year 2009-2010 for filing and certify that it complies with Title V of the California Penal Code.

S/ John E. Martin  
The Honorable John E. Martin  
Presiding Judge of the Superior Court

Date: June 9, 2010

Any persons interested in receiving a copy of this 2009-2010 Grand Jury Final Report may do so by contacting the Calaveras County Administrative Office. A copy of the Final Report is available for viewing at the main Calaveras County Library in San Andreas and at all County branch libraries.

The Final Report will be available to the public on July 1, 2010, via the local newspaper with the largest distribution in Calaveras County and will be published on the Grand Jury website:

<http://www.co.calaveras.ca.us/cc/Departments/GrandJury.aspx>

THIS PAGE LEFT BLANK INTENTIONALLY

## TABLE OF CONTENTS

A.	FACTS ABOUT THE GRAND JURY SYSTEM .....	9
1.	ASSESSOR'S OFFICE POLICY AND PROCEDURE FOR REASSESSING PROPERTY VALUES .....	13
2.	CALAVERAS COUNTY ANIMAL SHELTER .....	15
3.	CALAVERAS COUNTY JAIL .....	17
4.	BUDGET REDUCTION PROCESS OF COUNTY SCHOOL DISTRICTS AND COUNTY OPERATIONS .....	19
5.	COUNTY OF CALAVERAS SCHOOL DISTRICTS .....	27
6.	FOOTHILL FIRE PROTECTION DISTRICT .....	29
7.	CALAVERAS COUNTY LOCAL AREA FORMATION COMMISSION .....	31
8.	CALAVERAS COUNTY VETERANS SERVICES PROGRAM .....	35
9.	COUNTY ENVIRONMENTAL MANAGEMENT AGENCY .....	39
10.	REPORT ON THE CALAVERAS COUNTY MANAGEMENT REPORT FOR THE FISCAL YEAR ENDING JUNE 30, 2009 .....	43
11.	CALAVERAS COUNTY AIRPORT / MAURY RASMUSSEN FIELD .....	47
12.	PUBLIC WORKS ROADS AND BRIDGES DEPARTMENT .....	49
13.	WALLACE COMMUNITY SERVICES DISTRICT .....	51
B.	RESPONSES TO 2008-2009 GRAND JURY REPORT .....	55
R1.	RESPONSES REGARDING FORMAT OF RESPONSES TO GRAND JURY REPORTS .....	57
R2.	RESPONSES REGARDING COUNTY'S USE OF CERTIFICATES OF PARTICIPATION .....	59
R3.	RESPONSES REGARDING COPPEROPOLIS FIRE PROTECTION DISTRICT REPORT .....	63
R4.	RESPONSE REGARDING SOLID WASTE TRANSFER STATIONS AND LANDFILL SITE .....	67
R5.	RESPONSES REGARDING CALAVERAS COUNTY LIBRARY SYSTEM .....	69

R6. RESPONSES REGARDING OVERPAYMENTS BY THE COMMUNITY DEVELOPMENT AGENCY TO A COUNTY VENDOR ..... 73

R7. RESPONSES REGARDING CALAVERAS COUNTY ANIMAL SHELTER ..... 75

R8. RESPONSES REGARDING CALAVERAS COUNTY JAIL ..... 77

R9. RESPONSES REGARDING COPPER COVE ROCKY ROAD COMMUNITY SERVICE DISTRICT ..... 79

R10. RESPONSES REGARDING JENNY LIND FIRE PROTECTION DISTRICT ..... 83

R11. RESPONSES REGARDING CALAVERAS COUNTY CHILDREN'S SERVICES ..... 85

R12. RESPONSES REGARDING TAX AND REVENUE ANTICIPATION NOTES ..... 89

R13. RESPONSES REGARDING SETTLEMENT WITH THE FORMER CDA DIRECTOR ..... 91

R14. RESPONSES REGARDING EXPERT AUDITOR SELECTION ..... 93

R15. RESPONSES REGARDING CALAVERAS COUNTY MANAGEMENT REPORT (AUDIT REPORT) ..... 95

## **A. FACTS ABOUT THE GRAND JURY SYSTEM**

### **WHAT IS A GRAND JURY?**

A Grand Jury is a judicial body composed of a set number of citizens. Ancient Greece exhibited the earliest concepts of the Grand Jury System. Another reference can be found during the Norman conquest of England in 1066. There is evidence that the courts of that time summoned a body of sworn neighbors to present crimes which had come to their knowledge. In 1066 the Assize of Clarendon appears to be the beginning of the true Grand Jury system. At that time juries were established in two types: Civil and Criminal. Toward the end of the United States Colonial Period, the Grand Jury became an important adjunct of government: Proposing new laws, protesting abuses in government, and influencing authority in their power to determine who should and should not face trial. Originally, the Constitution of the United States made no provisions for a Grand Jury. The Fifth Amendment, ratified in 1791, added this protection.

### **THE GRAND JURY IN CALIFORNIA**

The California Constitution, Article 1, Section 23, states, "One or more Grand Juries shall be drawn and summoned once a year in each County." In California every county has a civil Grand Jury. Criminal Grand Juries are seated as necessary.

A civil Grand Jury's function is to inquire into and review the conduct of county government and special districts. The Grand Jury system in California is unusual in that Federal and County Grand Juries in most states are concerned solely with criminal indictments and have no civil responsibilities.

Grand Jurors are citizens of all ages and different walks of life bringing their unique personalities and abilities. Grand Jurors are selected from the Department of Motor Vehicles and Voter Registration files. In some counties citizens may request to be on the Grand Jury. Jurors spend many hours researching; reading, and attending meetings to monitor county government, special districts, and overseeing appointed and elected officials.

A final report is created after many hours of fact-finding investigations conducted by the Grand Jury. This report can disclose inefficiency, unfairness, wrongdoings, and violations of public law and regulations in local governments. The report can also recognize positive aspects of local government and provide information to the public. The Grand Jury makes recommendations for change, requests responses, and follows up on responses to ensure more efficient and lawful operation of government.

### **CALAVERAS COUNTY GRAND JURY**

The Calaveras County Grand Jury is a judicial body sanctioned by the Superior Court to act as an extension of the Court and the conscience of the community. The Grand Jury is a civil investigative body created for the protection of society and enforcement of its laws. The conduct of the Grand Jury is delineated in California Penal Code, Section 888 through Section 945.

Grand Jurors are officers of the Superior Court but function as an independent body. One provision of the Grand Jury is its power, through the Superior Court, to aid in the prosecution of an agency or individual they have determined to be guilty of an offence against the people.

### **RESPONSIBILITIES OF THE GRAND JURY**

The major function of the Calaveras County Grand Jury is to examine County and City government and special districts to ensure their duties are being lawfully carried out. The Grand Jury reviews and evaluates procedures, methods, and systems utilized by these agencies to determine if more efficient and economical programs may be used for the betterment of the County's citizens. It is authorized to inquire into charges of willful misconduct or negligence by public officials or the employees of public agencies. The Grand Jury is mandated to investigate the conditions of jails and detention centers.

The Grand Jury is authorized to inspect and audit the books, records, and financial expenditures of all agencies and departments under its jurisdiction, including special districts and non-profit agencies, to ensure funds are properly accounted for and legally spent. In Calaveras County the Grand Jury must recommend an independent Certified Public Accountant to audit the financial condition of the County.

### **RESPONSE TO CITIZEN COMPLAINTS**

The Grand Jury receives formal complaints from citizens alleging government inefficiencies, mistreatment by officials, and voicing suspicions of misconduct. Anyone may ask that the Jury conduct an investigation on agencies or departments within the Grand Jury's jurisdiction. All such requests and investigations are kept confidential.

The Grand Jury investigates the operations of governmental agencies, charges of wrongdoing within public agencies, and the performance of unlawful acts by public officials. The Grand Jury cannot investigate disputes between private parties nor any matters in litigation.

Neither official request nor public outcry can force the Grand Jury to undertake an inquiry it deems unnecessary or frivolous.

### **FINAL REPORT**

The Final Report includes the findings and recommendations of the Grand Jury and is released to the Superior Court Judge by July 1 of each year. It is made available to the new Grand Jury, the media, the public, and government officials. It will also be available on the Calaveras County Grand Jury website:

<http://www.co.calaveras.ca.us/cc/Departments/GrandJury.aspx>

**HOW TO CONTACT THE GRAND JURY**

Those who wish to contact the Grand Jury may do so by writing to:  
Calaveras County Grand Jury  
P.O. Box 1414  
San Andreas CA 95249

A Citizen Complaint Form may be requested by calling (209) 754-5860. The form is available at all County Libraries and for download on the Grand Jury website.

<http://www.co.calaveras.ca.us/cc/Departments/GrandJury.aspx>

Completed forms may be mailed to the above address or faxed to the Grand Jury at (209) 754-9047.

**MEMBERS OF THE 2009-2010 CALAVERAS COUNTY GRAND JURY**

Bob Menary, Foreperson  
Yvonne Tiscornia, Foreperson Pro Tem  
Laura Shulenberger, Recording Secretary  
Ruth Craig, Corresponding Secretary  
Elisa Garin, Sergeant-at-Arms

Ken Allen  
Aaron Brown  
Richard Brown  
Denise Dashiell  
Pat Emerson  
Brandi Fleischmann  
Jim Frost

Vena Graves  
Michele Ladley  
Frances Lienau  
Margo Mohn  
Sherri Oliver  
Jimmy Pendergrass  
Lloyd Wayman

THIS PAGE LEFT BLANK INTENTIONALLY

## **1. ASSESSOR'S OFFICE POLICY AND PROCEDURE FOR REASSESSING PROPERTY VALUES**

### **REASON FOR INVESTIGATION**

California Penal Code section 925 states in part "...investigations may be conducted on some selective basis each year." This year the Grand Jury selected for review the Assessor's office policy and procedures for reassessing property values.

### **PROCEDURES**

The Grand Jury conducted interviews with:

- Acting Assessor
- Chief of Assessment Services
- Six property owners whose request for reassessment had been denied.

The Grand Jury reviewed:

- The computer database covering all county property values.
- The State Board of Equalization (SBE) Executive Summary of the Calaveras County Assessment Practices Survey dated December 2005
- A letter in response to the SBE survey by the Assessor dated November 14, 2005.
- A letter from the Acting Assessor dated September 17, 2009, listing a sampling of property owners denied a reduction in assessed value.
- Grand Jury-requested correspondence prepared by the Acting Assessor listing the number of reviews completed as of June 2009 and actions taken.
- A Grand Jury-requested E-mail from the Acting Assessor dated January 27, 2010, updating reassessment activity after the roll closure.

### **BACKGROUND**

When Proposition 13 became law in 1978, it required continuous annual increases in base year values of no more than 2% per year. The resulting assessed values are called "Factored Base Year Values" (FBYV). There was no provision in the new law for reductions in assessed value even though it appeared that some properties could be declining in value. This dilemma was addressed in 1978 with the passage of Proposition 8. New provisions were added to tax law that allow the Assessor to take "...into account reductions in value due to damage, destruction, depreciation, obsolescence, removal of property, or other factors causing a decline in value." Revenue and Taxation Code (RTC) Section 51b states, "Pursuant to these provisions assessed values are required to be the lower of FBYV or Full Value." Section 51e of the RTC states, "Nothing in this section shall be construed to require the assessor to make an annual reappraisal of all assessable property."

In the course of day-to-day operations, the Assessor may discover situations that warrant special reviews and that could lead to reductions. In most cases, however, factors believed to be damaging to value are commonly brought to the attention of the Assessor by knowledgeable property owners. Once a reduction is made, this same RTC section requires the Assessor to perform annual reviews of affected properties to ascertain that the assessed value is still the lower of FBYV (Proposition 13) or Full Value (Proposition 8). In order to do this, the original FBYV must be computed forward. When a recovering market indicates that the force of the factor causing a loss has dissipated, the Assessor will enroll a higher value not to exceed the FBYV and annual reviews will be discontinued. The change from year to year is not limited to 2%, since Proposition 8 procedures govern.

**Finding 1**

A property owner's reassessment request is due by November 30.

**Recommendation**

None

**Finding 2**

The Grand Jury finds that if a property owner disagrees with the assessment decision, he has the right to an appeal hearing. The burden of proof is entirely on the property owner. In late 2009 the Board of Supervisors appointed an independent Assessment Appeals Board (AAB) to accelerate the review process. The AAB has, by law, up to two years to hear and decide an appeal. The Board of Supervisors was averaging 15 months for final resolutions; it is hoped the AAB will reduce the response time.

**Recommendation**

The AAB should make every effort to facilitate these appeal hearings in a timely manner.

**Response Requested**

Board of Supervisors  
Assessment Appeals Board  
Acting Assessor

**Finding 3**

The Assessor's Office has 14 full-time employees and one part-time employee. The workload can be handled with existing staff until the housing market recovers. Staff is also charged with assessing all new construction and resale of county property in addition to Proposition 8 reassessments.

In 2009 the Assessor's Office reviewed 15,906 parcels of which 9,986 were reduced. The Grand Jury finds that the financial impact to County revenue for 2009 was a reduction to the assessed valuation of approximately \$75,000,000. This would result in a potential reduction to 2009 County revenue of approximately \$792,000.

**Recommendation**

None

## **2. CALAVERAS COUNTY ANIMAL SHELTER**

### **REASON FOR INVESTIGATION**

California Penal Code section 925 states in part "...investigations may be conducted on some selective basis each year." The Grand Jury continues to assess the condition of the facility, animal health and welfare, safety, and overall operation of the animal shelter.

### **PROCEDURES**

The Grand Jury made an unscheduled site visit to the Calaveras County Animal Shelter located in back of the County offices on Mountain Ranch Road in San Andreas.

### **RESULTS OF THE INVESTIGATION**

The Grand Jury was greeted by the Deputy Sheriff in charge of the shelter. Jurors visited the outdoor and indoor shelter for the dogs. The kennels were clean and all animals had clean drinking water. There were thirteen new outside kennels that were completed in 2009.

Jurors visited the indoor area where animals were housed. Cats were housed in their own cages. All cages were clean and well maintained. The dog and cat kennels are cleaned by volunteers.

Jurors inspected the recently completed veterinary area. The area was clean and well organized. Jurors visited the large livestock pen areas and the pens were adequate and had shelter for the animals. The shelter has an outside fenced exercise area where volunteers exercise animals on a daily basis.

### **Finding 1**

The Grand Jury noticed that all kennels and pens were clean and well organized. The building was maintained in good appearance. The additional kennels and new construction provide much-needed additional space until a new shelter is built.

### **Recommendation**

The Grand Jury continues to recommend that the Board of Supervisors implement the previously approved plans for a new animal shelter with a specific time line. The Board of Supervisors should allocate the necessary funding to proceed with the project.

### **Response Requested**

Board of Supervisors  
Sheriff

THIS PAGE LEFT BLANK INTENTIONALLY

### **3. CALAVERAS COUNTY JAIL**

#### **REASON FOR INVESTIGATION**

In accordance with California Penal Code section 919 (b), the Grand Jury shall visit and inspect the condition and management of public prisons within the County of Calaveras.

#### **SCOPE OF INVESTIGATION**

The investigation focused on the daily operation, staffing, facilities, and the procedures of the County jail.

#### **PROCEDURES**

The Grand Jury conducted site visits and inspections of the Calaveras County Jail at the Government Center in San Andreas. The Grand Jury observed the Sheriff's Deputies and staff members including kitchen personnel, office workers, dispatchers, and the nurse. The Grand Jury also inspected the booking area, both men's and women's cell areas, exercise yards, library, visitors' center, nurse's station, kitchen and food preparation areas, the County's 911 Emergency Operations Center, and the Evidence Room.

The Grand Jury also met with the Sheriff and staff members who presented an overview of the new jail which is funded and currently scheduled to break ground in November 2010.

#### **RESULTS OF INVESTIGATION**

##### **Finding 1**

Since the jail is scheduled to be replaced, the Grand Jury is not commenting on the physical condition of the building.

##### **Recommendation**

None

##### **Finding 2**

The Grand Jury observed that the jail was clean and organized. The staff appeared to be informed regarding the operational procedures of the jail system.

##### **Recommendation**

None

##### **Finding 3**

During the inspection of the jail, a severe rain and thunder storm was in progress, and electrical power to the facility was interrupted. Within seconds, the emergency generator and back-up power system were activated and electrical power was restored.

##### **Recommendation**

None

##### **Finding 4**

During the jail tour, the Grand Jury inquired about the process for handling inmates' money, both at the time of arrest and for money received by inmates while they are in custody. Currently, the Sheriff maintains a cash account for each inmate. During each shift, the on-duty deputy counts the cash and balances each account so that the appropriate amount of money can be returned to each inmate upon release. The Grand Jury was informed by the Sheriff's Department that it had researched a program that provides inmate debit accounts through a

commercial bank, a suggestion made by the 2008-2009 Grand Jury, but the idea had not been supported by the County Auditor-Controller's office.

**Comment**

The Grand Jury met with the County Auditor-Controller who agreed that an inmate debit account program was possible but that there were questions as to the operation of such a program and the computer software that would be required.

The Grand Jury also met with the County Undersheriff who supports the inmate debit account program. The Grand Jury was given an overview of a company that specializes in such programs for jails throughout the nation and a presentation was arranged for representatives of the Sheriff's Department, the County Auditor-Controller's Office and the Grand Jury.

The activation of such a program is a no-cost item to the County, with operation and maintenance provided by the vendor. Both the Sheriff's Department and the Auditor-Controller appear to be in favor of the program. Increased efficiency of jail staff may also result.

**Recommendation**

The Grand Jury recommends that the Sheriff and County Auditor-Controller initiate the inmate debit account program.

**Response Requested**

Board of Supervisors  
County Sheriff  
County Auditor-Controller

## **4. BUDGET REDUCTION PROCESS OF COUNTY SCHOOL DISTRICTS AND COUNTY OPERATIONS**

### **REASON FOR INVESTIGATION**

Penal Code section 925 states in part "...investigations may be conducted on some selective basis each year." The Grand Jury decided to address the effects of the current financial crisis on County government and school districts with regard to their abilities to provide services.

### **PROCEDURES**

The Grand Jury interviewed the following:

- Superintendent, Calaveras Unified School District (CUSD)
- Superintendent, Bret Harte Union High School District (BHUHSD)
- Superintendent, Vallecito Union Elementary School District (VSD)
- Superintendent, Mark Twain Union Elementary School District (MTSD)
- County Administrative Officer

### **NOTE**

The Grand Jury during this investigation was concerned that the State of California allows a disparity in per-student educational funding between school districts. It seems discriminatory that certain districts receive between \$8,000 and \$9,000 per student each year while others receive less than \$5,000 determined by a student's geographic location within the County. Previous court rulings have directed the State to close this funding gap; however, it is clear that this promise of parity has not materialized.

### **BACKGROUND**

#### **CALAVERAS UNIFIED SCHOOL DISTRICT**

CUSD is a Revenue Limit funded district, meaning that part of CUSD's revenues come from local property taxes and part from direct State funding. Recent cuts at the State level in education funding have resulted in a reduction from \$6,100 per student two years ago to next year's projected amount of \$5,020. This will result in a reduction of administrative services and 23 teaching positions. All CUSD class sizes will be affected. The most notable changes are as follows:

- kindergarten through third grade classes will go from an average of 20 to 24 students
- alternative education classes from 20 to 25 students
- elimination of the class size reduction program in ninth grade mathematics and English classes from an average of 20 students to 30 or more.

In addition to State funding cuts, the CUSD has experienced declining enrollment of approximately 85 students per year in the past three years which translates to a loss of per-student allocation from the State of more than \$400,000. For the past two years, CUSD has used American Recovery and Reinvestment Act of 2009 (Stimulus) dollars in the amount of \$1.9 million to plug the budget gap thus preserving jobs and programs. This federal money was a one-time allocation and has since run out. In addition, CUSD has reduced its reserve level from 11% to 9% this year and plans to reduce its reserves further to the required minimum level of 3% in the next two years.

Currently CUSD has some programs the annual costs of which exceed budgeted income levels. These include special education, special education transportation, food service, and after-

school child care. CUSD is also operating three elementary schools of under 100 students each which creates a high per-student cost. Per-student costs are approximately \$7,000 at these small elementary schools compared to \$4,000 per-student at a large elementary school. With the cuts in funding, programs that operate in excess of their budgets take away from CUSD's basic instructional program.

In order to generate more revenue, CUSD is considering charging parents for sports- related transportation and for home-to-school transportation. Currently CUSD's regular home-to-school transportation operates within its State allocated funding level.

In addition, the State has provided greater flexibility for CUSD use of categorical funding, which is funding allocated for specific school use or for specific programs. These funds can now be used to supplement general fund losses. However, use of these funds to fill the regular education financial gap will result in the loss of remedial programs for students and funding for technology, field trips, and classroom aides, and will also result in parents having less influence on how certain school site funds are spent.

Until the State fiscal picture improves, the CUSD Board of Trustees and administration will be faced with many difficult budget decisions as will each of the District's labor unions as future contracts are negotiated and student services are considered.

#### **BRET HARTE UNION HIGH SCHOOL DISTRICT**

The BHUHSD is known as a Basic Aid district which means that local property taxes designated for schools under Proposition 13 exceed what the revenue limit allocation would generally be given by the State. Thus, these districts get only the minimum "basic aid" of \$120 per student from the State. In general, Basic Aid districts are better funded than Revenue Limit districts. Presently, BHUHSD is funded annually between \$8,000 and \$9,000 per student.

Even with BHUHSD's comparatively high level of funding, the budget picture is not positive. Since funding is tied to property assessments, the recent lowering of assessed values of property in BHUHSD has resulted in the loss of approximately \$470,000 of revenue for the 2009-2010 school year. In addition, a seldom-used provision of Proposition 13 states that if the Consumer Price Index (CPI) does not rise by 2%, the County cannot implement the automatic annual tax increase of 2% that happens in most normal years. In fact, in this past year the CPI was negative. This requires the County to lower assessed values thereby lowering BHUHSD revenues. BHUHSD estimates this additional loss of annual revenue will be between \$700,000 and \$1,000,000. BHUHSD lost an additional \$260,000 in categorical program income in 2009-2010.

BHUHSD has experienced declining enrollment of about 170 students or over 20% of total enrollment over the past four years. Unlike Revenue Limit funded districts, this does not affect BHUHSD revenue levels but could affect budgeting and staffing.

In order to fill the budgetary gap, BHUHSD has lowered its reserve level from \$1.6 million to \$1.2 million or about 10% of its operating budget. In addition, BHUHSD has received and spent about \$170,000 in Stimulus dollars. Thus, BHUHSD is currently deficit spending and must make cuts in order to reverse this trend.

In order to guide this process, the BHUHSD Board and administration are going through a process with public input to define BHUHSD's core values for educating its students. In

planning for the 2010-2011 budget cycle, many budget items have been discussed for possible reductions. These include the following:

- reduction of certificated positions by 3.5 full-time equivalents
- elimination of class-size reduction for ninth grade English and mathematics classes
- eliminate a half-time counseling position
- reduction of the paid work year for classified and administrative staff
- placing a cap on BHUHSD funded sports trips; any trips over this cap must be funded by parents or the community
- raising of overall class sizes to between 26 to 32 students per class.

Presently BHUHSD operates two programs that exceed their funding levels and thereby encroach on the regular educational fund: food service and transportation. BHUHSD does charge students for home-to-school transportation which covers about \$15,000 of the approximately \$100,000 encroachment in transportation costs.

### **VALLECITO UNION ELEMENTARY SCHOOL DISTRICT**

Vallecito is a Basic Aid district with most funds generated from local property tax revenues. VSD is among the highest funded districts in the State with per-student funding this year of around \$10,500. However, with the reassessment of local properties and lowering of State categorical funds designated to particular programs, VSD faces budget cuts for the 2010-2011 school year of over \$1,000,000. This will lower per-student funding to approximately \$9,500. In order to bridge this gap, VSD has proposed a list of budget cuts that include the following:

- layoffs of six full-time certificated staff including teachers and a part-time social worker
- reduction in nursing services
- savings on Superintendent's salary (less than a full-time position)
- education of maintenance and custodial days, overtime, and substitutes
- reduction of support for Coast Camp (science camp) and ski programs
- reduction of classroom supplies
- less technology support
- bus route elimination.

In addition, further cuts are needed to bridge this gap which could affect music and athletic programs and administrative services.

VSD has used Stimulus dollars to help balance its budget and has, like other districts, planned on lowering its reserve levels from 10% to 7% in order to achieve a balanced budget. This means that VSD is deficit spending as it has used one-time moneys to cover ongoing expenses. Currently VSD has the lowest student-teacher ratio in the County. As a budget savings, class sizes will be increased from an average of 21.1 students to 23.4 students per class.

This year VSD has brought its food service program within budget for the first time in the past few years. Home-to-school transportation costs exceed VSD's State allocation and thereby encroach on the instructional budget. VSD parents presently pay a fee for home-to-school transportation.

Since VSD is funded by local property tax rather than per-student State funding, enrollment levels do not directly affect revenues. VSD is experiencing a declining enrollment pattern which is projected to lower VSD enrollment from a 2001 level of 1,024 students to 761 by the 2015-2016 school year.

## **MARK TWAIN UNION ELEMENTARY SCHOOL DISTRICT**

Mark Twain is a Revenue Limit district meaning that its major source of income is per-student funding from the State. Since MTSD is an elementary-only district, its revenue limit is slightly lower than that of CUSD and has nearly half the income per student of the County's two Basic Aid districts, BHUHSD and VSD. MTSD's financial situation is the most serious of the school districts in the County.

Over the past two years, MTSD's revenue limit has been reduced from \$5,500 per-student to \$4,700. This reduction is projected to create a budget shortfall of \$825,000 going into the 2010-2011 school year. To make matters worse, MTSD has been designated by the State as a Qualified Status district meaning that if present trends continue, MTSD will not be able to meet its financial obligations three years from now. A continuance of this negative financial status could lead to state intervention and operation of the MTSD. All other school districts in the County currently have a Positive Status budget certification. This combination of lower revenue for next year plus the Qualified Status certification places the MTSD Board and administration in the very difficult position of having to make many program cuts in a district already having the lowest funding level in the County.

In order to address this, MTSD has already identified possible budget reductions as follows:

- layoff of four teachers raising fourth through eighth grade class sizes to an average of 32 students and kindergarten through third grade classes to an average of 27 students
- reduction in school library staffing
- reduction in playground and lunch supervision hours
- reduction in classroom aides
- reduction in technology support
- counseling services reduced to the mandated services for identified special education students
- reduction in music instruction
- closing MTSD for five days thereby saving \$83,000 but losing five days of educational time for students. (Other students in the County will have at least 180 days of instruction, and MTSD students will have 175.)

Presently MTSD has reserves for economic hardship of nearly 17% of its budget. However, a large portion of these reserves are from one-time allocated federal Stimulus dollars which cannot be counted upon to fund ongoing expenses.

MTSD faces other challenges that further exacerbate its budget situation. These include comparatively low employee salaries, the County's highest number of non-English speaking students and a declining student population that has 50% qualifying for free and reduced lunch. Considering these issues and the above-mentioned budget reduction measures, school officials believe that even more program cuts may be necessary to eventually balance the MTSD budget.

## **COUNTY GOVERNMENT**

Like other direct tax supported agencies, the County government is in difficult economic times. In the 2009-2010 budget year, the County incurred reductions of 17.5% resulting in the layoff of 21 employees and a reduction of County services. The 2010-2011 budget year could be a repeat as revenue projections reveal a \$3.1 million shortfall equivalent to another 17.5% budget reduction.

Each year, from all sources of revenue, County expenditures are approximately \$147 million including a general fund budget of \$38 million. Many of these dollars are generated from grants, fees, fines, and State allocations while other funds are generated from local taxes. Because of the lowering of assessed values, property tax revenues have gone down. In addition, instead of the normal annual 2% property tax increase, the County must further lower all assessments 7% to 10%. This is because Proposition 13 requires that if the Consumer Price Index (CPI) is less than 2%, property taxes cannot be increased, and if the CPI is negative, tax assessments must go down. This past year the CPI was negative; therefore there will be a reduction in property taxes. The Vehicle License Fee, which is linked to property taxes, will also be lower. Finally, lower economic activity reduces County sales tax revenue.

To respond to this budget crisis in the short term, the County has implemented some stopgap measures as follows:

- voluntary departmental spending freezes
- voluntary departmental hiring freezes
- elimination of all non-essential travel
- voluntary non-paid vacations
- enhanced efforts to get State reimbursements for services.

These measures will not come close to providing the needed budgetary savings. The County Administrative Officer (CAO) said that Board of Supervisors (BOS) along with the County management must make some difficult and timely decisions by this June's budget development hearings, including elimination of some services, negotiating labor concessions with employee groups, and more personnel layoffs.

This past year the BOS, with the help of department heads, started a strategic planning process to help guide and prioritize budget decisions. The CAO indicated that the BOS should find this strategic plan a helpful tool as they try to tackle this difficult budget development process.

## **RESULTS OF INVESTIGATION**

### **Finding**

Budgetary woes continue to plague local agencies that depend on direct tax support for their operations. Next year the County government and all County school districts will be making program and/or service reductions in order to balance their budgets. These reductions will not only change levels of service to our citizens, they will also result in the loss of jobs through layoffs or not filling vacant positions. This will further exacerbate an already dismal unemployment picture in the County.

The reasons for these budget reductions and corresponding service cuts are many in number and include:

- reductions in State support as California wrestles with its budget shortfall
- lowered assessed values of local properties which has reduced property tax revenues from these properties
- inability of the County to implement the annual allowed 2% tax increase to properties as the CPI did not increase enough to permit this increase under Proposition 13 regulations. In fact, since the CPI was negative this past year, properties will be

- reassessed downward producing a 7% to 10% savings to property owners and a further gap in agencies' funding.
- Many agencies received federal Stimulus dollars that had allowed them to stave off immediate budget cuts and save programs and jobs. These funds were issued on a one-time basis and have essentially been exhausted as they were used to fund ongoing expenses.

The BOS and County management as well as the Boards of Trustees and administrators of the school districts must make difficult decisions as budgets for the 2010-2011 fiscal year are developed. Budget reductions must be made. County residents will not receive the same service levels as in the past from County agencies, and children and parents of school districts will see educational and co-curricular program cuts as well as increased class sizes.

The Grand Jury commends agencies that have developed strategic plans, such as County government, or that have identified core values or budget priorities as many of the school districts have, to guide them in their budget development.

**Recommendation 1**

The Grand Jury recommends that the CUSD Board of Trustees continue to examine the viability of small schools where per-student costs exceed the per-student allocation of under \$5,200 per-student.

**Response Requested**

Calaveras Unified School District Board of Trustees

**Recommendation 2**

The Grand Jury recommends that CUSD work to eliminate budget deficits in programs such as after-school childcare, food service, and preschool programs that create an encroachment on the general instructional budget.

**Response Requested**

Calaveras Unified School District Board of Trustees

**Recommendation 3**

The Grand Jury recommends that the CUSD Administration carefully consider the equity of implementing a home-to-school transportation fee in an environment where the district's transportation department operates within its state budget allocation.

**Response Requested**

Superintendent, Calaveras Unified School District

**Recommendation 4**

The Grand Jury recommends that the CUSD Board of Trustees and Administration carefully define in District policy and implement the legally-defined eligibility requirements for students to qualify for special education transportation.

**Response Requested**

Calaveras Unified School District Board of Trustees  
Superintendent, Calaveras Unified School District

**Recommendation 5**

The Grand Jury recommends that the BHUHSD Board of Trustees use its recently identified core values as a guide to budget cuts and personnel reductions.

**Response Requested**

Bret Harte Union High School District Board of Trustees

**Recommendation 6**

The Grand Jury recommends that the MTSD Board of Trustees, staff, and community refrain from using comparisons to other districts in budget development due to differences in the funding types and levels.

**Response Requested**

Mark Twain Union Elementary School District Board of Trustees  
Superintendent, Mark Twain Union Elementary School District

**Recommendation 7**

The Grand Jury recommends that the BOS use its new Strategic Plan to guide budgetary decisions as opposed to listening to the most vocal constituents during these difficult financial times.

**Response Requested**

Board of Supervisors

**Recommendation 8**

The Grand Jury recommends that the BOS not rely on balancing the entire County budget through layoffs and concessions from bargaining units. Conversely, local bargaining units must be willing to make some concessions, such as paying an increased amount of the California Public Employees' Retirement System contributions. This shared sacrifice model will provide true public service to the residents of the County.

**Response Requested**

Board of Supervisors  
County Administrative Officer  
Director, Human Resources

THIS PAGE LEFT BLANK INTENTIONALLY

## 5. COUNTY OF CALAVERAS SCHOOL DISTRICTS

### REASON FOR INVESTIGATION

Penal Code section 925 states in part "...investigations may be conducted on some selective basis each year." This year the Grand Jury selected the Calaveras County school districts' emergency policies and procedures.

### PROCEDURES

The Grand Jury held meetings with the following:

- Superintendent, Vallecito Union Elementary School District
- Superintendent, Mark Twain Union Elementary School District
- Superintendent, Bret Harte Union High School District
- Superintendent, Calaveras Unified School District

The Grand Jury conducted an interview with the following:

- Calaveras County Superintendent of Schools

### RESULTS OF INVESTIGATION

#### Finding 1

All school districts have sufficient emergency policies and procedures in place that are supported by continuous updating and regular training. In addition, the County Office of Education, with the use of Readiness and Emergency Management for Schools (REMS) grant money, is coordinating with the County Office of Emergency Services, the Calaveras County Sheriff's Office and local fire officials to improve and standardize the emergency plans and procedures for all school districts throughout the County.

#### Finding 2

Safety equipment for all school districts in Calaveras County is inspected and repaired in a timely manner.

#### Recommendation

None

#### Response Requested

None

THIS PAGE LEFT BLANK INTENTIONALLY

## **6. FOOTHILL FIRE PROTECTION DISTRICT**

### **REASON FOR INVESTIGATION**

The Grand Jury received a citizen complaint regarding the Foothill Fire Protection District Auxiliary operating as a political action group and not being registered with the State of California Fair Political Practices Commission. It also alleged that employee spouses were in charge of the Auxiliary.

### **PROCEDURES**

The Grand Jury attended a regular meeting of the Foothill Fire Protection District Board of Directors and reviewed the minutes from three previous meetings.

The Grand Jury met with the Fire Chief and a Board member at the Foothill Fire Protection District Office. The Grand Jury received a verbal overview from the Fire Chief of the District's structure and staffing including the roles and responsibilities of the Board of Directors and the Auxiliary. The Grand Jury received and reviewed a video tape of past Board meetings.

### **RESULTS OF INVESTIGATION**

#### **Finding 1**

The Grand Jury finds that the Auxiliary, as an organization, was not involved in the campaign process. There were members of the Auxiliary who were involved in the campaign process, but they did so as individuals and not as representatives of the Auxiliary.

#### **Finding 2**

The Grand Jury finds that the employees' spouses were not in charge of, or even members of, the Auxiliary.

#### **Recommendation**

None

#### **Response Requested**

None

THIS PAGE LEFT BLANK INTENTIONALLY

## **7. CALAVERAS COUNTY LOCAL AREA FORMATION COMMISSION**

### **REASON FOR INVESTIGATION**

California Penal Code section 925 states in part "...investigations may be conducted on some selective basis each year." This year the Grand Jury selected the Local Area Formation Commission (LAFCO) for review.

### **PROCEDURES**

The Grand Jury conducted an interview with the Executive Officer of LAFCO and attended several LAFCO meetings.

### **RESULTS OF INVESTIGATION**

LAFCO is an independent commission under State mandate to work cooperatively with public agencies and private entities on issues related to growth and delivery of services. The LAFCO has regulatory powers to manage existing agencies delivering services to the public, including their boundaries, spheres of influence, and their creation as communities come to be and grow. The LAFCO has no jurisdiction over area planning commissions, school district boundaries, Mello-Roos districts, or joint-power authorities. The LAFCOs were organized to:

- foster orderly boundaries and prevent urban sprawl
- ensure consideration is given to the delivery of public services (especially water availability)
- review growth with an interest toward conserving agriculture and open space
- conduct periodic reviews of municipal services provided by cities and special districts
- review spheres of influence of those agencies providing such services on a regular basis.

Under its authority as a regulatory agency, the LAFCO controls the extension of public services. "The Commission's powers and duties including initiating, reviewing, and approving or disapproving without amendment, wholly, partially, or conditionally, proposals for changes or organization or reorganization, as stated in the LAFCO Act, Sections 56000 and 57000 et seq. of the California Government Code." On its website, the LAFCO provides its reviews of services, service boundary decisions, and the studies it assigns.

The LAFCO receives applications from cities and agencies wishing to alter their boundaries or spheres of influence in a variety of ways including annexation, new development, or via community planning efforts. The LAFCO is composed of seven commissioners selected under State guidelines and is served by a part-time Executive Officer who provides similar services for other counties. Two Commissioners and one alternate Commissioner are appointed by the Board of Supervisors from its members. Two Commissioners and an alternate are appointed by each city within the County – meaning only the City of Angels (Angels Camp). One public Commissioner and an alternate are appointed by vote of the other Commissioners. Two Commissioners and an alternate are elected by special districts from among their governing bodies. Funding for the LAFCO's operation is provided by a combination of application fees and appropriations from general tax revenue of the County, special districts, and the City of Angels in accordance with the LAFCO Act.

### **Finding 1**

In conducting its State-mandated business involving annexation and boundary changes of various types, service area diagrams, and other maps prepared and maintained by the County are affected. For example, it was noted that delays from the time a boundary change involving an annexation is approved by the LAFCO to the time a revised map comes back from the State

to the County Technology Services Department (IT), as much as a year might have passed. In the meantime, taxes and elections may have been affected by the changes. Other County offices use the County's IT maps in conducting their work. Taxes can be retroactively adjusted through extra work, but elections may have come and gone.

**Recommendation**

The Grand Jury recommends that the LAFCO, the County Administrative Officer, and the Director of IT meet to discuss the impacts to County residents of the timing problem and seek a solution.

**Response Requested**

County Administrative Officer  
The LAFCO Executive Officer  
Chief Information Officer of Technology Services Department

**Finding 2**

It is noted that Commissioners serving on the LAFCO find themselves making decisions and recommendations on issues – for example, a specific type of special district service – while having little knowledge of the regulatory and legal issues governing, and perhaps limiting, the operation and delivery of that service to the public. The Executive Officer's experience is therefore critical in educating the Commissioners to assure public policy issues are properly addressed.

**Recommendation**

The Grand Jury recommends that prior to taking an action on a given type of service, the Executive Officer provide Commissioners with some background on the governing regulations/codes affecting the operation and delivery of the specific service.

**Response Requested**

The LAFCO Executive Officer

**Finding 3**

While attending the LAFCO meetings, it was observed that Commissioners questioned previous steps and procedures undertaken by the agencies before them. Municipal Services Reviews provide one opportunity for remarking on operational deficiencies of those agencies.

**Recommendation**

The Grand Jury recommends that the Commissioners formulate for the Executive Officer the level of background information and procedural validation they expect to see prior to their deliberations. Simultaneously, the Grand Jury recommends that the Executive Officer guide the Commissioners on their responsibilities relative to the agencies coming before them.

**Response Requested**

The LAFCO Commissioners  
The LAFCO Executive Officer

**Finding 4**

Related to Finding 3, it was noted that a number of scheduled LAFCO meetings over the 2008-2010 period were ultimately cancelled due to lack of applications or other formal items for the Commissioners to deliberate.

**Recommendation**

The Grand Jury recommends that rather than canceling meetings, they be used for informational and educational purposes.

**Response Requested**

The LAFCO Commissioners  
The LAFCO Executive Officer

**Finding 5**

The LAFCO has committed itself to completing certain studies. For example, in its last Municipal Services Review summary report on sewer services, the LAFCO specified studies relating to possible integration of certain services would be undertaken. In addition, in that same report the LAFCO required specific agencies to complete specified activities of their own.

**Recommendation**

The Grand Jury recommends a table of study/report and other commitments be prepared and placed on the LAFCO website and available at its meetings. It is also recommended that the LAFCO prepare its own goals and objectives each year which could include responses to the Commission's study commitments. The Grand Jury further recommends that the LAFCO report to the public its accomplishments relative to the Commission's goals and objectives.

**Response Requested**

The LAFCO Commissioners

**Finding 6**

Many areas within the County are undergoing a lengthy planning process to update the County's General Plan. The LAFCO will have a significant say in whether a community's plans can move forward. The Grand Jury asks whether providing insight to these communities in advance of or concurrent with local residents making significant plans is not wiser than waiting for local planning to be rejected or significantly delayed during the LAFCO application stage. It is possible local planning recommendations cannot be implemented under current or projected service area capabilities and boundaries approved by the LAFCO.

**Recommendation**

The Grand Jury recommends that the greatest benefit to the County would result if the LAFCO were to become a partner in the local planning process at the very earliest stages.

**Response Requested**

The LAFCO Commissioners  
The LAFCO Executive Officer

THIS PAGE LEFT BLANK INTENTIONALLY

## **8. CALAVERAS COUNTY VETERANS SERVICES PROGRAM**

### **REASON FOR INVESTIGATION**

The Grand Jury pursuant to California Penal Code section 925 which states in part "... investigations may be conducted on some selective basis each year." This year the Grand Jury selected the Calaveras County Veterans Service Program (CCVSP). In light of the number of military service personnel, the committee has chosen to investigate CCVSP to determine the scope of its activity, identify the population served, and to evaluate whether or not the program is effectively serving the veterans of Calaveras County.

### **PROCEDURES**

The Grand Jury interviewed the following:

- Calaveras County Veterans Services Officer (VSO)
- Staff Assistant to the Deputy Chief of Staff for the VA Palo Alto Health Care System
- Supervising Social Worker at the VA Sonora Clinic
- Tuolumne County Veterans Services Representative
- Commander of the Ebbetts Pass Veterans Memorial District

The Grand Jury:

- Toured the VA Palo Alto Health Care System, Sonora Clinic
- Toured the Veterans of Foreign Wars (VFW) Post in San Andreas
- Visited the new Veterans Memorial in Murphys

The Grand Jury reviewed the following documents:

- *Federal Benefits for Veterans Dependents & Survivors*, 2009 Edition
- Report from Ted Puntillo, Deputy Secretary, Veterans Services Division, CA Department of Veterans Affairs

### **RESULTS OF INVESTIGATION**

A veterans services program is being operated through Calaveras County Cal Works and Human Services Agency by a full-time eligibility worker who acts as a liaison between the veterans within the community and the State and Federal Department of Veterans Affairs on an "as-needed basis." The VSO gathers and provides information to veterans on compensation, access to the VA health system, job training, eligibility, survivor benefits, and application assistance. Qualifying applicants are also screened for services such as food stamps, housing assistance, cash aid, and welfare. The VSO conducts three to six interviews per week, with most clients referred by word-of-mouth, through local agencies, the VFW, or community health networks. Claims are tracked via Vet Pro, a computer program that monitors veterans as they move through the application process and collates the reports required by the State.

Funding for the program is administered directly by the California Department of Veterans Affairs. Approximately \$27,000 in subvention funds is provided annually by the State to operate the program. Funding is based on the activities processed by the VSO including the number of veterans' claims, applications for benefits, and the diversion of participants from Medi-Cal to the Veterans Health Care System. This subvention money varies from year to year based on fiscal allocations and the number of successful transfers. Additional support, primarily utilized for wages, supplies, and education, is currently provided from the County General Fund. The VSO is required to be a veteran and is sent for training approximately three times per year to maintain the necessary administrative credentials.

Veterans services are available to anyone who has served in the US military based on discharge status, disability, and combat duty. Veteran statistics indicate that there are nearly 6,000 veterans currently residing in the County, most of whom are retired seniors over age 62 rather than active duty personnel. Many of the referrals are veterans seeking health benefits, compensation, job training, shelter, and mental health intervention. Programs for military funerals, flag disposal, fundraisers to support the VA hospital, and participation in holiday events are provided by County veterans organizations. While they may include an information officer, all these organizations are operated by volunteers with little formal training.

### **Finding 1**

The veteran populations in the adjoining counties of Amador and Tuolumne are similar in number to those of Calaveras. With two full-time employees, Tuolumne County processed 679 applications for services in 2008-2009 for a population of 7,200, while Calaveras, with one part-time employee, processed 149 applications for a veteran population of almost 6,000. Far fewer applications are processed here compared to a neighboring county with a similar veteran population. While the State pays approximately 80% of the wage for the allocated County VSO position, it is not evident whether 80% of the employee's time is allocated to VSO duties. Improving visibility and outreach would utilize additional hours while serving more veterans, thus expanding services rather than reducing subsequent annual income from the State. The County is requesting only 60% of this year's allocation, presumably anticipating a reduction in claims, with an accompanying reduction rather than an increase in employee hours dedicated to veterans affairs.

Although the VSO for Calaveras County is housed in the Human Services Agency in San Andreas, this employee is scheduled by appointment at various community medical clinics to provide veterans eligibility services. Inquiries by phone are answered by a Human Services representative and forwarded directly to the VSO or to an answering machine in the VSO's program office. Conversations with some members of one VFW post revealed that while these members knew that the County employs a VSO, they did not know where or how to obtain veterans services in the County. Several of the reception workers in medical clinics, when contacted by phone, were unaware of the CCVSP and unable to provide referrals to the VSO. Management from Palo Alto Veterans Health Services reported that regular video conferences provide training and networking opportunities to veterans staff but they have never had contact with the Calaveras County VSO. An interview with the veterans services representative in Tuolumne County also revealed that many eligible veterans from Calaveras County report that they contact or present themselves to the Tuolumne County office because of its set hours, the accessibility to full-time staff, and its non-affiliation with the welfare system. The combined position can be seen to make good use of the State funds and encourages the employment of workers with a broader knowledge of the many services available from Federal, State, and local programs. However, the limited visibility of the veterans services program and its office location within the Human Services Department hamper referrals and discourage applicants, thus reducing State income to Calaveras County.

### **Recommendation**

The Grand Jury recommends that the VSO implement a more visible presence in the community, regularly attend program-related meetings in Sonora, visit veterans posts, and conduct outreach at public events where veterans or Human Services activities are spotlighted. The VSO should be equipped with a County-provided mobile communication device to pick up messages and answer questions while working at offsite locations. Human Services staff in San Andreas should be provided with the VSO's mobile number and daily work schedule so that the public can receive responses from the VSO in a timely manner. The message on the office

answering machine should also be programmed daily to provide the VSO's mobile number and daily work schedule.

**Response Requested**

County Veterans Services Officer  
County Administrative Officer  
Director of CalWorks and Human Services Agency

**Finding 2**

County veterans have access to a new primary care clinic in Sonora, however many are not able to utilize the services because they have no transportation. The Sonora facility also provides a free shuttle to Palo Alto and Livermore Medical facilities for those who can leave from Sonora. Volunteer transportation to participate in Sonora's program is available in the County through the Volunteer Center in San Andreas.

**Recommendation**

In conjunction with Sonora administrators, the VSO needs to develop a plan to transport eligible veterans to Sonora for services and shuttle transport to other facilities within the VA regional system.

**Response Requested**

County Veterans Services Officer  
Director of CalWorks and Human Services Agency

**Finding 3**

The Grand Jury attempted to schedule meetings and request budget information, made multiple phone calls, and waited over two months for answers from the VSO, ultimately receiving confusing and inaccurate data. Phone inquiries were returned many days after the initial contact or not at all. The slow reply and necessity of rescheduling reflects on the responsiveness and accessibility of the VSO.

**Recommendation**

The Grand Jury recommends that a procedure should be developed to ensure that the VSO checks answering machines and e-mail messages frequently. Policy should mandate a verbal or written acknowledgement of messages within one work day of receipt to foster communication with community agencies and inquiring veterans.

**Response Requested**

County Veterans Services Officer  
County Administrative Officer  
Director of CalWorks and Human Services Agency

THIS PAGE LEFT BLANK INTENTIONALLY

## **9. COUNTY ENVIRONMENTAL MANAGEMENT AGENCY**

### **REASON FOR INVESTIGATION**

California Penal Code section 925 states in part "...investigations may be conducted on some selective basis each year." The Grand Jury selected the County Department of Environmental Health, specifically the Environmental Management Agency (EMA), for review, in part to ascertain the effects of the current difficult economy.

### **BACKGROUND**

The Department Head of the County Environmental Management Agency also serves as the Director of Environmental Health for the County under its structure that was revised in 2009. The Grand Jury learned that the Agency as a whole includes four divisions: The Air Pollution Control District, the Department of Agriculture including Weights and Measures, the County's On-site Sewage program, and Environmental Health. An organization chart demonstrated some positions unfilled due to budget considerations. The County's website outlines the Department's operating divisions, including details and information of specific programs and fees.

### **PROCEDURES**

The Department Head was interviewed.

### **Finding 1**

The operation of the EMA is dependent on a limited number of staff knowledgeable in the specific areas they serve including an understanding of Federal, State, and public health regulations and mandates. To fully carry out the stated missions, especially the education and outreach components, additional staff would be needed. Some programs are on hold due to budget constraints, which, over time, could have negative impacts on these programs' benefits to County residents.

### **Recommendation**

The Grand Jury recommends that, especially in carrying out its education and outreach components, the EMA explore a variety of options for program support. Some options include obtaining grant funds from private sources and seeking out college and university programs that provide students practical experience to supplement the EMA's limited staff.

### **Response Requested**

Board of Supervisors

Department Head, Environmental Management Agency

### **Finding 2**

Air pollution control is heavily controlled by Federal and State regulations. The EMA's work in this area is largely informational. The EMA also provides coordination between the County and fire agencies. A permit to burn is required, and a significant task for this single-person division is to enforce the requirement for a permit. The chief difficulty in managing this area is that the conditions that are cited as good burn days – high humidity, low winds – are precisely those that can create maximum air pollution from burn particulate matter. There does not appear to be a solution to this conflict. With increasing emphasis on monitoring air quality being handed down from the State, this division looks to other agencies for staff support to perform its duties. This one-person work group cannot effectively monitor air pollution from burn days approved throughout the entire County. However, simply accepting air quality hazards as a fact of life is not acceptable.

**Recommendation**

The Grand Jury recognizes the inherent conflicts between burn days and air quality. The Grand Jury asks whether permanent “automatic” air quality monitoring devices – or resident volunteers trained to use such equipment - could be established in areas of the County where, due to geography, air quality issues frequently arise. If these devices or volunteers were able to send air quality information to the EMA, staff could more effectively coordinate with fire-control agencies about burning when air quality is or could become a health-related issue. The Grand Jury recommends that the EMA find ways to use technology and interested community members for monitoring.

**Response Requested**

Board of Supervisors  
County Administrative Officer  
Department Head, Environmental Health Agency

**Finding 3**

The Department of Agriculture of the EMA includes Weights and Measures and provides local implementation of a host of statewide regulatory programs. The activities are varied including registration of apiaries, checking weighing/measuring devices, and inspecting gasoline stations for compliance with vapor recovery requirements (under contract to the EMA’s Air Pollution Control division). A number of staff members in this division are seasonal, working specifically with agriculture and the associated pests and chemicals involved in food production and delivery. A number of this division’s duties involve registering vendors, growers, and suppliers – e.g., certifying “organically grown” - and maintaining statistics. However, a number of the duties require site visits – a test purchase program at retail establishments where weights and measures are involved, the aforementioned vapor recovery program, the egg inspection program, nursery inspection, weighmaster certification, and the like. Recurring visits for all the activities under the authority of the EMA cannot be frequently performed based on EMA staffing.

**Recommendation**

As small-scale agriculture continues to develop within the County, the need for education and monitoring will increase. The Grand Jury recommends the EMA monitor business licenses obtained through the County Clerk’s office that require the Department of Agriculture’s attention. The Grand Jury recommends the EMA explore the use of trained volunteers for some of its work until such time as the County’s budget would allow additional staff.

**Response Requested**

Department Head, Environmental Management Agency

**Finding 4**

Environmental Health undertakes a wide range of programs including health inspections of facilities used by large numbers of people such as the jail, public pools, organized camps, and any permanent cosmetic business (including tattooing and piercing). It also is responsible for monitoring hazardous materials housed and used within the County and those properties identified as “brownfields,” which are properties that need significant remediation before re-use is possible. The group regulates liquid waste haulers and the disposal of waste from septic systems. The group issues permits for wells and septic systems and the assessment of abandoned mines, including their locations and their effects on the County’s groundwater. It is also responsible for vector control – organisms that carry disease such as fleas, mosquitoes,

and ticks. According to the EMA's Department Head, County funding for this latter area is "dramatically underfunded."

The overall operation of the EMA depends upon limited staff knowledgeable in their specific areas of assignment including Federal and State regulations, public health guidelines, and County policy. Health threats from such varied sources as illegal dumping to unhealthy well water to increases of disease-carrying insects brought about by poor drainage are not likely to decrease. Also unlikely to be reduced are the Federal and State regulations imposed on local jurisdictions along with local requirements to implement them. Such unfunded mandates increase County costs. In order to fully carry out its stated missions, especially the education and outreach components, additional staff will be needed by the EMA. Some programs are on hold due to budget constraints which will have negative impacts on these programs intended to benefit the health and safety of County residents. With this year bringing more rain than the County has seen in several years, vector control is of particular concern.

**Recommendation**

The Grand Jury recommends that the issues of additional funding and staffing be addressed as the County experiences growing concerns such as:

- air quality and its effect on health
- groundwater supplies affected by septic systems
- insect and animal-borne diseases affecting both humans and crops
- foodstuffs contaminated by various means along the food chain.

**Response Requested**

Department Head, Environmental Health Agency  
Board of Supervisors

THIS PAGE LEFT BLANK INTENTIONALLY

**10. REPORT ON THE CALAVERAS COUNTY MANAGEMENT REPORT  
FOR THE FISCAL YEAR ENDING JUNE 30, 2009**

**REASON FOR INVESTIGATION**

Penal Code section 925 states in part "...The Grand Jury shall investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county..."

**PROCEDURES**

The Grand Jury reviewed the County of Calaveras Management Report for the Year Ended June 30, 2009, prepared by Gallina LLP Certified Public Accountants.

**RESULTS OF INVESTIGATION**

Gallina LLP reported, "We did not identify any deficiencies in internal control that we consider to be material weaknesses ..." "However, in prior year audits we became aware of opportunities to strengthen internal control and operating efficiency."

Following is the memorandum that summarized Gallina LLP's comments and recommendations from prior year audits and the status of those comments and recommendations:

**COUNTY OF CALAVERAS**

Status of Prior Year Recommendations  
As of June 30, 2009

Fiscal Year Ended June 30.	Recommendations	Status/Comments
	<b>ADMINISTRATION</b>	
2005	<p><u>Construction-in-Process – Written Accounting Policies and Procedures</u></p> <p>We recommend that the County Administration along with the Auditor-Controller develop standard accounting policies and procedures for construction projects. Consideration should be given to making this an amendment to the County’s existing policy document concerning capital assets.</p>	In Process
	<b>AUDITOR-CONTROLLER</b>	
2006	<p><u>Financial Statement Preparation, Staffing and Turnover</u></p> <p>The County should examine and look for creative ways to recruit and retain qualified staff, including whether additional staffing is needed to manage the workload commensurate with increases in the volume of transactions managed by the department. We recommend that the County review its processes to determine whether others in the department can be cross trained to assist in the preparation of the financial report.</p>	Corrective measures taken. Budgetary constraints prohibit adding additional staffing resources
2008	<p><u>Timeliness of the Annual Financial Report</u></p> <p>We recommend hiring additional accounting staff so that those responsible for financial reporting will have more available time.</p>	Not implemented. Budgetary constraints prohibit adding additional staffing resources
2008	<p><u>Disaggregation of Receivables</u></p> <p>We recommend that the County’s closing entries to record receivables be modified to capture receivable balances into each of the various accounts according to their nature so that financial statement balances and disclosures can be derived directly from the County’s general ledger without additional reference to external schedules and financial statement entries.</p>	Implemented

**COUNTY OF CALAVERAS**

Status of Prior Year Recommendations  
As of June 30, 2009

<u>Fiscal Year ended June 30,</u>	<u>Recommendations</u>	<u>Status/Comments</u>
2008	<u>Completeness of Receivables</u>  We recommend that the County consider additional steps in its year-end closing process to ensure material misstatements do not occur. Such steps might include training County departments to more readily recognize receivables and performing a risk assessment process for each receivable account to ensure its completeness.	Implemented
<b>PLANNING</b>		
2003	<u>Trust Accounts</u>  We recommend that trust funds be reconciled at least monthly to the Auditor-Controller's records.	In Progress

**Recommendation**

None

**Response Requested**

None

THIS PAGE LEFT BLANK INTENTIONALLY

## 11. CALAVERAS COUNTY AIRPORT / MAURY RASMUSSEN FIELD

### REASON FOR REVIEW

The review was conducted pursuant to California Penal Code section 925, which states in part: "...investigations may be conducted on some selective basis each year." Records of past Calaveras County Grand Juries show that the airport has not recently been subject to a review.

### PROCEDURES

The Grand Jury interviewed the Airport Manager and toured the airport facility including the grounds and buildings.

The Grand Jury reviewed the 2008 *Airport Master Record* of the Federal Aviation Administration (FAA).

### BACKGROUND

The current Calaveras County airport located approximately five miles southeast of San Andreas on Highway 49 has been in operation since December 1981 and handles general aviation activities. Several private jets periodically use the airport. CalFire uses the airport to stage its firefighting tankers, observation planes, and helicopters, as well as airborne command and control platforms in the event of major fire emergencies. The Office of Emergency Services and the Sheriff's Department share a hangar to house lake patrol boats and other equipment

The airport is completely funded as an Enterprise Fund separate from County funds.

The airport has an annual budget of approximately \$350,000 resulting in a budget carryover every year. Additional income is an annual grant from the FAA for runway and apron maintenance. The FAA provides 95% of this grant with the State picking up 2.5%. The remaining 2.5% income is derived from hangar rentals, tie-downs and fuel sales. There is a new rule from the FAA that if there is no other use for the FAA grant, it can be applied to hangar expense.

Approximately \$36,000 is collected from personal property tax levied on airplanes domiciled within the County. This income is shared with County departments that work with the airport. The County General Fund has never been asked to provide operational funds or funds for expansion or improvement of the airport.

It appears that operation of the airport and access to the Airport Manager for the prompt resolution of user needs and/or complaints are satisfactory. The Grand Jury observed that the runways, aprons, and parking areas are in pristine condition with the tarmac freshly surfaced. The area is routinely swept with no trash blowing about and weeds kept under control. The hangars and buildings are a combination of old and new and all are well maintained and attractive. An access road has been constructed to conform to FAA safety regulations.

The water runoff problem has been addressed with the construction of settling basins. A storm water and pollution plan has been developed. A new water source has been completed.

### Finding 1

As of March 2010 a fire protection plan has been submitted to the County Planning Department to allow for future expansion. Plans for additional hangar space are being submitted to the Building Department.

**Recommendation**

The County Planning Department should adopt or modify the proposed fire protection plan to allow future expansion. The County Building Department should complete its review of the hangar plan so that bidding and construction can move forward.

**Response Requested**

Board of Supervisors

Director of the Building Department

Planning Director

Airport Manager

## **12. PUBLIC WORKS ROADS AND BRIDGES DEPARTMENT**

### **REASON FOR INVESTIGATION**

Penal Code section 925 states in part "...investigations may be conducted on some selective basis each year." This year the Grand Jury selected the Roads and Bridges Department (RBD) for a review.

### **PROCEDURES**

The Grand Jury toured the four corporation yards, projects in progress and the equipment repair facility.

The Grand Jury conducted interviews with:

- The Director of Public Works
- The Public Works Business Administrator
- The Roads and Bridges Department Superintendent
- Two corporation yard foremen

The Grand Jury reviewed the:

- 2009/2010 budget for the RBD
- RBD website
- A list of all current contractors employed
- A report on a selected list of equipment hour usage
- A list of all RBD department equipment
- An escorted tour of the RBD's internal data base

### **BACKGROUND**

The RBD operates on a \$12.9 million annual budget covering 43 positions. Seven positions are currently unfilled. The duties of the RBD include capital improvement and maintenance with the goal of constructing and maintaining the County roads and bridges in the best possible condition, within budget constraints. This work also includes snow removal primarily in the Ebbetts Pass and Railroad Flat areas of approximately 150 miles roads above 5,000 feet in elevation. Snow removal is accomplished by both permanent and extra hires. Other duties include road patching, sealing, asphalt overlays, tree brushing and maintenance of road drainage systems. Very little or no work is performed on County bridges by the RBD as this work is classified as Capital Improvements.

Funding for the RBD is primarily derived from gasoline and diesel highway taxes, Federal and State grants and the County's share of vehicle license fees. The State has the authority to withhold a major portion of the budgeted funding or delay distribution of these funds.

### **RESULTS OF INVESTIGATION**

#### **Finding 1**

The Grand Jury found that there is a laxity in supervising the work force hours. Workers report promptly at 7:00 AM and meet in the individual corporation yard offices until approximately 8:00 AM. They start checking the equipment, loading it on trailers if necessary, or loading the dump trucks. Between 8:00 AM and 8:15 AM they proceed to the work site, averaging one-half hour travel time. After unloading equipment and setting up traffic signs, they begin work. Employees take one-half hour for lunch. The workers start taking down the signs and reloading the

equipment and at approximately 2:45 PM they drive back to the yard. The work day ends at 3:30 PM. This typically results in five-and-one-half hours of work at a job site.

**Recommendation**

A diligent effort should be made by RBD supervision to maximize productive working hours.

**Response Requested:**

Director of Department of Public Works  
County Administrative Officer

**Finding 2**

The Grand Jury looked at a sampling of equipment usage. This sample included six backhoes, five graders and an asphalt paving machine. The hour meter on heavy equipment is similar to an odometer on an automobile except that it measures actual hours of run time instead of miles driven. Engine hour readings on the machines showed the usage to be about 11% of working hours. In looking at the past five years' usage, the percentages and hours remained the same. Equipment has been purchased within the past few years that appears to have received little use. The need for the current fleet of equipment seems excessive based on the actual usage.

**Recommendation**

The RBD has an existing database capable of accurately tracking equipment usage. It is recommended that use of this database be implemented as soon as possible in order to determine the need for equipment and future replacements. It is recommended that the RBD explore alternatives to purchasing heavy equipment.

**Response Requested**

Director of Department of Public Works

**Finding 3**

On February 10, 2010, the Grand Jury observed repair of a gravel road executed by staff from the Jenny Lind corporation yard. Two 5-ton dump trucks loaded gravel from the yard and hauled it to the road under repair. This involved a one-and-one-half hour round trip. Employees dumped the load and returned another four times during the day. The grader on the site promptly graded the ten tons delivered in a few minutes then waited more than an hour for the trucks to return. This machine is capable of spreading hundreds of tons per hour. The road repair was made by simply spreading the rock. No water or compaction roller was used. It appeared that equipment and manpower were being used inefficiently. Questions arise as to whether this repair methodology could result in a road that would experience almost instant washboarding.

**Recommendation**

It is recommended that the Department compare its existing policies, procedures, and repair methods with current codes for repair/maintenance of gravel roads and implement necessary changes. It is also recommended that staff training and supervision policies and practices be reviewed for proper implementation to ensure high quality and efficient performance. Similarly, it is recommended that coordination for the most efficient use of equipment and personnel be evaluated and improved.

**Response Requested**

Director of Department of Public Works

## **13. WALLACE COMMUNITY SERVICES DISTRICT**

### **REASON FOR INVESTIGATION**

California Penal Code section 925 states in part "...investigations may be conducted on some selective basis each year." The Grand Jury has in the past studied one or more special districts. This year the Grand Jury selected the Wallace Community Services District (WCSD) for review.

### **BACKGROUND**

The WCSD was formed by the County Board of Supervisors in 1990 "...to provide domestic water service, sewage treatment services, road maintenance and repair, garbage collection and disposal, street lighting and recreational facilities and common area maintenance..." and later liquefied petroleum gas for the development area known as Wallace Lake Estates. The community is involved in planning, having issued a Vision Statement for the Community of Wallace in February 2009.

It is noted that in January 2010, the WCSD signed an Agreement for management and operational assistance to be provided by the Calaveras County Water District. The Findings and Recommendations included below are from observations prior to January 1, 2010.

### **PROCEDURES**

During 2009 the WCSD Board was the subject of community contention played out in the press. In order to evaluate the sources of contention, the Grand Jury attended several meetings of the WCSD Board of Directors. In addition, an interview was held with the outgoing President of the Board and the WCSD General Manager hired in the fall of 2009.

### **RESULTS OF INVESTIGATION**

#### **Finding 1**

The Grand Jury noted irregularities in Board activities. In violation of the Brown Act, items were initiated and voted upon which were not shown on the Board's agenda.

#### **Finding 2**

The WCSD Board appeared concerned about liability and insurance issues, yet the Grand Jury found the WCSD had no idea of the insurance consequences related to Board meetings being held on the property of and in a facility owned by a Board member. Several of the Directors-elect questioned the lack of due diligence by the sitting Board members in forming pre-determined opinions about will-serve cases rather than researching each individual circumstance and discussing the cases with the Board and the public in open session.

#### **Finding 3**

It appeared that WCSD Board members had little knowledge of California Department of Public Health or State Water Resources Control Board mandated certification requirements for persons working in water and wastewater treatment, distribution, and related services. Board members were known to have had access to, if not engaged in, the handling of facilities for which State certifications are required. In addition, WCSD's General Manager did not have the certification necessary to operate WCSD's wastewater plant. An arrangement was necessary for him to work under the license of an individual no longer on the WCSD payroll until the required on-the-job hours needed for certification could be documented. Though such an arrangement is allowed, on-site supervision requirements exist.

**Finding 4**

During its meetings the Board presented a confusing arrangement for hiring its General Manager. The Board contracted with an engineering company to assign a specific individual as General Manager to WCSD. Questions arose relative to the status of liability and workers compensation under such an arrangement, and written clarification of these issues did not exist. Typically a contractor is held to strict liability coverage requirements. It is not known whether WCSD sought assurance that the engineering company was properly licensed to provide such services.

**Finding 5**

While reviewing a water service connection issue involving one of the sitting Board members, a reference was made that the affected Board member had provided in-kind services to the District over many years. The Board cited these services as its reason for waiving the fee associated with the service connection in question. The public could have a negative perception of such decisions, perceiving favoritism and a lack of fiduciary responsibility by the Directors of WCSD in carrying out the duties charged to them by the voters.

**Finding 6**

The WCSD has developed a number of guidance documents necessary to operate the District including Governance Guidelines for the Board of Directors, an Annual Service Plan, administrative and financial procedures, as well as written operating procedures for the plants; however, a number of the documents were found to be only partially developed or incomplete.

**Finding 7**

Board members reported having obtained bids for services such as paving through a word-of-mouth method that included only select providers rather than through a broader, more formal process with public notices.

**Finding 8**

Recently an expansion of Wallace Lake Estates was proposed by a developer who had purchased property and plans from the entity responsible for the original development. The new owner had requested that the District honor the costs and rates agreed upon with the prior developer. Questions arose whether an apparently favorable response to the new developer's proposal was communicated by a Board member prior to the proposal being discussed in open session. A problem with actual approval of the prior expansion plan later surfaced.

**Finding 9**

Related to Finding 8, it was discovered the previous expansion application process had not been completed through Local Area Formation Commission (LAFCO). In its 2004 services review, LAFCO had advised WCSD to prepare a capital improvement plan, to perform an analysis of its rate structure, and to consider exploring sources of surface water to provide a long-term reliable water supply to the area. WCSD has acted upon all of these recommendations. LAFCO also urged WCSD to consider outside management assistance.

**Finding 10**

During the meetings, corrections to WCSD bookkeeping and balances were regularly pointed out by audience members. Inter-fund loans and transfer matters were presented for vote without clear or accurate information relative to terms or status of either fund. A confusing discussion was held regarding compensation for the General Manager and the individual under whose State certification the General Manager would be working. It is uncertain whether

accurate documentation detailing the outcome was ever prepared for the record following Board discussion of the topic.

**Recommendation 1 for Findings 1, 5, and 6**

The Grand Jury recommends that the Board of the WCSD clarify its responsibilities and obligations under the state’s Community Services District law, specifically Part 3, Chapter 1, Section 61100, and review/revise its Governance Guidelines in keeping with the law.

**Recommendation 2 for Findings 2 and 4**

The Grand Jury notes that issues involving an analysis of risk and the assignment liability appear to be of particular concern in operations of the WCSD. The Grand Jury recommends the Board receive training in – or obtain the assistance of someone trained in – risk management and risk transfer issues. General calls to the WCSD insurer do not take the place of specific review and analysis of each situation.

**Recommendation 3 for Findings 3 and 6**

Various requirements exist from federal and state regulations that require documentation to be prepared. The Grand Jury recommends WCSD ensure its regulatory-required documents are complete. It also recommends that WCSD Board receive additional training on the employee certifications required to perform the duties necessary to operate the treatment plants and oversee WCSD’s services, and the limitations placed on those who do not hold the proper certifications.

**Recommendation 4 for Findings 4 and 7**

The Grand Jury recommends that Board Members obtain training in – or the assistance of someone trained in – public contracting requirements to ensure transparency in the expenditure of public funds, including efforts to obtain the best value possible for the WCSD.

**Recommendation 5 for Finding 8 and 9**

The Grand Jury recommends that the WCSD ensure that it has responded to all LAFCO recommendations. It is further recommended that the WCSD formulate a procedure for listing and tracking its obligations, including regularly required events and reports, as well as obligations that are forthcoming from the District’s involvement with other agencies, associations, and community-related commitments.

**Recommendation 6 for Finding 10**

The Grand Jury recommends that the WCSD thoroughly review its policies and procedures relative to financial matters. Procedures regarding inter-fund transfers specifically need to be addressed, including but not limited to authorized limitations to transfers, any interest paid on funds borrowed by one fund from another, timetables for paying back borrowed funds, and the tracking and reporting of all such activities.

**Responses Required**

Board of Directors, Wallace Community Services District

THIS PAGE LEFT BLANK INTENTIONALLY

## B. RESPONSES TO 2008-2009 GRAND JURY REPORT

The Grand Jury releases its final report at the end of its term. Most, if not all, of the responses are received after the new Grand Jury has been seated and these responses become its responsibility. Unlike many counties, the Calaveras County Grand Jury has five or six holdovers who return to assist the new Jury in the way the Grand Jury conducts business and aid in the analysis of the responses. To assure continuity, it is important to carefully track and evaluate responses.

Responses are tracked to inform the public, ensure follow up, promote solutions, and reduce the number of unresponsive answers. Public scrutiny of the responses can improve the impact of the Grand Jury's reports and recommendations as well as increase the credibility of the elected officials and department heads whose areas were investigated.

The new Grand Jury reviews the findings and recommendations of the prior year's Jury and the ensuing responses. When necessary, these responses are discussed with the appropriate standing committees for follow-up comments. If it is determined that more information is needed, Jury members may meet with the respondents to discuss specific responses.

The Grand Jury refers to the California Penal Code (CPC) for follow up, summarization, and analysis of the responses from the responding officials and departments, pursuant to CPC §933 and §933.05 there are time limits for responses and each Finding and Recommendation may either require or request a response from the party addressed. Specifically worded responses are limited by the CPC. Responses may include additional information to clarify a specific response.

### RESPONSE TIME LIMITS CPC §933 (c)

*"...No later than 90 days after the Grand Jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and every elected county officer or agency head for which the grand jury has responsibility pursuant to §914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years."*

### RESPONSE TO FINDINGS CPC §933.05 (a)

1. *"The respondent agrees with the finding."*
2. *"The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reason therefore."*

RESPONSE TO THE RECOMMENDATION CPC §933.05 (b)

1. *“The recommendation has been implemented, with a summary regarding the implemented action.”*
2. *“The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.”*
3. *“The implementation requires further analysis, with an explanation and the scope and parameters of an analysis or study and a time frame for the matter to be prepared for discussion by the officer or head of the department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report.”*
4. *“The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation thereof.”*

**R1. RESPONSES FROM COUNTY COUNSEL, COUNTY ADMINISTRATIVE OFFICER (CAO) AND BOARD OF SUPERVISORS (BOS) REGARDING FORMAT OF RESPONSES TO GRAND JURY REPORTS TO GRAND JURY REPORT 2008-2009**

**REASON FOR INVESTIGATION**

California Penal Code (PC) section 933.05 specifies the format for mandated Governmental Agency responses to Grand Jury Reports. Recent responses received by the Grand Jury have not been consistently prepared in the proper format.

**Finding 1**

Department Heads, Elected Officers, Agencies, the CAO, and the BOS are not consistently following the format specified in PC 933.05 for responses to Grand Jury Reports. In some instances they are not providing all of the required information.

**Recommendation 2**

The Grand Jury recommends that County Counsel provide mandatory annual training on the response format specified in PC 933.05 to all Agency Department Heads and Elected Officers as well as the CAO and BOS.

**RESPONSE**

County Counsel agrees with and has implemented the Grand Jury's recommendation to provide mandatory annual training consisting of a review of the requirements of Penal Code section 933.05 at several department head meetings, to issue a follow-up email reminder to department heads of the deadline for responses, and to provide a copy of the Summary of Requested Responses.

**Finding 2**

In some instances the CAO and the BOS merely adopt and/or concur with the responses from others rather than provide their own responses to recommendations as requested.

**Recommendation**

The Grand Jury recommends and expects each requested respondent to provide its own response to Grand Jury recommendations. The continued practice of adopting and/or concurring with the responses from others will be viewed as a refusal to respond, and non-compliant respondents will be referred to County Counsel and the Superior Court for Code enforcement.

**RESPONSE**

County Counsel, the BOS and the CAO agree to provide meaningful responses to the Grand Jury findings and recommendations in accordance with PC 933.05. In the event that the BOS must rely on information obtained from department heads or agencies, the BOS may concur with those responses and direct the CAO to ensure that responses from County staff under the CAO's responsibility are meaningful. County Counsel agrees that each and every responding agency or department is obligated to be responsive to pertinent Grand Jury findings and that merely adopting the response of another agency should not be used to avoid that responsibility. The response of one agency that is fully and completely responsive to an issue should suffice as long as other responding department heads can state in good faith that they can adopt the response without qualification or addition.

**GRAND JURY DETERMINATION 2009-2010**

The responses from County Counsel, the BOS and CAO are adequate for the Format of Response to Grand Jury Findings and Recommendations.

## **R2. RESPONSES FROM BOARD OF SUPERVISORS (BOS), CHIEF ADMINISTRATIVE OFFICER (CAO) AND AUDITOR-CONTROLLER (AC) REGARDING COUNTY'S USE OF CERTIFICATES OF PARTICIPATION (COP) TO GRAND JURY REPORT 2008-2009**

### **REASON FOR INVESTIGATION**

The County is involved with a funding program known as Certificates of Participation. California Penal Code section 925 allows the Grand Jury to conduct an investigation of this issue.

#### **Finding 1**

The Board of Supervisors allowed for the lease-back of the following Government Center buildings:

- Women's Crisis Center
- Main Library
- Health and Welfare Building
- Administration Building
- Law and Justice Building

In 2007 the facilities had an insured real property value, exclusive of the land and personal property, of \$8,975,314 which is well over the amount of the COP.

#### **Finding 2**

Without a public vote, the County has assumed an obligation of \$14,645,749 with a 30-year payback schedule.

#### **Finding 3**

The County has obligated the Tobacco Settlement Revenues to repay the COP.

#### **Finding 4**

The cost of issuance and underwriting discount for the COP was \$253,454.

#### **Finding 5**

To date the County has spent \$1.9 million of the COP to acquire the additional property for the Measure J accomplishment.

#### **Finding 6**

All COPs issued were legally initiated and implemented.

#### **Finding 7**

There appears to be little understanding or awareness of this type of financing on the part of the public.

#### **Finding 8**

U.S. Bank National Association is the Trustee of the COP funds.

## Recommendations

The Grand Jury recommends each County entity with outstanding COPs issue an end-of-the-fiscal-year report on each COP. This report should be made available to the public and the media and should include:

- original amount of COP issued
- brief description of the project financed
- name of Trustee
- balance remaining
- interest costs incurred to date
- estimated future interest costs
- source of funds used to make payments

The Grand Jury further recommends that future use of this type of financing includes:

- full disclosure to the public of the need for the project using clear and understandable language
- work with the media to provide maximum coverage
- full disclosure of the anticipated costs of the project including future interest charges over the life of the bonds, Bond Counsel charges, and insurance fees
- financial disclosure in any County entities' meeting agendas when the COP is on the calendar

## RESPONSE

**Findings 1,3,6, and 8:** The BOS, CAO, and AC concur with the Grand Jury.

**Finding 2:** The BOS and CAO responded that while there was no ballot measure to assume the COP, there were two publicly held meetings - the first a public study session at its August 21, 2007, Regular Meeting and the second held September 4, 2007, at which COP issuance was voted on publicly. The AC concurred with the Grand Jury on this finding.

**Finding 4:** The BOS, CAO, and AC responded that the final COP costs of issuance and underwriting totaled \$272,390.00.

**Finding 5:** The BOS, CAO, and AC responded that the actual cost in COP funds to acquire two parcels necessary for the capital projects associated with Measure J is \$3.937 million, not \$1.9 million as stated in the Grand Jury Report.

**Finding 7:** The BOS responded, "The Board will implement the Grand Jury's recommendation for full disclosure to the public of matters related to COP issuance at such time in the future as a COP issuance may occur, and believes the current process – Debt Advisory Committee consideration, followed by presentation of the issue at two public meetings, concluded by a public vote of the Board of Supervisors – fulfills the recommendation to inform the public and receive comment regarding the assumption of future financial obligations."

The CAO responded, "The County Administrative Office will implement at the time of any future COP issuance the Grand Jury's recommendation for full disclosure to the public of matters related to COP issuance."

The AC responded, "To meet the Grand Jury's recommendation for full disclosure of future COP financings will require the collaboration of all Departments involved in the issuance. The Auditor-

Controller will work meticulously to ensure successful implementation as it relates to information and processes subject to the control of the Auditor-Controller's Office."

**GRAND JURY DETERMINATION 2009-2010**

The Grand Jury determines that the responses from the Board of Supervisors, County Administrator, and the Auditor-Controller are adequate.

THIS PAGE LEFT BLANK INTENTIONALLY

**R3. RESPONSES FROM COPPEROPOLIS FIRE PROTECTION DISTRICT BOARD OF DIRECTORS, COUNTY AUDITOR-CONTROLLER, AND COUNTY TAX COLLECTOR-TREASURER REGARDING COPPEROPOLIS FIRE PROTECTION DISTRICT REPORT TO GRAND JURY REPORT 2008-2009**

**REASON FOR INVESTIGATION**

California Penal Code section 925 states in part "...investigations may be conducted on some selective basis each year." This year the Grand Jury selected Copperopolis Fire Protection District (CFPD) for a review.

**A. GANN LIMIT**

**Finding 1**

The CFPD audit for the fiscal year ending June 30, 2006, noted that the District was \$34,580 over the Gann Limit. The most recent audit, for the fiscal year ending June 30, 2007, showed the District was over the Gann Limit by \$146,318. The law requires either an election be held raising the Gann Limit or returning the overage to the taxpayers.

**Recommendation**

The CFPD needs to take steps to remain in compliance with the Gann Limit.

**Comment**

The CFPD held an election on March 3, 2009, and voters approved increasing the limit to \$550,000 for fiscal years 2005-06 through fiscal year 2012-13. The election materials did not disclose the option of returning the overage to the taxpayers.

**RESPONSE**

The CFPD Board of Directors does not dispute the observations, conclusions, and concerns expressed by the Grand Jury. Its auditors will continue to monitor tax and "special tax" revenues to ensure future compliance.

**GRAND JURY DETERMINATION 2009-2010**

The Grand Jury determines the CFPD Board of Directors has the responsibility for Gann Limit compliance with the counsel of its auditors.

**B. TEETER PLAN AND COUNTY TREASURY**

**Finding 1**

The Grand Jury agreed with previous Grand Juries that CFPD would benefit from joining the Teeter Plan and placing their funds in the County Treasury.

**Comment**

On October 30, 2008, the County Auditor-Controller and the County Tax Collector-Treasurer met with the CFPD Board explaining the Teeter Plan and the benefits of placing the District's funds in the County Treasury. The County Supervisor whose district includes the CFPD spoke at the same meeting about the merits of the District working fiscally with the County.

On November 13, 2008, the CFPD Board approved joining the Teeter Plan with the passing of Resolution 1-11-13-08. On December 11, 2008, the Board passed Resolution 12-08-1 to deposit the District revenues into the Calaveras County Treasury to be included in the banking

and investment program. The District has contracted for payroll services and will maintain a checking account for that purpose and will also maintain a separate checking account for the purpose of a petty cash fund. As of February 10, 2009, \$7,000 had been retained for petty cash and approximately \$100,000 for payroll.

### **Recommendation**

CFPD should remain in the Teeter Plan and retain their funds in the County Treasury.

### **RESPONSES**

The responses from the CFPD Board of Directors, County Auditor-Controller, and County Tax Collector-Treasurer indicate that joining the Teeter Plan and depositing District funds in the County Treasury (minus petty cash and payroll) have been beneficial.

### **GRAND JURY DETERMINATION 2009-2010**

The Grand Jury determines all responses are adequate.

### **C. ACCOUNTING PRACTICES**

#### **Finding 1**

Over the period July 1, 2000, through June 30, 2007, non-compliance escalated to include:

#### **General Accounting Conditions**

- did not have a set of books accounting for all financial activities of the district using double entry accounting
- did not have proper verification for all purchases
- did not have a separate fund to account for assets, liabilities, revenues, and expenditures of the Paramedics Program until 2006-2007
- used modified cash basis which is not in compliance with accepted accounting practices
- did not follow bid procedures for purchasing goods and services costing over \$10,000 in accordance with the Public Contract Code
- repeatedly did not adopt a balanced budget by the August 31 deadline as required by Government Code (GC) Section 29009 of Article 1 of Chapter 1 of Title 3
- did not perform a monthly bank reconciliation for their checking and savings accounts

#### **Payroll Discrepancies**

- did not collect and report payroll taxes as required
- issued checks to employee investment trading accounts in lieu of paying directly for employee health insurance or co-payments without paying FICA or Medicare as required
- classified Paramedics as independent contractors to avoid paying employer-paid payroll taxes
- several I-9 immigration forms not complete
- W-4s incomplete and/or not in agreement with withholding on checks
- timesheet not in agreement with payroll register for hours worked and amount paid
- employee paid one week more vacation than earned

### **Recommendation**

Even though the CFPD has joined the County Treasury and employed a payroll service, the accounting practices of the District should be closely monitored. CFPD should implement proper

accounting procedures as recommended by their auditor for years and seek professional assistance as needed.

## **RESPONSES**

The CFPD Board feels that joining the County Treasury and employing a payroll service will minimize any risk of error in accounting practices. The Board's response stated, "The County-Auditor closely monitors our accounting practices, as does our independent auditor, and Board of Directors."

The County Auditor-Controller responded in agreement to Finding 1. "The Grand Jury recommendation that Copper Fire Protection District's accounting practices be closely monitored and that they implement proper accounting procedures as recommended by their auditor for years and seek professional assistance as needed, is only partially under the County's control. It is at the District's discretion to hire competent personnel and/or to seek appropriate professional assistance. The Auditor-Controller is willing to lend guidance in enhancing processes and procedures while strengthening internal controls. District personnel must be willing to cooperate and follow established accounting principles for this to occur. Furthermore, District personnel should demonstrate knowledge, reliability of performance, and adherence to basic management controls to lessen fraud risks and/or the perception of fraud."

### **GRAND JURY DETERMINATION 2009-2010**

Even though the CFPD Board does not dispute the conclusions and concerns of the Grand Jury, the Grand Jury reminds the Board that it is ultimately responsible for the monitoring of the District's finances, whether its funds are in the County Treasury or withheld for petty cash and payroll. District personnel continue to have monetary responsibilities and a history of not adhering to acceptable accounting practices while being monitored by its Board and independent auditor.

The response from the Auditor-Controller is adequate.

### **Finding 2**

As of February 10, 2009, CFPD had no auditor to examine the financial records for the 2007-2008 fiscal year. California GC 26909 requires that the audit be completed by June 30, 2009.

### **Recommendation**

CFPD must hire an independent auditor in order to complete the required audit in a timely manner.

## **RESPONSE**

The CFPD Board hired a new independent auditor whose report for the 2007-2008 fiscal year was prepared and submitted to the County Auditor-Controller in a timely manner.

### **GRAND JURY DETERMINATION 2009-2010**

The Grand Jury determines the response is adequate.

THIS PAGE LEFT BLANK INTENTIONALLY

**R4. RESPONSE FROM DIRECTOR OF PUBLIC WORKS (DPW) REGARDING SOLID  
WASTE TRANSFER STATIONS AND LANDFILL SITE TO GRAND JURY REPORT 2008-  
2009**

**REASON FOR INVESTIGATION**

The Grand Jury received a citizen complaint regarding commercial and non-resident dumping at County solid-waste transfer stations.

**Finding 1**

The overall operation of the solid waste facility and the transfer stations is impressive. The Grand Jury found both sites to be clean and efficiently operated.

**Finding 2**

While commercial and non-residential dumping are not closely monitored at all times, the Grand Jury found that this was not a major problem and believes that higher levels of scrutiny could have a negative impact resulting in trash being dumped along roadways and landscapes.

**Recommendation**

Continue current operating procedures regarding checking for commercial and non-resident dumping.

**RESPONSE**

The DPW agrees with Findings 1 and 2 and further states, "The Grand Jury Recommendation to continue current operating practices has been implemented. Public Works is aware of the potential problem of unauthorized commercial and non-resident dumping and will continue to seek methods to minimize these abuses."

**GRAND JURY DETERMINATION 2009-2010**

The response from the DPW is adequate to meet the Findings and Recommendation.

THIS PAGE LEFT BLANK INTENTIONALLY

**R5. RESPONSES FROM COUNTY LIBRARIAN (LIBRARIAN), COUNTY ADMINISTRATIVE OFFICER (CAO), BOARD OF SUPERVISORS (BOS), AND CHIEF INFORMATION OFFICER OF TECHNOLOGY SERVICES DEPARTMENT (CIO) REGARDING CALAVERAS COUNTY LIBRARY SYSTEM TO GRAND JURY REPORT 2008-2009**

**REASON FOR INVESTIGATION**

Penal Code section 925 states in part "...investigations may be conducted on some selective basis each year." This year the Grand Jury selected the Calaveras County Library System for review.

**Finding 2**

The annual materials budget line item provides the funds to purchase new materials for the library including books, movie DVDs, children's videos, and subscriptions to newspapers and magazines. Each year new materials must be purchased to keep the library vital to the Calaveras community. The materials budget was \$47,365 in FY 2002-2003; but, with tight budgets over the last few years, the funding has been reduced to \$17,960 in the FY 2008-2009 budget.

**Recommendation**

Make it a priority to restore the annual library materials budget to the \$45,000 level in line with the size of the Calaveras community.

**RESPONSE**

**NOTE:** The CAO responded to the findings regarding the County Library System on September 16 and 18, 2009, after inadvertently omitting his responses in his initial response to the Grand Jury Report dated August 21, 2009. The CAO's responses to Findings 2 and 3 are derived from both documents and Findings 4 and 5 from the document dated September 16, 2009.

The Librarian, CAO, and BOS concur with Finding 2. The total materials budget for FY 2009-2010 is less than \$5000 reflecting budget constraints. The BOS will reexamine the appropriation during the FY 2010-2011 budget process.

**GRAND JURY DETERMINATION 2009-2010**

The responses are adequate and reflective of the County's economic situation.

**Finding 3**

Work space for the Library Assistants working in the Central Library is very crowded causing a negative impact on staff morale.

**Recommendation**

Library management should develop and implement a plan to move one of the Library Assistant's work areas from the central office area behind the front reception desk to another part of the library.

**RESPONSE**

The CAO and Librarian concur with the finding found at the time of the Grand Jury's visits. Workforce reductions necessitated by the current fiscal crisis have tended to mitigate space allocation issues with a 40% reduction of full-time Library Assistants. As of August 1, 2009, there are three Assistants in a work area that previously was used by five. The CAO will support the Librarian's efforts if additional staff causes a recurrence of overcrowding.

## **GRAND JURY DETERMINATION 2009-2010**

The responses are adequate since the economic situation made the work space no longer an issue.

### **Finding 4**

Technical support is required in the library system to support computers, computer related equipment, library computer software, and access to the internet using library equipment. Over the past several years, technical support in the library has been supplied by a specially trained Library Assistant working in the Central Library. In the FY 2008-2009 budget development process, the County Librarian submitted a library reorganization plan that included a reclassification request to change the job title, job duties, and compensation of the Library Assistant to recognize the duties being performed. The reorganization plan was not approved by the County Administrative Office.

Since July 2008 technical duties have been removed from the Library Assistant, and the Library has been working with the Calaveras County Technology Services Department to assume the library technical support duties. Technology Services provides technical support to County departments. As County departments automate to more efficiently provide service and as new technology becomes available, Technology Services is receiving more requests to provide service and supporting a larger number of clients.

The Library obtained approval to implement wireless internet service in a Board of Supervisors study session March 13, 2007. The County Librarian asked Technology Services to assist with the implementation in May 2007, but as of December 2008, in over a year and a half Technology Services has not been able to devote the resources to get it working. Library staff questions whether or not Technology Services will be able to provide the level of support previously provided by the Library Assistant who has the technical skills and is also knowledgeable with the library systems.

The Grand Jury is concerned that Technology Services has an inadequate number of trained staff to provide timely support to the Library while meeting the growing needs of other County departments.

### **Recommendation**

The County Librarian, the County Administrative Officer, and the Chief Information Officer of Technology Services Department should work together to ensure technical service is provided to the Library to meet its needs in a timely manner.

### **RESPONSE**

The CAO and CIO partially disagree with the Finding. The CIO notes that the wireless installation is a delayed special project and not part of general support to the Library. The CAO states, "... Technology Services Department serves all County departments, and that at a time of fiscal constraint, activities in support of mandated public services generally take precedence over those in support of discretionary enterprises."

The Librarian concurs with the recommendation and noted that in Spring 2009 Technology Services provided information on equipment and cost to implement wireless technology at the Central Library and all branches. The CAO, given the waiting period cited, will investigate the situation and discuss possible resolutions with the CIO.

The Librarian adds, "Another issue related to this problem is the fact that the Library has a staff person capable of handling technology issues but these duties do not fit into her work description. A reclassification was denied due to budgetary constraints."

#### **GRAND JURY DETERMINATION 2009-2010**

The responses are adequate, but technology issues regarding the Library remain unresolved.

#### **Finding 5**

The seven Branch Libraries which are open 20 to 30 hours a week are staffed by the Branch Library Assistants who work 18 hours a week. The additional hours are covered by volunteers except at Arnold where Extra-Hires funded by the Arnold FOTL keep that branch open an additional 12 hours a week.

The 2005-2006 Library survey indicated that some users want the Branch Libraries open longer. The FY 2006-2007 Grand Jury report recommended making the Branch Library Assistants full-time to expand the hours of the Branch Libraries. The County Librarian submitted a reorganization plan with the FY 2008-2009 Library budget that would increase the hours of Branch Library Assistants to full-time to increase the Branch Libraries' hours of operation. The reorganization plan was rejected by the County Administrative Office because County funds are not available to support the increased cost in salary and benefits.

The FY 2008-2009 Grand Jury believes that the Branch Libraries would better serve the public if they were open longer.

#### **Recommendation**

Use Extra-Hires to expand Branch Library hours. The County Librarian should explore obtaining additional funds from outside the County budget, such as the Friends of the Library or special grants, to fund the positions.

#### **RESPONSE**

The Librarian, BOS, and CAO concur with the Finding.

The BOS will not implement the recommendation because it is not reasonable to do so but will support efforts by the Librarian to raise supplemental funds to expand Branch hours of operation. The CAO will support the Librarian in these efforts.

The Librarian responded, "Adding part-time employees at each location could increase hours but would not be the County Librarian's choice on the way to accomplish additional hours. Extra Hire classification is for occasional work not regularly scheduled hours." The Librarian noted that ongoing staff costs should not be the burden of the Friends of the Library and that most grantors will not provide for such an expense.

#### **GRAND JURY DETERMINATION 2009-2010**

The responses are adequate, but the expansion of hours of Branch Libraries remains unresolved.

THIS PAGE LEFT BLANK INTENTIONALLY

**R6. RESPONSES TO GRAND JURY REPORT 2008-2009 FROM AUDITOR-CONTROLLER (AC), COUNTY ADMINISTRATIVE OFFICER (CAO), AND DIRECTOR OF PLANNING (DIRECTOR) REGARDING OVERPAYMENTS BY THE COMMUNITY DEVELOPMENT AGENCY (CDA) TO A COUNTY VENDOR**

**REASON FOR INVESTIGATION**

The 2007-2008 Grand Jury brought to the attention of the 2008-2009 Grand Jury that the County overpaid one of its vendors. California Penal Code section 925 allows the Grand Jury to conduct an investigation of this issue.

**Finding 1**

Invoice B1-9460 was overpaid by \$1,900.00 and Invoice B1-9461 was overpaid by \$4,980.00 for a total of \$6,880.00 as of December 27, 2007.

**Finding 2**

The 2008-2009 Grand Jury determined the overpayment had still not been collected from JAS Pacific. This discrepancy was brought to the attention of the Auditor-Controller's Office by the Grand Jury.

In 2008 the CDA made several requests to JAS; however, they let months go by between collection attempts. The 2008-2009 Grand Jury contacted the CDA in October regarding this issue and discovered it had still not been resolved. Because of the Grand Jury's inquiry and the lack of response by JAS, the CDA sent a demand letter March 9, 2009, to JAS giving 15 days to return the overpayment. The letter stated failure to do this would result in the matter being taken to the County Counsel.

After the 15 days had elapsed without payment, the Interim CDA Director called JAS corporate headquarters. Check number 8406 dated March 30, 2009, in the amount of \$6,880 was received by the County April 1, 2009.

**Recommendation 1**

The CDA should consistently match purchase orders and invoices prior to requesting payment to the Auditor-Controller's office.

**RESPONSE**

**NOTE:** The following is from the Director: "Please note the response to #6 Overpayments to County Vendor were regarding an overpayment made on a contract with the Building Division of the Community Development Agency.

"On May 12, 2009 the Board of Supervisors voted to disband the Community Development Agency and have free standing departments with respect to the Building and Planning Departments. However at the time of the Grand Jury's investigation the Community Development Agency was still in effect."

The AC, CAO, and Director agreed with Findings 1 and 2.

All respondents agreed that County departments are required to match purchase orders and invoices prior to requesting payment to the AC. The Director noted the overpayment did not exceed the amount of the contract or purchase order. The AC responded that the County's financial system would alert for duplicate payment if departments correctly applied control procedures established by the AC. The AC added, "Without a system to further match

Purchase Orders with invoices and verify with set limits per vendor, staff resources to audit each claim is not feasible due to limited staff resources.”

**GRAND JURY DETERMINATION 2009-2010**

The responses are adequate.

**Recommendation 2**

The CDA and the Auditor-Controller’s office should have a system to alert them of overpayments to vendors and take corrective action. This action should take place between any department and the Auditor-Controller’s office with final responsibility belonging to the Auditor-Controller’s office.

**RESPONSE**

The CAO responded that the AC is an independently elected official not subject to the CAO’s direction or control. The Director agreed that a system to alert overpayments to vendors should be in place. The AC agreed that the Grand Jury’s recommendation was warranted and responded, “The County has not implemented the Purchasing Module or the Contract Management Module in the County’s financial system, which would assist with auditing vendor overpayments. Due to the recent budget reduction to office staff in the Auditor-Controller’s Office, the Auditor-Controller’s Office ability to participate with the County’s implementation of these modules has been diminished.”

**GRAND JURY DETERMINATION 2009-2010**

The responses are adequate.

## **R7. RESPONSES FROM BOARD OF SUPERVISORS AND SHERIFF REGARDING CALAVERAS COUNTY ANIMAL SHELTER TO GRAND JURY REPORT 2008-2009**

### **REASON FOR INVESTIGATION**

The 2008-2009 Grand Jury continues to assess the condition of the facility, animal health and welfare, safety, and overall operation of the animal shelter.

### **Finding 1**

The Grand Jury noticed that the site was clean and well-organized for the available limited space. The new construction will provide much-needed additional space until a new shelter is built.

### **Recommendation**

The Grand Jury continues to recommend the Sheriff update, and the Board of Supervisors approve the plan for a new animal shelter with a specific timeline. The Board of Supervisors needs to allocate the necessary funding.

### **SHERIFF RESPONSE**

"The Calaveras County Sheriff's Office agrees entirely with the Grand Jury's findings that the current Animal Shelter is too small and outdated for the housing of animals for Calaveras County.

"The Calaveras County Sheriff's Office has not been provided with any commitment of funding for the construction of a new Animal Shelter from the Board of Supervisors or Calaveras County Administration."

### **BOARD OF SUPERVISORS RESPONSE**

"The Board will not implement the Recommendation because it is not feasible. With the current uncertain fiscal situation the county faces this year and perhaps the next there are insufficient funds at this time to construct a new shelter. The Board will look for and continue to work with Animal Services and outside agencies and organizations in finding funds for this project."

### **GRAND JURY DETERMINATION 2009-2010**

The Grand Jury does agree that the moneys are not present at this time, but this is a very important agenda item and needs to be on the top of next year's budget. It has been tabled too many years.

THIS PAGE LEFT BLANK INTENTIONALLY

## **R8. RESPONSES FROM AUDITOR-CONTROLLER AND SHERIFF REGARDING CALAVERAS COUNTY JAIL TO GRAND JURY REPORT 2008-2009**

### **REASON FOR INVESTIGATION**

In accordance with California Penal Code section 919 (b), the Grand Jury shall visit and inspect the condition and management of public prisons within the County of Calaveras.

### **Finding 5**

The Grand Jury investigated how inmates' money was handled at the time of their arrest and any money they received while in custody. The Sheriff maintained a cash account for each inmate. During each shift the on-duty Deputy counted the cash and balanced each account. A Deputy informed the Grand Jury that the department had looked into establishing an inmate checking account, but this idea had not been supported by the Auditor-Controller's office.

### **Recommendation**

The Grand Jury recommends the Sheriff's Department open an inmate checking account at a commercial bank.

### **Comment**

The Grand Jury discussed the issue with the Auditor-Controller who responded that this suggestion was possible. The Grand Jury addressed this issue with the Sheriff, and a new procedure was implemented. Now when an inmate is released, he/she receives a check for the balance of his/her account. This new procedure should save staff two to three hours a day since they do not have to balance the cash drawer at each shift change.

### **SHERIFF RESPONSE**

The Sheriff's Office has been in contact with the Auditor-Controller for several months regarding this matter. The Sheriff's office has been advised by the Auditor-Controller's Office that its staff needed to make further inquiries with other counties who use similar checking procedures prior to the implementation of the inmate checking procedure. The Sheriff's Office has provided all available information from the inmate checking vendor. As of August 21, 2009, the Sheriff's Office had not been informed by the Auditor-Controller's Office that its inquiries had been completed in order to proceed with the project.

### **AUDITOR-CONTROLLER RESPONSE**

The Grand Jury recommends a checking account be established to track inmate funds. "The Auditor-Controller was first queried about establishing a checking account for inmate funds prior to the implementation of the County's financial system around 1998 when Auditing staff was consumed with implementation of the financial system. This topic was to be addressed post the financial system becoming operational." The Auditor-Controller's Office was next contacted by the Sheriff's Department in 2009 to discuss establishing an inmate checking account. At that time, the Sheriff's Department was advised to contact several other counties who use similar accounts to request their procedures. The Sheriff's Department has provided Auditor-Controller's office with information from a proposed inmate checking vendor. The Auditor-Controller's office is reviewing the information and will be working with the Sheriff's Department to establish the account and implement procedures and internal controls.

### **Finding 6**

Jurors observed that hall space in the office area was limited because it was being used for file storage. This makes the hallway too narrow for safe passage.

**Recommendation**

The Grand Jury recommends that storage containers be placed on the site to be used for file storage. The shelving and file cabinets could be placed in the container or portable building until the new jail is completed.

**SHERIFF RESPONSE**

The file folders observed have been relocated to a storage container adjacent to the jail facility

**Finding 8**

The Grand Jury inquired about procedures regarding handling toxic and biohazardous materials in the jail. Jail staff was unable to provide the specific procedure to address the issue and unaware of the existence of Material Safety Data Sheets (MSDS).

**Recommendation**

Jail staff should receive additional training on handling toxic and biohazardous materials and familiarize themselves with MSDS location and contents.

**SHERIFF RESPONSE**

The jail staff will receive further training requiring the handling of toxic and biohazardous materials as part of their annual training. The Material Safety Data Sheets (MSDS) are on file in the jail's chemical room as required by County and State requirements. The MSDS file is accessible to all staff 24 hours a day.

**GRAND JURY DETERMINATION 2009-2010**

In Finding 5, the Grand Jury believes that the inmate checking account issue is an easy fix and that the Auditor-Controller's Office is not working on this as fast as it could. The Grand Jury determines that this is a cost-saving measure for the Sheriff's Department that should have already been put in place.

In Findings 6 and 8, the Grand Jury agrees with the Sheriff's Department procedures.

**R9. RESPONSES FROM AUDITOR-CONTROLLER, COPPER COVE ROCKY ROAD COMMUNITY SERVICE DISTRICT BOARD OF DIRECTORS AND COPPER COVE ROCKY ROAD COMMUNITY SERVICE DISTRICT MANAGER REGARDING COPPER COVE ROCKY ROAD COMMUNITY SERVICE DISTRICT TO GRAND JURY REPORT 2008-2009**

**REASON FOR INVESTIGATION**

The Grand Jury received a citizen complaint regarding management and accounting practices of the Copper Cove Rocky Road Community Service District (CCRRCSD).

**Finding 3**

The complainant also stated that monthly Board meetings had been unexpectedly cancelled without follow-up meetings being rescheduled. The Grand Jury found that regular District Board meetings are sometimes cancelled due to lack of a quorum or illness, and during 2008 the four meetings planned for April 17, August 21, November 24, and December 18 were unexpectedly cancelled. The meeting planned for November 24 was rescheduled for the following week. The CGC §61044 requires CSD board meetings be held “at least once every three months.”

**Recommendation**

The Grand Jury recommends that a telephone number be added to the bottom of the agenda for interested parties to call for last-minute information about the status of an upcoming meeting. A recording should be left on the District’s message machine for those calling to inquire.

**Finding 4**

The Grand Jury found violations of the Ralph M. Brown Act occurred when monthly agendas did not adequately describe the matters that would be considered at meetings. For example, two new policies and an Ordinance Amendment which were not on the agenda were taken to the May 15, 2008, meeting for review and approval, and they were approved. In another instance, the agenda dated June 18, 2008, intended for the June 19 meeting, did not list anything about a Cost of Living Adjustment (COLA) for the two District employees. According to the minutes, a board member at the meeting suggested a 6% COLA be given to both “as they had not had a COLA in two years,” and it was approved, to be effective less than two weeks later. District property owners and voters should have known in advance that this would be discussed.

**Recommendation 1**

The agenda should list all matters that will be considered at the meeting. Each item should be described by a brief, but informative, summary of the nature of the matter to be discussed and/or decided. That description should inform interested members of the District about the matter so that they can decide whether to attend and participate. To facilitate this, the Manager should provide topics for discussion to the Secretary in advance of the agenda preparation.

**Recommendation 2**

The District should arrange mandatory training of Directors and staff on the Brown Act.

**Finding 5**

At the June 19, 2008, Board meeting, a board member moved a 6% Cost of Living Adjustment (COLA) be given to both District employees without the required public notification. A different board member then seconded the motion, and the motion carried. A Board member present is the husband of one of the two paid District employees, creating a potential conflict of interest. The minutes did not reflect whether the husband/board member excused himself from the vote.

**Recommendation 1**

Where potential conflict of interest exists, the Board member should publicly announce the financial interest creating the conflict and disqualify himself from involvement in the decision.

**Recommendation 2**

The minutes should reflect if the employee's husband excused himself from participating in the vote to avoid the appearance of conflict. CGC §61045(d) requires that the minutes "shall record the aye and no votes taken by the members of the board of directors for the passage of all ordinances, resolutions, or motions."

**Finding 6**

The most current CRRRCSD Independent Auditor's Report and Financial Statements for the fiscal year ending June 30, 2007, showed the following significant deficiency in "General Ledger Accounting:"

"The District does not utilize a double entry accounting system to account for its general ledger activity. The District uses a check register to process checks and to code expenses to the expense accounts, but there is no balance sheet accounting for all assets, liabilities and fund equity as required by the U.S. generally accepted accounting principles. The District also is not reconciling its cash accounts on a monthly basis. We have noted this significant deficiency in previous audits."

The Grand Jury concurs.

In addition the County Auditor-Controller recommended the implementation of the Teeter Plan to provide better cash flow and accounting. The Board is considering this action.

**Recommendation**

The Board should follow up on implementation of the Teeter Plan, begin the use of an electronic accounting system, and utilize a professional payroll service.

**Finding 7**

The most current CRRRCSD Independent Auditor's Report and Financial Statements for the fiscal year ending June 30, 2007, also showed the following significant deficiency in "Segregation of Duties:"

"We noted the District had a lack of segregation of duties, as one person is capable of handling all aspects of processing transactions from beginning to end. A lack of segregation of duties increases the risk of potential errors or irregularities; however, due to a limited number of personnel an adequate segregation of duties is not possible without incurring additional costs. We have also noted this comment in previous audits."

The Grand Jury concurs.

**Recommendation**

The Board should work closely with the Independent Auditor to increase internal controls and reduce the risk for errors. Better internal controls would be achieved with the implementation of the Teeter Plan, the use of an electronic accounting system, and the use of a professional payroll service.

**RESPONSE**

The Board of Directors concurred with the Grand Jury's Findings 3, 4, 5, 6, 7 and has implemented all Recommendations.

The Manager concurred with Finding 4 and has implemented the Grand Jury's Recommendations.

The Auditor-Controller concurred with the Grand Jury's Finding 6 and Recommendation.

**GRAND JURY DETERMINATION 2009-2010**

The Grand Jury determines that all responses are adequate.

THIS PAGE LEFT BLANK INTENTIONALLY

**R10. RESPONSES FROM JENNY LIND FIRE PROTECTION DISTRICT BOARD OF SUPERVISORS REGARDING JENNY LIND FIRE PROTECTION DISTRICT TO GRAND JURY REPORT 2008-2009**

**REASON FOR INVESTIGATION**

California Penal Code section 925 states in part "...investigations may be conducted on some selective basis each year." This year the Grand Jury selected to visit two diverse Fire Districts: the Jenny Lind Fire Protection District and the Ebbetts Pass Fire Protection District (covered in a separate report). The Jenny Lind Fire Protection District (JLFPD) was chosen for review because of fire potential.

**Finding 3**

The current budget of \$650,000 does not appear adequate to maintain equipment and provide staffing at recommended levels of service.

**Recommendation**

The Grand Jury recommends that the JLFPD Board of Directors hold an election to establish a special property tax assessment to support the District.

**RESPONSE**

"The district questions whether or not a special property tax assessment is feasible given the current economic situation coupled with property values, not to mention the problem of home foreclosures in our district."

**GRAND JURY DETERMINATION 2009-2010**

The Grand Jury determines the District's response is adequate for the fiscal year 2008-2009.

THIS PAGE LEFT BLANK INTENTIONALLY

## **R11. RESPONSES FROM BOARD OF SUPERVISORS, DIRECTOR OF CAL WORKS AND HUMAN SERVICES (CWHSA), PROGRAM MANAGER ADULT/CHILDREN'S SERVICES AND COUNTY COUNSEL REGARDING CALAVERAS COUNTY CHILDREN'S SERVICES TO GRAND JURY REPORT 2008-2009**

### **REASON FOR INVESTIGATION**

The review was conducted pursuant to California Penal Code section 925, which states in part, "...investigations may be conducted on some selective basis each year." The investigation examined Calaveras County Children's Services to determine whether or not the system was working on behalf of the children placed in foster care throughout the county.

The Grand Jury has attempted to ascertain if the experience is smooth and successful for the children and for the agencies that contract with the County to provide services.

### **Finding 2**

Clearer and more frequent communication is needed between Children's Services and the agencies that provide out-of-home placement for children removed from their homes. The referral form cannot replace verbal communication regarding the overall status of the child. Service providers believe that there is inadequate one-on-one discussion regarding the perceived issues.

### **Recommendation**

Children's Services should revise the referral form to provide an expanded social history including personal information gathered from the confidential court report such as Summary/Recommendations, Case Plan, Mental & Emotional Status, and Social Study/Family Assessment to pass on to foster agencies responsible for placing a child in a suitable foster home. While the Grand Jury is aware that the Disposition Report - 358 cannot be provided to the foster family agencies as a whole, we are suggesting that selective information be made available. Also, personal communication from Children's Services to the foster agencies should be mandatory at the time of referral.

### **RESPONSE**

The Program Manager responded, "We respectfully have to **wholly disagree**. The Children's Services social workers verbally give as much information as is available to them regarding the children in need of placement to the applicable foster family agencies immediately, during the first contact. At times, the Children's Services social workers initially only have very limited information regarding the children in need of placement so very little information is able to be provided to foster family agency staff during the first contact. As more information is gathered regarding the children the information is verbally shared with the applicable foster family agencies. The recommendation **requires further analysis**. We are certainly willing to meet with the current foster family agency staff to discuss what information would be the most helpful for their work with the foster children mutually served by both agencies. Understand though that again, if such a process is put into place, this written information is not likely to be available when children are first placed under our supervision. Until further analysis is completed, foster family agency staff is invited and encouraged to attend Multi-Disciplinary Team meetings where case staffings are held and thus the foster family agency social workers can gain knowledge not just from Children's Services but other agencies and schools (see Finding 3), and the children's social workers are always open to calls from foster family agency social workers regarding their questions or concerns."

The County Counsel responded, "The County Counsel wholly disagrees with the finding that Children's Services social workers provide inadequate verbal information to foster family agencies about children removed into foster care. Generally speaking, the confidentiality laws pertaining to juvenile case information apply equally to written and oral communications. A social worker cannot orally disseminate information that is protected against disclosure pursuant to Welf. & Inst. Code § 827 or any other privacy law. The County Counsel's Office is unaware of any failures by Children's Services staff to provide to foster parents or foster family agencies the information enumerated in §16010.4 (e) & (f) within a reasonable time period after they themselves receive it. The recommendation cannot be implemented in full, as it is not reasonable given the current state of the law."

### **Finding 3**

Frequently, representatives from foster care agencies do not attend the Multi-Disciplinary Team Meetings where information regarding the children is disseminated and recommendations are made.

### **Recommendation**

Representatives from foster care agencies should be required to attend the Multi-Disciplinary Team Meetings prior to placements.

### **RESPONSE**

The Program Manager responded, "We respectfully **partially disagree**. We send the weekly Multi-Disciplinary Team meeting agenda in advance to the two local foster family agencies that we most commonly work with. The recommendation **will not be implemented because** we cannot mandate foster family agency staff to attend any of the Multi-Disciplinary Team meetings."

### **Finding 4**

County resources for medical, dental, and mental health are extremely limited. Children are transported out of county for dental needs that are not provided pro bono by two County dentists. There is only one psychiatrist authorized to prescribe medication for psychiatric issues through Calaveras County Behavioral Health, and he may be difficult to access in a timely manner when psychiatric medications are deemed necessary for children in out-of-home placement. Children remain under the care of their primary physician when parents have previously established a relationship. Otherwise, they are seen by physicians willing to accept MediCal.

### **Recommendation**

Additional local physicians and dentists who accept MediCal patients should be recruited because transportation out of county is expensive and time consuming for foster parents and/or social workers.

### **RESPONSE**

The Program Manager responded, "We **agree**. There is a shortage of medical specialists accepting Medi-Cal in Calaveras County as well as throughout California. In Calaveras County, we currently have no dentists that will accept DentiCal. Dentists have been recruited in the past only to refuse to accept DentiCal clients when rates are reduced. The recommendation **will not be implemented because** the provision for services under the Medi-Cal program is under the purview or auspices of the State Department of Health and Human Services. The CWHSA will continue to work with partners in other agencies to increase local access to care for our children."

## **Finding 5**

Upon researching the county foster programs available with the State through the California Department of Social Services, it appears that Calaveras County is the only county that lists a foster family agency rather than a county department as a referral source. This agency, Environmental Alternatives, states it has twenty offices from Modesto to Redding.

Calaveras County, unlike other small counties such as Tuolumne, Mariposa, and Alpine, utilizes foster family agencies for the placement of children in foster care. This has not always been the case. In the past, Calaveras County recruited, trained, and supervised foster home placements throughout the County. Although foster families received less per child per month, the benefit to the child was the continuity of services through original social workers; frequently these were the child's only ally in a world of confusion and turmoil. Currently, through a combination of federal, state, and county funds, depending on the income level of the parents and the needs of the child, funds flow through the foster family agencies, ultimately providing an increase in funds allocated to the foster family.

## **Recommendation**

With only 33 children currently in placement (as of February 2009) and the need for more effective communication between the County and foster family agencies, it may be feasible to eliminate the foster family agency involvement and encourage the initial County social workers who provided the court information to remain in place throughout the child's placement.

Children's Services should re-examine its policy of placing children through foster family agencies as opposed to providing the services through the County. Children's Services should provide an analysis of the potential costs to all funding sources and the accompanying benefits/detriments to the children and/or foster families.

## **RESPONSE**

The Program Manager responded, "We respectfully must **wholly disagree**. Calaveras County is not alone in utilizing foster family agencies for the placement of children – including the other referenced small counties such as Tuolumne, Mariposa and Alpine. The recommendation **will not be implemented because**, due to the demanding schedule and limited funding that is available, it is not fiscally feasible to dedicate staff for these duties when they are still needed to meet state regulations and mandates in other Child Welfare Services areas. We received an allocation of \$1,157 for foster home recruitment and training efforts during the 2008/2009 Fiscal Year. In addition to the 33 children placed in FFA homes, there are currently 20 children placed in the homes of relatives. Part of this allocation is for recruitment and training for these placement resources as well."

The Director responded, "The Director respectfully **wholly disagrees** with Finding 5 of the 2008-2009 Grand Jury Report. The recommendation **will not be implemented because** as the Program Manager has stipulated there is insufficient funding to honor the recommendation. Additionally the rate differential between county administered foster care home rates and foster family agency rates make recruitment and retention of foster homes difficult. For example, county administered foster parents receive between \$445 and \$627 per child, per month (depending upon the age of the child), while foster family agency administered foster parents receive between approximately \$800 to \$1,100 per month (depending on the age of the child and/or their specialized needs). Additionally, Foster Family Agencies bring the ability and expertise to provide specialized foster home recruitment not available in county staff."

**GRAND JURY DETERMINATION 2009-2010**

It is the determination of the Grand Jury that all responses are adequate.

## **R12. RESPONSES FROM COUNTY ADMINISTRATIVE OFFICER (CAO), AUDITOR-CONTROLLER (AC) AND BOARD OF SUPERVISORS (BOS) REGARDING TAX AND REVENUE ANTICIPATION NOTES TO GRAND JURY REPORT 2008-2009**

### **REASON FOR INVESTIGATION**

California Penal Code section 925 states in part "...investigations may be conducted on some selective basis each year." The Grand Jury selected alternative funding sources available to the County for review. This report covers Tax and Revenue Anticipation Notes (TRANS).

### **Finding 1**

The County usually does not report financial activity to the community prior to its budget and financial statement reports.

### **Recommendation**

The County should report to the public all transactions and related information concerning the use of TRANS. For example, when participating in loans that involve the use of public funds, the County should report the loans, the cost of the loans, and the result of the possible increase or decrease in revenues.

### **BOARD OF SUPERVISORS RESPONSE**

The BOS agrees that financial activity is reported in its budget and financial statements. "However...the Board receives financial reports from the CAO at the conclusion of each fiscal year's Second and Third Quarters (Midyear and Third Quarter Reports). Study sessions are also held at various times, as necessary."

"The Board has implemented the Recommendation as discussed below.

"Preparatory to the 2009 TRAN issuance anticipated by Recommendation 1, the Board held a public study session at its May 19, 2009 Regular Meeting to receive a briefing on TRAN issuance and to discuss the costs and benefits associated with the use of TRAN funds for cash-flow and PERS prepayment.

"Further, the Board voted publicly at its June 9, 2009 meeting to authorize adoption of a Resolution for TRAN issuance. The TRAN issuance was subject to public scrutiny and comment on both occasions and written materials related to the matter were circulated publicly in advance of both meetings."

### **AUDITOR-CONTROLLER RESPONSE**

"The Auditor-Controller partially disagrees with Finding 1. All TRAN issuances are conducted in a public forum that complies with the Brown Act. It is correct that a special report is not provided beyond the scope of the annual financial statements."

### **COUNTY ADMINISTRATIVE OFFICER RESPONSE**

"The County Administrative Officer dissents from Finding 1, and notes that the Board receives financial reports from County Administration at the conclusion of the fiscal year's Second and Third Quarters (Midyear and Third Quarter Reports)."

### **Finding 2**

The Internal Revenue Service (IRS) has a vested interest in the increase of revenues through TRAN transactions.

**Recommendation**

The County should exercise diligence to follow the IRS TRAN rules to avoid an audit or possible fines and penalties. The County should develop schedules to track and provide a monthly review of all activity regarding any TRAN according to IRS rules and use proper accounts for regular input of data to the accounting program to avoid the possibility of material errors.

**RESPONSE**

The BOS, AC, and CAO agree with Finding 2. The BOS and CAO concur with the Recommendation. The AC responds, "The Grand Jury recommendation to track TRAN proceeds is already an integral component of normal operations and internal controls in the Auditor-Controller's Office. The County is aware of IRS regulations and has contracted for services with Government Financial Strategies Incorporated as financial advisor on IRS regulations and arbitrage. The 2009 TRAN proceeds were booked in a designated TRAN proceeds fund for tracking and reporting purposes."

**GRAND JURY DETERMINATION 2009-2010**

The Grand Jury determines that the responses to the Findings and Recommendations are adequate.

### **R13. RESPONSES FROM DIRECTOR, HUMAN RESOURCES AND RISK MANAGEMENT (HR), BOARD OF SUPERVISORS (BOS) AND COUNTY COUNSEL (COUNSEL) REGARDING SETTLEMENT WITH THE FORMER CDA DIRECTOR TO GRAND JURY REPORT 2008-2009**

#### **REASON FOR INVESTIGATION**

As the result of complaints, the Grand Jury investigated the payment of \$89,300 from public funds to the former Community Development Agency (CDA) Director, a management level “at-will” employee.

#### **Finding 1**

County Counsel was preparing an Agreement and Release contract that embodied the resignation of the former CDA Director. The former CDA Director’s attorney responded by informing the County that sex discrimination charges could be filed. After consideration of all factors including that threat, County Counsel determined through negotiations that it was in the best interest of the County to settle rather than to defend this matter in court. A new Agreement and Release with a hold harmless clause included was prepared. The Board of Supervisors concurred and approved the settlement amount of \$89,300. County Counsel stated that court battles absorb valuable employee time and incur large legal fees, and a trial could potentially go on for months.

#### **Recommendation**

County settlements to claimants should be based on specific charges against the County and not on threats.

#### **BOARD OF SUPERVISORS RESPONSE**

“The Board agrees that it approved the settlement agreement with the former CDA Director. However the Board will not implement the recommendation because it is not feasible. The Board retains the authority to settle with claimants who threaten litigation when, considering all the circumstances, a settlement is warranted, lawful, and in the best interest of the county.”

#### **COUNTY COUNSEL RESPONSE**

“County Counsel agrees that this office was preparing a settlement agreement which included a provision for Moreno’s resignation. Moreno’s attorney informed the county that sex discrimination charges could be filed. It is also correct that: ‘After consideration of all factors including that threat,’ the Board of Supervisors decided to accept Moreno’s offer to settle to avoid the potentially large legal fees and disruption that would result from defending the matter in court.”

“County Counsel does not believe that it is feasible to implement this recommendation. The decision to settle a given claim depends on a variety of issues. It may be prudent to attempt to settle threatened litigation depending on the nature of the threat, the potential expense of defending against that threat, the potential disruption to county services, the potential for an unfavorable outcome in a courtroom, or a combination of these factors.

“The county could refuse to attempt early settlement of claims and instead require that in each case a lawsuit be filed alleging ‘specific charges.’ But such a requirement would deprive the Board of Supervisors of the ability to enter into early, cost effective settlements where appropriate.”

## **GRAND JURY DETERMINATION 2009-2010**

The responses from the BOS and Counsel are adequate to meet the Finding and Recommendation.

### **Finding 2**

The County budget for the year ending June 30, 2008, had a \$400,000 allocation to the self-insured fund designated for settlement of liability claims which fall below the deductible amount. Throughout the year \$520,305.20 was paid out for various claims against the County. The final budget for the current year ending June 30, 2009, remained the same, \$400,000, despite the former CDA's settlement payment during this year. If County officials expected this settlement to set a precedent of expending large sums of money for claims without proof or justification, the new budgeted amount should have been increased.

### **Recommendation**

The County should increase its budget for liability insurance to protect its taxpayers from potential financial harm.

### **BOARD OF SUPERVISORS RESPONSE**

"The Board does not agree that the settlement with the former CDA Director was unjustified and does not agree that it should result in a budget increase for liability claims. The Board will not implement the Recommendation because it is not reasonable. The budget item is based on an independent actuarial review and is in compliance with governmental accounting standards."

### **COUNTY COUNSEL RESPONSE**

"County Counsel does not agree with a finding that '... this settlement [was expected] to set a precedent of expending large sums of money for claims without proof or justification...' Claims against the county are evaluated on a case by case basis. A decision to settle a given case does not set a precedent or determine how any other case may be handled. Additionally, for the reasons explained in the response to Finding 1, we do not agree with the conclusion that the settlement was without 'justification'."

"To the extent that the Grand Jury recommends that County staff should use its best judgment in establishing reasonable and prudent reserves for future liability claims, County Counsel accepts the recommendation and it will continue to be implemented. However, if the recommendation is for a blanket increase in the liability budget because of a shortfall in one year, it will not be implemented. In establishing this budget, county staff is required to predict the future cost for claims, some of which may arise from events that have not yet occurred. It is certainly correct that this budget should be adequate 'to protect...taxpayers from financial harm.' It is also important to avoid reserves far in excess of future needs, which only serves to make funds unavailable for other important public purposes."

### **DIRECTOR, HUMAN RESOURCES & RISK MANAGEMENT RESPONSE**

HR disagrees with the Grand Jury's Finding and states that the Recommendation will not be implemented because it is not warranted and not reasonable since the County has budgeted liability expenses at an acceptable confidence level.

## **GRAND JURY DETERMINATION 2009-2010**

The responses from the BOS, Counsel, and HR are adequate to meet the Finding and Recommendation.

## **R14. RESPONSES FROM BOARD OF SUPERVISORS (BOS), AUDITOR-CONTROLLER (AC) AND COUNTY ADMINISTRATIVE OFFICER (CAO) REGARDING EXPERT AUDITOR SELECTION TO GRAND JURY REPORT 2008-2009**

### **REASON FOR INVESTIGATION**

Section 925 of the California Penal Code (CPC) states, "The Grand Jury shall investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county..." Additionally, in Calaveras County, the Grand Jury advises the Board of Supervisors in their selection of expert auditors pursuant to California Government Code section 25250 and section 925 of the CPC.

### **Finding 1**

The Board of Supervisors (BOS) contracted with the accounting firm Bartig, Basler, & Ray (BB&R) to examine the financial statements of Calaveras County (County) and to provide an opinion on the accuracy and reliability of these financial statements for the year ended June 30, 2008. However, BB&R merged with Gallina LLP on January 1, 2008, which created an entirely new firm. This merger was unknown to the Grand Jury until receiving the MR in March of 2009. The CAFR prepared by the Office of the Auditor-Controller states, "To fulfill the audit requirements of California Government Code Section 25250, and the Single Audit Act, the Board of Supervisors, in consultation with the Grand Jury, selected the firm of Gallina LLP to perform the audit of the County's Fiscal Year 2007-2008 financial statements."

On May 6, 2008, the BOS authorized "a contract with Gallina, LLP for annual audit services for fiscal years ending June 30, 2008 and June 30, 2009 for an amount not to exceed \$74,000 for 2008 and \$80,000 for 2009." The Grand Jury was neither consulted with nor notified of this selection.

### **Recommendation**

The BOS should consult with the Grand Jury prior to the selection of an expert auditor, and the Grand Jury should be consulted on any contractual alterations.

### **RESPONSE**

The BOS, AC, and CAO disagreed with Finding 1. The AC responded, "There were extenuating circumstances with the audit contract for Fiscal Year ending June 20, 2008. Moss, Levy & Hartzheim had been awarded the audit contract on June 19, 2007. Due to lack of timely notification of contract award and change in firm partnership, Moss, Levy & Hartzheim could not fulfill the audit contract. On April 14, 2008, an emergency meeting transpired with the County Administrative Office, two members of the Grand Jury, one was the Grand Jury foreperson, and the Auditor-Controller. Since there were only two bids from the most recent Request for Proposal conducted by the Grand Jury, and time constraints for audit work to begin, the only option was to contract with the second firm, Gallina LLC, for a two-year term. The Grand Jury members in attendance at this meeting were well aware of the critical nature of the situation and opted to recommend the contract with Gallina LLC. These two members were also invited to attend the May 6, 2008 Board of Supervisors meeting to support the contract, which was award to Gallina LLC on this date." The BOS and CAO concurred with these facts.

The BOS, AC, and CAO agreed with the recommendation. The BOS wrote, "At the time the County issues a Request for Proposal for auditing services for the Fiscal Year ending June 20, 2010, the Board will direct the CAO to invite Grand Jury representatives to participate with County staff and elected officials in the selection process."

**GRAND JURY DETERMINATION 2009-2010**

The responses are informative as to the true nature of what transpired in 2008 during the contract process with the firm Gallina LLC. The Grand Jury acknowledges that it will be included in expert auditor selections.

## **R15. RESPONSES FROM AUDITOR-CONTROLLER (AC) AND DIRECTOR OF HUMAN RESOURCES (DHR) REGARDING CALAVERAS COUNTY MANAGEMENT REPORT (AUDIT REPORT) TO GRAND JURY REPORT 2007-2008**

### **REASON FOR INVESTIGATION**

Section 925 of the California Penal Code (CPC) states, "The Grand Jury shall investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county...."

### **PROCEDURES**

The accounting firm of Bartig, Basler, & Ray (BB&R) was under contract to examine the financial statements of Calaveras County (County) and provide an opinion on the accuracy and reliability of these financial statements for the year ended June 30, 2007. As a normal function of this audit BB&R submitted the County of Calaveras Management Report for the Year Ended June 30, 2007 (Management Report) to all county departments. The departments reviewed with findings and recommendations have 60 days to respond prior to the final publication of the Management Report. The Grand Jury reviewed the Management Report along with the County's Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2007. We interviewed the Auditor-Controller and staff, Human Resources staff, the Assistant CAP, and the Chief Probation Officer to verify findings and recommendations.

### **AUDIT FINDINGS AND RECOMMENDATIONS 4B HUMAN RESOURCES**

#### File Maintenance

BB&R cited incomplete personnel files and inconsistent documentation dealing with cost of living increases and personnel action forms with longevity increases. The effect of which is the cause for errors and inefficiencies in payroll processing. The report recommended an improved effort to maintain complete files for each employee in accordance with County policy.

#### Management Response

The Human Resources department does not agree with BB&R's findings. Processes for cost of living increases have evolved over the years with changing business practices. Therefore, when reviewing County personnel files it may be necessary to locate several different processes that were utilized for cost of living raises. Longevity increases are recorded on the Personnel Action Forms as a matter of County policy. Also, during this review period, the auditors did not review or look at a single personnel file. So, it is unclear to Human Resources what and where they obtained the specific information to formulate their report findings.

**GRAND JURY RECOMMENDATION 2007-2008**

BB&R, the Auditor-Controller, and Human Resources should review this finding and reach an agreement on the content of the personnel files.

**RESPONSE REQUESTED**

BB&R

Auditor-Controller

Director, Human Resources

**RESPONSE: AUDITOR-CONTROLLER**

**LETTER: August 29, 2008**

**“File Maintenance**

“The independent audit firm recently attempted, July 25, 2008, to review personnel files in the Human Resource Department and was unable to gain access. During the final field work scheduled to be conducted during September 16 through 19, 2008, the audit firm should complete the review of personnel files. I will recommend a joint discussion of the audit findings to include Human Resources, Administration and Auditing staff.”

**RESPONSE: AUDITOR-CONTROLLER**

**LETTER: April 17, 2009**

**“SUBJ: Reply to the Notice of Incomplete Response to 2007-08 Final Report**

“In response to the Human Resources personnel file situation, the Galina Management Report noted in the status of prior year recommendations no follow-up was required on this issue.

“I will be more than willing to discuss any issues that the Grand Jury may have concerning this memorandum, or any other items of interest that may arise. Please do not hesitate to contact me at 209-754-6343.”

**GRAND JURY DETERMINATION 2008-2009**

The response from the Auditor-Controller is not adequate for Audit Findings and Recommendation, Human Resources. To date the Auditor-Controller has not participated in a joint discussion of the audit findings with the Director, Human Resources as recommended.

The Auditor-Controller and Director, Human Resources should meet immediately and jointly address the audit findings of BB&R and the Grand Jury.

**RESPONSE REQUESTED**

Auditor-Controller

**RESPONSE: DIRECTOR, HUMAN RESOURCES**

**LETTER: August 29, 2008**

“Thank you for the opportunity to respond to the issues identified by the 2007/08 Grand Jury Report.

### “**Calaveras County Audit Report**

“Human Resources File Maintenance

#### “Management Response

The Human Resources department does not agree with BB&R’s findings. Processes for cost of living increases have evolved over the years with hanging business practices. Therefore when reviewing County personnel files it may be necessary to locate several different processes that were utilized for cost of living raises. Longevity increases are recorded on the Personnel Action Forms as a matter of County policy. Also, during this review period, the auditors did not review or look at a single personnel file. So, it is unclear to Human Resources what and where they obtained the specific information to formulate their report findings.”

#### “Response to Grand Jury Recommendation:

“Human Resources does not believe that BB&R or the Auditor-Controller have the expertise or legal knowledge necessary to make recommendations regarding the contents and maintenance of employee personnel files. It should also be noted that only a very small portion of the personnel file relates to the County’s overall accounting practices or standards. The majority of the personnel file is personal and confidential employee information and materials.

“Specifically, BB&R references inconsistencies with cost of living and longevity increases on Personnel Action Forms stating both are inconsistent with County policy. However, BB&R fails to cite which County policy they are referencing. Human Resources has reviewed County Code, Memorandum’s of Understanding with recognized bargaining groups, and the Personnel Ordinance and find that no County policy exists relating to documentation of cost of living or longevity increases.

“Again, the finding in BB&R’s Management Report regarding incomplete and/or inaccurate personnel files is puzzling, as during this review period, the auditors did not review or look at a single personnel file. So, it is unclear what and where they obtained the specific information regarding personnel files to formulate their report findings. It would be helpful if BB&R could point to specific files of concern.

“In closing, I would like to express my appreciation to the members of the 2007-2008 Grand Jury for identifying these important issues and providing an opportunity to respond.”

### **GRAND JURY DETERMINATION 2008-2009**

The response from the Director, Human Resources is not adequate for Human Resources, File Maintenance. To date the Director has not participated in a joint discussion of the audit findings with the Auditor-Controller as recommended.

The Director, Human Resources should become familiar with the procedures of an outside expert audit as it relates to Human Resources and should always cooperate fully with the review of personnel files. Independent auditors are paid to verify that all Human Resource files are properly maintained. The Director should make all files, regardless of type or name, available to the auditors.

The Director, Human Resources and Auditor-Controller should meet immediately to jointly address the audit findings of BB&R and the Grand Jury.

**Response Requested**

Director, Human Resources

**RESPONSE FROM DIRECTOR, HUMAN RESOURCES AND AUDITOR-CONTROLLER**

“MEMORANDUM: August 19, 2009

“RE: Response to Grand Jury Report C-4B – Audit Report

“In response to the Grand Jury’s Notice of an Inadequate Response from the Auditor-Controller and Director of Human Resources to the Calaveras County Grand Jury 2008/09 Final Report regarding the Audit Report by Bartig, Bassler & Ray, we offer the following comments:

“The Director of Human Resources & Risk Management and the Auditor-Controller followed through with the recommendations of the Grand Jury and have discussed the audit findings of Bartig, Bassler & Ray. It is agreed that the outside auditors need access to personnel files and that any appointment to review files must be arranged ahead of time and when staff has access to the back room, where the personnel files are kept. The Human Resources back room is utilized as a conference room and meeting room for various purposes. It is also acknowledged that many personnel actions are not reported as they were in the past when everything was accomplished and documented on a Personnel Action Form as opposed to the current practice of utilizing the Bi-Tech Human Resources software. It was also discussed and agreed that while there appears to be a misunderstanding about the willingness of Human Resources to cooperate with the auditors, the change in protocol used by Human Resources last year was at the direction of County Counsel’s office. The rationale of the direction from County Counsel’s office was that ‘Human Resources could not give unfettered access to files which are not completely public record. Access MUST be managed for risk management purposes.’ Human Resources had never really managed the access issue with the outside auditors previously and the actions were misunderstood as being uncooperative. This year, the same process was utilized and everything went very smoothly. The Director of Human Resources is familiar with the procedures of outside audits and participates annually in numerous audits for other departments such as public health, behavioral health, and CalWorks & Human Services. Some aspects of the personnel file are not available to outside auditors, such as workers’ compensation files, medical files, disciplinary files, and employee evaluations.”

**GRAND JURY DETERMINATION 2009-2010**

The Grand Jury finds the response from the Director of Human Resources and the Auditor-Controller relative to Human Resources Audit Findings and File Maintenance to be adequate.