

FOREWORD

Just what is the Grand Jury, who are its members, and what are their functions? William J. Shaw and Noah Weinstein in their article, Grand Jury Reports – A Safeguard of Democracy, describe a Grand Jury as “a short-lived, representative, non-political body of citizens functioning without hope of personal aggrandizement. It [the Grand Jury] comes from the citizens at large and soon disappears into anonymity without individual recognition or personal reward.” In El Dorado County this is a group of 19 citizens who have the ability, time and willingness to serve the citizens of the County for a period of one year.

The requirements for service are basic and designed to allow and encourage maximum participation by the County’s citizens. A juror must be 18 years old, a United States citizen, and a resident of El Dorado County for at least one-year on the date they are sworn to service. The candidate for juror must also possess natural faculties of ordinary intelligence, sound judgment, and fair character.

Service on the Grand Jury is an act of citizenship. Individuals selected for the Grand Jury should expect to work a minimum of three six-hour days per week throughout their year of service. Remuneration for service was paid at the rate of \$15.00 for those days actually worked. Mileage driven for grand jury business is currently reimbursed at the rate paid to all county employees.

The Grand Jury essentially serves as the agency of civilian oversight for our local government. The common public perception of the Grand Jury is a body taking testimony and handing down Criminal Indictments. In reality, the principal functions of the Grand Jury are civil in nature. Some duties, such as the inspections of public prisons, are required by law to be performed on a yearly basis. The majority of the Grand Jury’s inquiries, however, are the result of its own internal direction. Generally, the Grand Jury audits local government processes, expenditures, and the actions of its officials. Practically speaking, a grand jury primarily responds to complaints brought to it by citizens of the County, to issues of concern and public debate as publicized in the local media, and to other issues exposed during the investigation of complaints.

During the course of its inquiries, members of the Grand Jury not only will find conditions and practices within government that deserve recommendations for improvement, they also will encounter examples of excellent service performed by units or persons in local government. Grand Juries by their very design are intended to identify and recommend improvement of deficiencies within government; as such, reports of the Grand Jury tend to be viewed as negative in nature. It would be unfair, however, for the Report of the Grand Jury to focus on the negative without recognizing outstanding performance within government. In that light, this Report also contains commendations for those persons, encountered by members of the Grand Jury, who were noted to have performed exemplary service for the County.

At the conclusion of its investigations the Grand Jury may issue an indictment, an accusation, and/or a report. The year-end Report of the Grand Jury is a compilation of investigative reports complete with recommendations for change that are intended to improve the operations of government and so better serve the citizens of this County. Grand Juries have no power to impose their recommendations on local government. Grand Juries cannot enforce their recommendations; they merely have the ability to “shine a light” on the facts uncovered by their inquiries, thus bringing matters to the public’s attention. The Report then provides a vehicle for public debate. It is a matter for the public to decide whether the recommendations of the Grand Jury are appropriate, and whether actions taken by government officials in response to those recommendations are themselves appropriate. Ultimately, the citizens of the County carry out their role in this process, by expressing their judgment on the issues at the ballot box.

Richard J. Brunner, Foreman
2002/2003 Grand Jury

To Obtain an Application

Any interested citizen who meets the required qualifications and is able to make the time commitment may request an application for appointment to the Grand Jury from the Staff Court Secretary at the following location:

Superior Courthouse
495 Main Street
Placerville, California 95667
(530) 621-6451

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**EL DORADO COUNTY GRAND JURY
2002-2003**

RESOLUTION

WHEREAS, the EL DORADO COUNTY GRAND JURY has conducted investigations and has arrived at certain findings and recommendations; and

WHEREAS, the EL DORADO COUNTY GRAND JURY desires to make its final report thereon;

RESOLVED, by the EL DORADO COUNTY GRAND JURY that the attached report be, and hereby is, adopted as the final report and conclusions of the EL DORADO COUNTY GRAND JURY, 2002-2003.

PASSED AND ADOPTED at the meeting of the EL DORADO COUNTY GRAND JURY this eighteen day of June, Two Thousand and Three.

RICHARD BRUNNER
Foreman

EL DORADO COUNTY GRAND JURY
P.O. Box 472
Placerville, CA 95667

June 13, 2003

Honorable Jerald M. Lasarow
Superior Court
1354 Johnson Blvd., Suite 1
South Lake Tahoe, CA 96150

Dear Judge Lasarow:

The members of the 2002/2003 El Dorado County Grand Jury were honored to have been selected to serve our County, and on their behalf I submit this final report.

In your charge twelve months ago, you requested we accept the responsibility and duty to investigate and examine all phases of county government.

As nineteen ordinary citizens from many backgrounds and walks of life, we were quite obviously not experts in county government, but what we did have in common was a desire to serve with diligence and faithfulness. With truth and fairness as our guidelines, drawing from this diversity, we have worked hard to fulfill those obligations. It has been my honor and privilege to have served with this great group of people and I commend them.

Each year as a new jury begins to research and respond to complaints from citizens, specific areas come into focus for further study/examination. Therefore, simultaneously with the expected interviews of county employees and visiting many of the facilities, other more specialized situations are addressed. This year was no exception.

The Jury discovered a need to look in-depth into the lack of enforcement of collecting T.O.T. (the Transit Occupancy Tax) in the South Lake Tahoe area. As a direct result of our study, future income for that City should increase greatly, and all rentals will share equally in the responsibility of collecting appropriate and equitable taxes.

Also studied in considerable depth was a growing concern of this Jury that there may be some elected officials who may be assuming more power and authority than they have been given by voter mandate.

The Grand Jury commends the elected officials and County employees for their cooperation and assistance in our mutual goal of better government.

Thank you Judge Lasarow for your encouragement and guidance throughout the year. Your understanding and decisiveness were much appreciated by myself and this Grand Jury.

Sincerely,

Richard J. Brunner
2002/2003 El Dorado County Grand Jury Foreman

Letter from Judge Lasarow

EL DORADO COUNTY GRAND JURY

2002/2003

Honorable Jerald M. Lasarow, Supervising Judge

**Richard J. Brunner, Foreman
Bob O'Grady, Pro Tempore
Louise Closs, Recording Secretary
Michael Gray, Sergeant-at-Arms**

Ray Boyer
Dave DeBella
Jim Estelle
Ralph Fernandez
Alex Giloff
Bob Heilman
Sally Hipp

Brom Hunt
Jackie Leland
Mimi Mattock
Ira Mirsky
Christy Philipp
Wally Russell
Richard Taylor

The Grand Jury would like to acknowledge the contribution of Sandy Johnston and Peder Matthews, who through no fault of their own, were not able to complete their year of service.

GRAND JURY PICTURE

CITIZENS' COMPLAINTS

EL DORADO COUNTY GRAND JURY
2002/2003

CITIZENS' COMPLAINTS

CASE NO.	SUBJECT	DISPOSITION	COMMENTS	DATE
C-1-02/03	Accounting – Conflict of Interest	Audit & Finance	See Final Report	
C-2-02/03	So. Lake Tahoe Bldg. Permits	So. Lake Tahoe, Bldg.	No Action Finding	9/25/02
C-3-02/03	So. Lake Tahoe District Attorney, Child Support/CPS	Criminal Justice	No Action Finding	8/14/02
C-4-02/03	Attorney Fees Public Record Act	Audit & Finance	See Final Report	
C-5-02/03	Fitness Evaluation	So. Lake Tahoe, Govt. & Admin.	See Final Report	
C-6-02/03	Flu Shots	Health & Social Services	No Action Finding	10/17/02
C-7-02/03	Transient Occupancy Tax	So. Lake Tahoe, Govt. & Admin.	See Final Report	
C-8-02/03	Personnel/Human Resources	Health & Social Services	No Acting Finding	8/14/02
C-9-02/03	Cemetery	Govt. & Admin.	No Action Finding	8/21/02
C-10-02/03	Parking Violation	Audit & Finance	No Action Finding	10/17/02

EL DORADO COUNTY GRAND JURY
2002/2003

CITIZENS' COMPLAINTS

CASE NO.	SUBJECT	DISPOSITION	COMMENTS	DATE
C-11-02/03	Child Adoption	Health & Social Services	No Action Finding	8/21/02
C-12-02/03	Mobile Homes	Govt. & Admin.	See Final Report	
C-13-02/03	Child Adoption	Health & Social Services	No Action Finding	8/21/02
C-14-02/03	Transient Occupancy Tax and Zoning	So. Lake Tahoe, Planning & Environ.	See Final Report	
C-15-02/03	El Dorado Irrigation Dist.	Public Bldg. & Special Districts	No Action Finding	10/30/02
C-16-02/03	Animal Control	Health & Social Services	No Action Finding	10/30/02
C-17-02/03	Audit Debts, Equipment Depreciation	Audit & Finance	No Action Finding	9/3/02
C-18-02/03	Overturn Superior Court Decision	Health & Social Services	No Jurisdiction	9/28/02
C-19-02/03	Misuse of Sick Pay, Lack of Follow-up, Sheriff's Dept.	Criminal Justice	See Final Report	
C-20-02/03	So. Lake Tahoe, Differential Pay, Sheriff's Dept.	Criminal Justice	See Final Report	
C-21-02/03	Nepotism in County Work Place/Evaluations	Govt. & Admin.	See Final Report	

EL DORADO COUNTY GRAND JURY
2002/2003

CITIZENS' COMPLAINTS

CASE NO.	SUBJECT	DISPOSITION	COMMENTS	DATE
C-22-02/03	Nepotism in County Work Place/Evaluations	Govt. & Admin.	See Final Report	
C-23-02/03	Social Services Trust Fund Shortages	Govt. & Admin.	See Final Report	
C-24-02/03	Anonymous Complaint Against UnderSheriff	Criminal Justice	No Action Finding	11/20/02
C-25-02/03	Sheriff's Violation of Govt. Codes	Criminal Justice	No Action Finding	12/11/02
C-26-02/03	Georgetown Fire Dept.	Govt. & Admin.	No Action Finding	2/12/03
C-27-02/03	District Attorney's Office	Govt. & Admin.	No Action Finding	12/8/02
C-28-02/03	County Jail	Criminal Justice	No Action Finding	1/15/03
C-29-02/03	Golden West Community Services District	Special Districts	No Action Finding	5/21/03
C-30-02/03	District Attorney's Office and Sheriff's Dept.	Criminal Justice	No Action Finding	3/26/03
C-31-02/03	District Attorney's Office	Criminal Justice	See Final Report	
C-32-02/03	District Attorney's Office	Criminal Justice	No Action Finding	3/26/03

EL DORADO COUNTY GRAND JURY
2002/2003

CITIZENS' COMPLAINTS

CASE NO.	SUBJECT	DISPOSITION	COMMENTS	DATE
C-33-02/03	Superior Court Staff	Govt. & Admin.	No Action Finding	3/12/03
C-34-02/03	District Attorney's Office	Criminal Justice	See Final Report	
C-35-02/03	Transient Occupancy Tax Measure 2	So. Lake Tahoe, Govt. & Admin.	See Final Report	
C-36-02/03	Fallen Leaf Lake Community Services District	Govt. & Admin.	See Final Report	
C-37-02/03	District Attorney's Office	Govt. & Admin.	No Action Finding	3/26/03
C-38-02/03	Cameron Estates Community Services District	Govt. & Admin.	No Action Finding	5/14/03
C-39-02/03	Cameron Estates Community Services District	Govt. & Admin	No Action Finding	5/14/03
C-40-02/03	Evaluations	Govt. & Admin	No Action Finding	4/14/03
C-41-02/03	District Attorney's Office	Criminal Justice	See Final Report	
C-42-02/03	El Dorado Irrigation District	Planning & Environment	No Action Finding	4/3/0/03
C-43-02/03	County Library	Education	See Final Report	

EL DORADO COUNTY GRAND JURY
2002/2003

CITIZENS' COMPLAINTS

CASE NO.	SUBJECT	DISPOSITION	COMMENTS	DATE
C-44-02/03	Chief Administrative Officer's Contract	Govt. & Admin.	See Final Report	
C-45-02/03	Latrobe School District	Education	No Action Finding	4/9/03
C-46-02/03	District Attorney's Office	Criminal Justice	No Action Finding	5/14/03
C-47-02/03	District Attorney's Office	Health & Social Services	No Action Finding	4/16/03
C-48-02/03	Chief Administrative Officer's Budget Estimates	Audit & Finance	See Final Report	
C-49-02/03	District Attorney's Office	Criminal Justice	No Action Finding	5/14/03
C-50-02/03	Superior Court – Allegations of Misconduct	Govt. & Admin.	No Jurisdiction	4/16/03
C-51-02/03	Transient Occupancy Tax	So. Lake Tahoe, Govt. & Admin.	See Final Report	
C-52-02/03	DEFERRED TO 2003/2004 DOT Planning Comm.	GRAND JURY		
C-53-02/03	DEFERRED TO 2003/2004 E.I.D.	GRAND JURY		
C-54-02/03	Sheriff's Dept. Coroner Report	Criminal Justice	No Action Finding	6/18/03
C-55-02/03	DEFERRED TO 2003/2004	GRAND JURY		
C-56-02/03	DEFERRED TO 2003/2004	GRAND JURY		
C-57-02/03	DEFERRED TO 2003/2004	GRAND JURY		

AUDIT & FINANCE

AUDIT AND FINANCE COMMITTEE

Georgetown Divide Public Utility District Georgetown

Reason for the Report

The Grand Jury selected the Georgetown Divide Public Utility District (GDPUD) as a general review for 2002/2003.

Scope of the Investigation

The members of the Grand Jury:

- Made an announced visit to GDPUD on January 23, 2002;
- Interviewed the General Manager and other staff members;
- Attended two GDPUD board meetings;
- Reviewed the GDPUD certified Incorporation Documents created in 1946;
- Reviewed the Five Year Facilities and Financial Planning Study dated February 1, 1999;
- Reviewed financial statements for fiscal year 2001/2002;
- Reviewed the budget for fiscal year 2002/2003;
- Reviewed previous Grand Jury reports and found no reports that dealt with GDPUD.

Background

The GDPUD is a special independent enterprise district. It is considered “independent” because it is a self-governed body, and the term “enterprise” means it can charge the public directly for services without relying on property taxes. As such GDPUD is more resistant to economic fluctuations. It maintains designated reserve funds for the servicing and replacement of fixed assets as well as undesignated reserve funds for future projects. For the fiscal year ending June 2002, designated reserve funds were \$2,661,358 and the undesignated reserve funds were \$9,847,331 (approximately three times the annual operating revenue of \$3,242,206). Net income for fiscal year 2001/2002 was \$542,254.

As a special district, GDPUD receives assistance from local, state and federal governments in the form of grants and low interest loans for special projects.

The water supply comes from Stumpy Meadows Reservoir and amounts to 20,000 acre-feet (or 327 surface acres). Approximately 3000 water connections and 1,100 wastewater disposal accounts exist within the district. Both Auburn Lake Trails and Walton Lake treatment plants

are approximately 30 years old, and have a 4.5 million gallon capacity. Nine storage tanks cumulatively hold about 3 million gallons. The general manager believes the district is prepared to accommodate the predicted one to two percent growth rate within its service area for the immediate future, however, the demand is estimated to exceed supply by 2025.

The district operates with no written personnel procedures or formal policies for employees and their evaluations.

The district has 20 employees and most of whom are cross-trained. The district has an unusually low employee turnover rate with an average of 15 plus years of service.

The District has two CPAs. One is a recently hired employee, and the other is an hourly contractor. For computerized accountancy software, GDPUD uses a program called Multiple Operations Manager (M.O.M.), while the Consultant uses the Solomon program. These two accounting programs are not compatible which may create problems with the exchange of data.

Findings

- F1. The undesignated reserve funds are approximately three times the annual operating revenues.
- F2. Stumpy Meadows Reservoir is the only source of water for GDPUD.
- F3. The district operates with no written personnel procedures or formal policies for employees and their evaluations.
- F4. The District has two CPAs. One is an employee, and the other is an hourly consultant.
- F5. GDPUD uses an accounting software program called Multiple Operations Manager (M.O.M.), while the Consultant uses Solomon.

Recommendations

- R1. GDPUD should adopt and publicize their policy for accumulating undesignated reserve funds as well as the planned use of the funds.
- R2. GDPUD should look into secondary water sources for the anticipated growth within the District.
- R3. GDPUD should create a personnel policies and procedures manual. The manual should be updated periodically as required.
- R4. There should only be one CPA. The time frame of the contract with the Consultant should be reduced and a termination date established.
- R5. For efficiency purposes, there should be one accounting software program.

R6. GDPUD should increase treated water storage capacities in the event of equipment breakdown or extended drought cycles.

Commendation

Management is very proactive in seeking to meet the needs of its customers and appears interested in the overall well being of the community.

Responses Required for Findings

F1 through F5

GDPUD Board of Directors
GDPUD General Manager

Responses Required for Recommendations

R1 through R6

GDPUD Board of Directors
GDPUD General Manager

AUDIT & FINANCE COMMITTEE

Georgetown Divide Public Utility District Accounting Practices

Citizen Complaint #C1-02/03

Reason for the Report

A complaint was made against Georgetown Divide Public Utility District (GDPUD) for past accounting practices.

Scope of the Investigation

The members of the Grand Jury interviewed:

- The Complainant;
- GDPUD CPA (Consultant) for the period of 1976 to present;
- Two GDPUD board members;
- The prior GDPUD General Manager;
- The Current Auditor;
- The El Dorado County Auditor-Controller.

The Grand Jury also reviewed:

- The June 1, 1998, AICPA Code for independence as to audit services;
- The accounting records of GDPUD;
- The reports prepared by the in-house CPA;
- The annual audits for the fiscal years 1995 through 1998.

Background

Founded in 1946, Georgetown Divide Public Utility District is a public utility district operating under the State of California Public Utility Code and Special District Codes & Procedures. The District has a governing body of five elected Board of Directors and an appointed General Manager/Clerk of the Board. The District employs twenty full-time operations and administrative staff.

The first issue the complaint raised was the current Consultant conducted audits on his own work from 1981 through 1995. The committee found this to be true. GDPUD in-house personnel performed the basic bookkeeping functions and the information was given to the Consultant to complete the necessary accounting records. The Consultant was not an employee of GDPUD

and did not make management decisions. GDPUD's general manager signed the Consultant's Letter of Engagement.

During this period, the Generally Accepted Accounting Principles (GAAP), and Generally Accepted Auditing Standards (GAAS) conflicted with Government Auditing Standards (Yellow Book) regarding a self-audit. The 1994 Edition of the Yellow Book (Personal Impairment Chapter 3.16f, Note 3) does allow a self-audit under the following condition:

“An individual performs a substantial part of the accounting process or cycle, such as analyzing, journalizing, posting, preparing, adjusting and closing entries, and preparing the financial statements and later the same individual performs and audit. In instances in which the auditor acts as the main processor for transactions initiated by the audited entity, but the audited entity acknowledges responsibility for the financial records and financial statements, the independence of the auditor is not necessarily impaired.”

The second issue was the Consultant shared an office with the Auditor who performed the 1996 through 1999. A shared office arrangement would not necessarily violate the independence of the audit firm but could lead others to question the independence of the auditor.

The third issue was the current auditor did not obtain the mandatory Management Representation letter at the conclusion of the auditor's fieldwork for year ending June 30, 2000. The Grand Jury requested but was unable to obtain a copy of the Management Representative Letter from the auditor or GDPUD for the fiscal year ending June 30, 2000 therefore the Grand Jury was unable to determine whether the Management Representative Letter existed.

The fourth issue was for the fiscal year ending June 30, 2001, the fieldwork was completed in the fall of 2001, but the Management Representation letter was not prepared until January 7, 2002 and was ultimately signed by a person who was not employed by GDPUD during the audit period.

It was alleged that the Consultant made it difficult for the current auditing firm to proceed in a timely manner by ordering five rewrites. The current auditing firm has concluded that these rewrites were not the result of financial errors but of an interpretation nature.

The Consultant provided accounting services for GDPUD without a contract from 1976 through 2001 when the parties agreed to a written contract. An in-house CPA was hired in the fall of 2002 to provide financial information to the general manager and gradually assume the accounting functions of the Consultant.

Findings

- F1. The Consultant performed audits for GDPUD from 1981 through 1995 in addition to certain accounting functions with GDPUD management knowledge and approval.
- F2. Generally Accepted Accounting Principles (GAAP) and Generally Accepted Auditing Standards (GAAS) do not allow a self-audit. Government Auditing Standards (Yellow

Book) do allow self-audits under certain conditions. The Yellow Book was revised in January 2003 to disallow a self-audit and any appearance of same.

- F3. It appears no Management Representation Letter was presented to the auditor for the fiscal year ending June 30, 2000.
- F4. The General Manager signed a Management Representation Letter for the fiscal year ending June 30, 2002 covering a period of time prior to his employment.
- F5. The Consultant did not have a written contract for accounting services until 2001. There were Letters of Engagement only for the auditing functions signed by the General Manager.

Recommendations

- R1. An independent audit firm should conduct the annual audit.
- R2. Proper letters of engagement and management representation should be prepared for the audit.
- R3. Board Members and the General Manager should not allow a self-audit or the appearance of a self-audit.
- R4. GDPUD should enter into contracting services with a clear statement and understanding by all parties of work to be done.

Responses Required for Findings

F1 through F5	GDPUD Board of Directors GDPUD General Manager
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Responses Required for Recommendations

R1 through R4	GDPUD Board of Directors GDPUD General Manager
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AUDIT AND FINANCE COMMITTEE

Public Record Act

Citizen Complaint #C4-02/03

Reason for the Report

A complaint was made against the El Dorado County Counsel (County Counsel) for not providing information as required by the Public Record Act in a timely manner. However, the investigation revealed the complaint should have been directed to the El Dorado County Auditor-Controller (Auditor-Controller).

Scope of the Investigation

The members of the Grand Jury:

- Interviewed the Complainant;
- Interviewed the Auditor-Controller;
- Reviewed Public Record Act;
- Reviewed data furnished by the Complainant;
- Reviewed accounting records furnished by the Auditor-Controller for payments made to a law firm (The Firm).

Background

A series of written and verbal exchanges occurred between the complainant and the Auditor-Controller dating from February 1999 through December 2001. The complainant attempted to obtain a record of payments made to The Firm for services in connection with the general plan and specific development proposals from the time of The Firm's start date (Summer 1995) to the present.

The complainant wanted to make sure the payments started with The Firm's start date of summer 1995. The Auditor-Controller never provided this information. The Auditor-Controller provided a series of correspondence of payment information that appears to be misleading and fragmented.

Several letters sent by the Auditor-Controller contained quotations referring to possible payments by others. Some of these statements are:

1. "It is important to remember that the County is reimbursed from developers for a significant portion of these payments."

2. “The County is undergoing an accounting system conversion at this time, and it is unlikely that more complete information will be readily available for sometime.”
3. “We have not summarized any payments made by Third Party Administrator (TPA) of the County’s Self-Insurance Program. Specific payments made by the County’s TPA are not recorded in the County’s general or disbursements ledgers. It is my opinion that the County chooses to have the TPA make these ‘self insurance’ payments to make it more difficult for the public and the Auditor-Controller to identify and summarize the payment of claims and payments to outside counsel.”

Statement 3 prompted the complainant to write a letter to the County Counsel requesting a record of payments made through Risk Management to The Firm. The County Counsel replied by letter stating, “Risk Management has been contacted and they do not have any records of payments made by them.”

The complaint was investigated and the Auditor-Controller was asked to provide copies of invoices and payments from the summer 1995 to the present. After reviewing the invoices (never provided to the complainant) and payments made to The Firm, the Grand Jury was able to reconcile all invoices to payments.

The Grand Jury wrote a letter to the complainant summarizing invoices by The Firms and related payments by the County. The investigation did not find evidence that any payments were made to The Firm by the County Counsel or Third Party Administrator.

Findings

- F1. Although the complaint was made against the County Counsel it should have been directed to the Auditor-Controller.
- F2. The Public Record Act request was submitted in February 1999 but the complaint was made in February 2002, this request had not been satisfactorily answered.
- F3. On December 31, 2001, the Auditor-Controller furnished an accounting spreadsheet to the complainant showing all payments made to The Firm, but never identified a payment associated with The Firm’s start date of summer of 1995.

Recommendations

- R1. The Auditor-Controller should respond to Public Record Act requests in a timely manner and with accurate information.
- R2. The Auditor-Controller should not attempt to shift responsibility to other departments.

Responses Required for Findings

F1 through F3

El Dorado County Board of Supervisors
El Dorado County Auditor-Controller

Responses Required for Recommendations

R1 and R2

El Dorado County Board of Supervisors
El Dorado County Auditor-Controller

AUDIT AND FINANCE COMMITTEE

*Superior Court – Exhibit Room
495 Main Street, Placerville*

Reason for the Report

The Grand Jury selected the Superior Court Exhibit Room as a general review for 2002/2003.

Scope of the Investigation

The members of the Grand Jury:

- Made an unannounced visit to the Superior Court on March 26, 2003;
- Was provided a brief tour of the non-physical Exhibit Room courtesy of the Court Operations Supervisor;
- Spoke informally with the two other staff members;
- Interviewed the Assistant Court Executive Officer;
- Reviewed previous Grand Jury reports and found no reports that dealt with the Exhibit Room.

Background

The Grand Jury was briefed on the process for the filing and transfer of all exhibits (physical and non-physical). Non-physical exhibits consist of documents, pictures, courtroom charts, etc, which are entered into trial as exhibits. Physical exhibits are handled separately and are secured by the Sheriff's Department. Procedures exist for inventorying, handling and discarding of non-physical exhibits, however they are not always followed as no one is designated this responsibility.

The non-physical Exhibit Room appears to lack adequate space and shelving for storing exhibits. About 75 percent of the exhibits pertain to closed cases and therefore should be discarded. Court approval is required for disposition of closed case exhibits.

Findings

- F1. The non-physical Exhibit Room appears to lack adequate space and shelving. Exhibits appear to be in disorder and are placed on the floor in this small room.
- F2. Written procedures are not being followed for discarding closed-case exhibits. About 75% of exhibits in the storage area are beyond the retention period.

- F3. There is no person designated to manage the exhibit process.
- F4. No sprinkler system or fire extinguishers could be found in or near the Exhibit Room.

Recommendations

- R1. The Exhibit Room should have adequate shelving.
- R2. All exhibits should be inventoried and established procedures should be followed.
- R3. A person should be designated to manage the exhibit process.
- R4. A fire extinguisher should be installed in or near the Exhibit Room.

Responses Required for Findings

F1 through F4	El Dorado County Board of Supervisors El Dorado County Department of General Services Chief Executive Officer for Superior Court
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Responses Required for Recommendations

R1 through R4	El Dorado County Board of Supervisors El Dorado County Department of General Services Chief Executive Officer for Superior Court
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CRIMINAL JUSTICE

CRIMINAL JUSTICE COMMITTEE

Inappropriate Tahoe Differential Pay

Citizen Complaint #C19 – 02/03

Reason for the Report

A citizen's complaint was received alleging a former Undersheriff received Tahoe Differential Pay to which he was not entitled.

Scope of the Investigation

The members of the Grand Jury interviewed:

- The former Sheriff (Sheriff);
- The former Undersheriff (Undersheriff);
- Employees of the El Dorado County Sheriff's Department;
- Employees of El Dorado County Department of Human Resources.

The Grand Jury also reviewed:

- Appropriate payroll documents;
- Tahoe Differential pay policies for the County and Memoranda of Understanding (MOU);
- "Agreement to Appointment of Undersheriff" memo, signed by the Sheriff and the Undersheriff regarding Tahoe assignment.

Background

Early in 1999, the Sheriff and a Captain, about to be appointed Undersheriff, had a brief exchange regarding the Undersheriff's assignment to Lake Tahoe. The Captain's promotion to Undersheriff was based on the condition he leave the Department in January 2000. The Captain asked, upon his promotion to Undersheriff, if he could be assigned to Lake Tahoe and the Sheriff agreed. The Undersheriff prepared an agreement stating his assignment was to South Lake Tahoe, which was signed by both the Undersheriff and the Sheriff.

Subsequently, Sheriff's Payroll Department processed the Payroll/Personnel Action Form with the increase in pay for the Tahoe Differential to coincide with the promotion to Undersheriff. The Undersheriff signed the form as "employee" and a payroll clerk signed on behalf of the Sheriff. Although approval for promotional pay actions were purportedly documented, attached to the memo announcing the promotion, and allegedly filed in the appropriate personnel file, no

written approval is currently on file with the Sheriff's Department. The payroll clerk did not question the new Undersheriff receiving the benefit because he was second in command.

The Grand Jury investigation revealed that the usual work station assignment for an Undersheriff is Placerville. County policy and the relevant MOUs require an employee to spend more than 50 percent of his work time at South Lake Tahoe in order to qualify and receive Tahoe Differential pay. Based on the Grand Jury investigation it appears the Undersheriff in question did not spend the required time in South Lake Tahoe to qualify for the differential pay. The Undersheriff's retirement pay increased as a result of this benefit. It should be further noted the investigation revealed this to be an isolated case.

The Grand Jury investigation also revealed it is common practice for the Sheriff's Department Payroll Clerks to sign Payroll/Personnel Action Forms on behalf of Division Chiefs without obtaining their approval or written delegation of authority. This included those Payroll/Personnel Action Forms resulting in financial impact. Although it is common practice for the payroll clerks to sign on behalf of Division Chiefs, there were not any written authorizations for them to do so.

Findings

- F1. The Sheriff told the Undersheriff he could be assigned to Lake Tahoe, with the hours and days to be set by the Sheriff.
- F2. The Sheriff did not set days or hours for the Undersheriff to work in South Lake Tahoe.
- F3. The Undersheriff received Tahoe Differential pay without working primarily in the South Lake Tahoe area.
- F4. Payroll clerks, without written authorization, routinely sign Payroll/Personnel Action forms on behalf of Division Chiefs, including those resulting in financial impact.
- F5. The Tahoe Differential pay received by the Undersheriff impacted his final compensation, which in turn was used to calculate his retirement benefits.
- F6. The Grand Jury investigation revealed this was an isolated case.

Recommendations

- R1. Payroll/Personnel Action Forms relating to the Undersheriff should be signed by the Sheriff.
- R2. Delegation of authority to Payroll Clerks to sign on behalf of Division Chiefs should be specific and exclude actions involving financial benefit.
- R3. The County should be reimbursed for the Tahoe Differential paid to the Undersheriff.

R4. The County Counsel should review with the Board of Supervisors the issues presented and take whatever action(s) is deemed appropriate.

Commendations

It should be noted that the Sheriff's Department recently took action to establish procedures to minimize the opportunity for future abuse.

Responses Required for Findings

F1 through F5 El Dorado County Sheriff

Responses Required for Recommendations

R1 and R2 El Dorado County Sheriff
El Dorado County Department of Human Resources

R3 and R4 El Dorado County Board of Supervisors

CRIMINAL JUSTICE COMMITTEE

Sheriff's Non Follow-Up Regarding Sick Leave Abuse

Citizen Complaint #C20 – 02/03

Reason for the Report

A citizen's complaint was received alleging the Sheriff failed to investigate the 200 hours of sick leave a former Undersheriff was paid. This complaint relates to a follow-up of a previous Grand Jury complaint (#00/01 – C021).

Scope of the Investigation

The members of the Grand Jury interviewed:

- The former County Sheriff (Sheriff);
- The former Undersheriff (Undersheriff);
- Employees of El Dorado County Sheriff's Department;
- Employees of El Dorado County Department of Human Resources;
- Employees of El Dorado County Risk Management.

The Grand Jury also reviewed:

- Citizen complaint #00/01-C-021 alleging abuse of sick leave by the Undersheriff;
- Grand Jury Report 2000/2001 regarding complaint #00/01-C-021;
- The Sheriff's response to the Grand Jury Report 2000/2001;
- Appropriate payroll documents;
- All sick leave records of Sheriff's Department personnel who terminated service between January 1, 1999 and November 2002;
- Correspondence between Sheriff and former Undersheriff regarding abuse of sick leave ;
- Various memoranda regarding principals involved;
- Policies for the County and Memoranda of Understandings (MOUs) relating to sick leave;
- Medical records of the former Undersheriff.

Background

The 2000/2001 Grand Jury received and investigated a citizen complaint concerning the alleged abuse of sick leave by the Undersheriff. In response to that Grand Jury Report, the Sheriff responded that he would investigate the Grand Jury's findings. He stated if it was determined that the Undersheriff was not ill, a demand for repayment of funds would be pursued.

Subsequently, the 2002/2003 Grand Jury received another complaint regarding the status of the Sheriff's investigation and requested that the County seek reimbursement for the unauthorized sick leave. A second investigation commenced.

Early in 1999, because of differences between the Sheriff and one of his Captains, the Sheriff approached the Captain with an offer to which the Captain agreed. This agreement involved the Sheriff promoting the Captain to Undersheriff with the understanding the Undersheriff would retire from the Sheriff's Department at the end of January 2000.

Thereafter, the Undersheriff sent a memo to the Sheriff, confirming their conversation that he would be retiring on April 28, 2000. He also stated he would use his accrued vacation leave from January 31, 2000 until his retirement on April 28, 2000 with the Sheriff's approval.

The Salary & Benefits Resolution for Unrepresented Employees, amended effective July 3, 1999, allows all accrued vacation leave to be paid upon the employee's retirement. However, the Resolution allows a maximum of 504 hours of accrued sick leave to be paid upon retirement. Any accrued sick leave in excess of 504 hours is lost upon retirement.

Subsequently, during the period of time he was on vacation leave, the Undersheriff contacted payroll clerks in the Sheriff's Department and instructed them to change a substantial portion of his vacation leave to sick leave. Due to his rank and no written established procedures for unrepresented employees, the clerks followed his instructions without question.

Thus, on five occasions over a period of approximately three months, the Undersheriff instructed payroll to change a portion of his vacation leave to sick leave. It appears the Undersheriff's actions enabled him to manipulate the County sick leave policy wherein he received 200 hours of sick leave, valued at over \$10,000, he would have otherwise lost at retirement.

This Grand Jury contacted members of the Sheriff's Department regarding the status of the above-mentioned investigation into the abuse of sick leave. They were informed that the Sheriff wrote a letter to the former Undersheriff on August 20, 2001, requesting medical verification for the unauthorized sick leave. (It should be noted the Sheriff's Department does not have a receipt of delivery of the letter to the former Undersheriff and the Undersheriff claims he never received said letter.) The Sheriff failed to follow up on the matter until this Grand Jury inquired into the status of his investigation.

The Sheriff wrote a second letter on October 6, 2002, fourteen months later, again requesting medical verification of sick leave. The Undersheriff, in a written response dated October 9, 2002, claimed various illnesses. He also stated no one required medical verification prior to that date. The Undersheriff indicated he would like to provide specific documentation, however, he found the request unrealistic and unreasonable. Subsequently, the Undersheriff signed a medical release for the Grand Jury to obtain his medical records. The Grand Jury reviewed the medical records and concluded there did not appear to be any verification to substantiate his use of sick leave.

Findings

- F1. It appears the former Sheriff promoted a Captain to Undersheriff for personal reasons, rather than for the benefit of the County.
- F2. The Sheriff authorized the Undersheriff to use accumulated leave from January 31, 2000 through April 28, 2000.
- F3. The Undersheriff contacted the Payroll clerks with instructions to change his vacation leave to sick leave.
- F4. The 2000/2001 Grand Jury reported this Undersheriff was paid 200 hours for sick leave when he was not sick and resulted in the use of accumulated sick leave for which he would not have been entitled to be paid for upon retirement.
- F5. The Sheriff, responding to the 2000/2001 Grand Jury Report, said he would investigate the Grand Jury's finding. If the Sheriff determined that the Undersheriff was not entitled to receive sick leave payment, he would demand repayment of funds.
- F6. The Sheriff alleges he sent a letter to the Undersheriff on August 29, 2001, requesting doctor's documentation. However he failed to follow up on said letter for a period of fourteen months until contacted by this Grand Jury.
- F7. The Undersheriff responded in a letter on October 9, 2002 that he was sick during the time in question.
- F8. The Undersheriff's medical records reviewed by this Grand Jury do not appear to substantiate his claim.
- F9. A review by this Grand Jury of Sheriff's Department sick leave records, between January 1999 and November 2002, revealed this apparent abuse of sick leave to be an isolated case.
- F10. In January 2003, the County Counsel filed suit against the Undersheriff in small claims court to recover monies owed pursuant to the limitations of said court.

Recommendations

- R1. Procedures should be established, implemented, and followed for obtaining appropriate approval to change any vacation leave to sick leave for all personnel, including management.
- R2. Written medical verification required for related sick leave should be obtained in a timely manner.

R3. Proper procedures should be established for follow-up of required written medical verification.

R4. County Counsel should review the issues presented and take whatever additional action they deem appropriate.

Commendations

County employees were cooperative with this Grand Jury’s investigation. It should be noted that the Sheriff’s Department has implemented procedures to ensure compliance to the sick leave policy.

Responses Required for Findings

F3 through F5	El Dorado County Sheriff
F4 through F5, and F10	El Dorado County Board of Supervisors

Responses Required for Recommendations

R1 through R3	El Dorado County Sheriff
R4	El Dorado County Board of Supervisors El Dorado County Counsel

CRIMINAL JUSTICE COMMITTEE

Appearance of Inappropriate Actions by the El Dorado County District Attorney

Citizen Complaint #C34-02/03

Reason for the Report

A complaint alleges inappropriate behavior by the El Dorado County District Attorney.

Scope of the Investigation

The Grand Jury interviewed:

- The Complainant;
- The El Dorado County District Attorney;
- The District Attorney's "girlfriend;"
- Attorneys currently and formerly associated with the District Attorney's Office;
- Several Judicial Officers;
- A Deputy Sheriff of El Dorado County;
- Current and former El Dorado County Employees;
- Director of Human Resources for El Dorado County;
- Auditor-Controller for El Dorado County;
- A representative of one of the El Dorado County employee unions.

The Grand Jury also reviewed:

- The Complaint;
- Numerous Court documents relating to Complainant and District Attorney's girlfriend (hereinafter referred to as "Friend");
- Various Court Orders of the El Dorado Superior and Municipal Courts
Transcripts of Superior Court proceedings;
- Police and Sheriff's reports pertaining to Complainant, "Friend," and "Friend's" son;
- Various memoranda from the District Attorney;
- El Dorado County timesheets, payroll and expense records of the "Friend;"
- Criminal Court records of "Friend's" son;
- Letters to and from the California Judicial Council;
- Letter to and from the California State Bar;
- California Rules of Professional Conduct - State Bar Act;

- Applicable Penal Code Sections ;
- Applicable Government Code Sections;
- Applicable Business and Professions Codes Sections;
- *Professionalism a Sourcebook of Ethics and Civil Liability Principals for Prosecutors* by The Ethics Committee of the California District Attorneys Association;
- Recusal of District Attorneys – Attorney General Publications;
- District Attorney Department Handbook;
- Grand Jury Reports for years 1999/2000, 2000/2001 and 2001/2002;
- Additional information supplied by the District Attorney to “clarify” his previous testimony;
- Additional information supplied by the District Attorney’s “Friend” to “clarify” her previous testimony;
- Reviewed transcripts of District Attorney and “Friend’s “ testimony.

Background

The complaint alleges inappropriate behavior by the El Dorado County District Attorney, various Court and County employees, and various judicial officers.

The Complainant is a former “live-in boyfriend” of the El Dorado County District Attorney’s “Friend.” The Complainant is the father of one of the children of “Friend.”

Both the Complainant and the District Attorney’s “Friend” have been and continue to be involved in convoluted and bitter proceedings in the El Dorado County Superior Court. The myriad of issues includes child custody, child visitation, child support, multiple restraining orders against both parties, and allegations regarding “who did what to whom.” At one point, the Court declared Complainant to be a “vexatious” litigant.

This Grand Jury’s investigation determined many of the Complainant’s allegations regarding Court and County employees and Judges to be without merit. However, the investigation did reveal issues enmeshing the District Attorney in potential conflicts of interest, appearances of impropriety, less-than-strict adherence to the ethical requirements of prosecutors, and violations of the Rules of Professional Conduct for Attorneys and the California Business and Professions Code.

This Grand Jury was concerned to find that sworn testimony by the El Dorado County District Attorney and other witnesses differed in important and significantly conflicting details.

The Grand Jury investigation revealed animosity exists between the District Attorney and the Complainant.

During the recent election the Complainant put offensive signs on his truck opposing the District Attorney’s reelection. In October 2002, the District Attorney filed a complaint with the Sheriff’s Department for damaged and missing election signs. The District Attorney told the Deputy

Sheriff that because of his job anyone could have damaged/vandalized his signs. However, the District Attorney identified only the Complainant as a possible perpetrator to the Deputy. The District Attorney told the Deputy that the Complainant's driver's license had been suspended.

The morning after filing his complaint, the District Attorney contacted the Deputy to inform him of the whereabouts of the Complainant. The Deputy stopped the Complainant, informed him of his suspended driver's license, and questioned him about the vandalism/theft of the election signs. Subsequently after receiving verbal consent, the Deputy searched the Complainant's vehicle and home. The Deputy found no evidence of the signs.

The Complainant contacted Child Support Services regarding the suspended license. Child Support Services told him the suspension had been lifted. Subsequently, this Grand Jury heard testimony that the District Attorney inappropriately commented at a Department Head meeting that the department should never have lifted the Complainant's suspension.

The District Attorney testified he spoke with the Deputy about a half a dozen times during the investigation. In addition, the District Attorney testified that he keeps a personal file relating to Complainant in his personal office. He mentioned this file is not maintained within the course of his duties as a District Attorney but only for his own personal records.

The 2002/2003 Grand Jury concluded certain other actions by the District Attorney, while probably not unlawful, are highly questionable given his relationship with his "Friend." For example, on June 18, 1999, the District Attorney signed a form of "proof of service" for documents he mailed to Complainant on his "Friend's" behalf. By injecting himself into a legal proceeding involving his "Friend," the District Attorney projected the appearance of impropriety. Another example involves a declaration signed under penalty of perjury by the District Attorney. The declaration was apparently filed in one of "Friend's" Court cases. It concerned a telephone conversation between Complainant and "Friend" that the District Attorney overheard. The District Attorney assumed his declaration could be used in a Court action involving his "Friend" and the Complainant. If the matter had gone to trial, the District Attorney could have been called as a witness. Injecting himself into Court proceedings involving his close personal "Friend" may create a conflict of interest.

The District Attorney also testified that he should not be disqualified from doing things that anyone else can do. Although the District Attorney does not give up his rights as a private citizen because he is the District Attorney, he is still bound by certain constraints precisely because he is the District Attorney of El Dorado County. The top prosecutor of the County is required to meet standards of candor and impartiality not demanded of other attorneys.

"Friend" has a son with a lengthy criminal court record. His El Dorado County cases were handled by the District Attorney's Office. Evidence of special consideration does not appear. This Grand Jury is concerned, however, about a public perception of an appearance of impropriety because of the close relationship between the District Attorney and his "Friend," and by extension, "Friend's" family. In the opinion of the Grand Jury, it should be the duty of the District Attorney to place himself above reproach in all legal matters relating to his "Friend" and her family.

In another matter, the Complainant filed two Orders to Show Cause requesting temporary restraining orders pertaining, in part, to possession of firearms by “Friend.” Complainant filed one of the Orders to Show Cause in 1999 and the other in the year 2000.

The 1999 temporary Court Order, among other things, required the District Attorney’s “Friend” to give up any firearm in or subject to her immediate possession or control within 24 hours. The Order also required “Friend” to surrender any firearms to local law enforcement and file a receipt with the Court showing compliance.

In testimony before the Grand Jury, the “Friend” stated she asked the District Attorney about the appropriateness and legality of the Order. She testified he told her it was legal. She then testified she delivered her gun, a .380 caliber Smith & Wesson semi-automatic pistol, to the District Attorney and he gave her a written receipt.

The District Attorney subsequently testified he purchased the .380 for his “Friend” as a gift in December 1998. He said she lives alone and he felt she needed a gun for her home so she had a means to protect herself. He also testified that he was not aware of her having any other firearms.

During his initial testimony on May 21, 2003, the District Attorney denied any memory of the “Friend” turning the gun into his office. Later when the Grand Jury inspected the official logbook of evidence held in the District Attorney’s Office, there was no record of the gun having been turned in.

At his request to clarify his earlier testimony, the District Attorney re-testified on June 4, 2003. In this testimony he recalled taking possession of the gun and provided the Grand Jury with a photocopy of his handwritten evidence log that showed he put the gun in his personal safe in his office.

The evidence log for the District Attorney’s personal safe contained five entries:

March 3, 1995	Envelope from Grand Jury	In
May 15, 1995	Envelope with \$1,254 cash	In
November 17, 1995	Envelope from Grand Jury	In
July 13, 1999	Smith and Wesson 380 caliber, A Serial number from [“Friend’s”] gun	In
November 15, 1999	Smith and Wesson 380 caliber, A Serial number from [“Friend’s”] gun	Out

The entries had log numbers and were initialed by the District Attorney. The entries on the evidence log, cited above, show receipt of a gun from “Friend” on July 13, 1999, and removal of the gun from the safe on November 15, 1999. These are the last two entries on the District Attorney’s current evidence log. The entry showing the gun going “out” is the only “out” entry recorded in the log in the previous eight years. The District Attorney did not have a copy of any Court Order to release the gun to “Friend” nor a receipt from “Friend” evidencing return of the

gun. The District Attorney's method of receiving "Friend's" gun for safekeeping in his private office safe did not follow normally accepted procedures that are in place in his office. This procedure on behalf of "Friend" conveys an appearance of impropriety.

The District Attorney testified he did not know how accurate his evidence log was. He also testified the log did not accurately convey all the "in" and "out" activities of his personal safe. In addition, he maintained he was the only one with access and the combination to the safe.

The District Attorney also stated his personal safe currently contains more items than just the three remaining items listed in the evidence log. However he had no log of the additional files in his personal safe nor did he recall anything about the other items in his safe. While he knew from the evidence log who delivered the above items, he did not know if some of the items were still in his possession or even the reason for the cash being in the safe. Furthermore he was unaware if the cash was still in the safe. (Later, he informed this Grand Jury by telephone the cash was still in his safe.)

During the District Attorney's testimony he mentioned he did not always record or keep records of guns stored or placed in his custody.

In April 2000, the Complainant filed another Order To Show Cause and Temporary Restraining Order. This Court Order required the "Friend" to surrender a .22 caliber pistol and all weapons to the Sheriff's Department. The "Friend" testified to the Grand Jury that she had never seen this Court Order. However, the transcript of a later Court hearing (April 12, 2000) indicates she was aware of it.

The Grand Jury sent a subpoena to the Sheriff's Department requesting information relating to any surrender of firearms by "Friend" between April 3, 2000 and April 26, 2000. The Sheriff's Department search did not any find any record of such surrender. This clearly indicates "Friend" did not, in fact, surrender her weapons to the Sheriff's Department as ordered by the Court.

The Grand Jury asked the District Attorney what he would do with a firearm the Court had directed be delivered to the Sheriff's Department but was given to him instead. The District Attorney said he would usually give it to an investigator or put it into a locked safe. With reference to the fact that the Court Order directed the firearm be delivered to the Sheriff's Department, the District Attorney testified his compliance with the Court Order would depend on the reason for the Order. If it involved evidence that required booking into the Sheriff's Department, then the District Attorney indicated that he might deliver the firearm to the Sheriff. If it were just for safekeeping, the District Attorney said he might store the weapons in the District Attorney's office. He added that even if he knew the Court had ordered his "Friend's" gun be delivered to the Sheriff, he might have accepted the gun to lock it up to keep it away from her.

The Grand Jury evaluated the District Attorney's testimony in light of his obligation to comply with ethical guidelines and to conform to standards of professionalism:

“In order to instill public confidence in the legal profession and our judicial system, an attorney must be an example of lawfulness, not lawlessness.”¹

After repeated questions about a Court Order that a firearm be delivered to the Sheriff, the District Attorney left this Grand Jury with the impression it would be his decision whether or not to follow the Court Order.

After the Temporary Restraining Order was issued on April 3, 2000, requiring the “Friend,” among other things, to deliver all weapons to the Sheriff’s Department, the Court held another hearing on April 12, 2000. Both parties were present at this hearing and the “Friend” admitted having received the Temporary Restraining Order discussed above.

During the April 12, 2000 hearing, the Court asked the “Friend” about a .22 caliber pistol. The “Friend” responded to the Court that she did not have a .22 pistol. However in her testimony before the Grand Jury, she testified she possessed a .38 caliber handgun. The District Attorney’s personal evidence log indicates the District Attorney returned a .380 Smith and Wesson semi-automatic pistol to “Friend” in November of 1999. “Friend” said she did not inform the Court of her other weapons because the Court did not ask about them.

In addition, the “Friend” may have been in Contempt of Court for noncompliance with the April 3, 2000 Temporary Restraining Order because she did not deliver all of her weapons to the Sheriff’s Department.

When the District Attorney assumed his elected position in 1995, Child Support Services was under the auspices of the District Attorney’s Office. The District Attorney was thus his “Friend’s” department head. In December of 1996, “Friend” moved from the Placerville office to the South Lake Tahoe Office of Child Support Services. Initially assigned as a supervisor, “Friend” was promoted to Family Support Branch Manager in October 1997. Just over two months after her promotion in December 1997, “Friend” transferred to another County department citing personal issues. According to “Friend,” others had the perception that she was having a relationship with the District Attorney. “Friend” testified no such relationship existed at that time.

During their Grand Jury individual interviews, both the District Attorney and “Friend” testified “Friend” left Child Support Services and the District Attorney’s Office about the end of 1996. The District Attorney and “Friend” also testified their relationship began in June 1998. The District Attorney said they became involved several years after “Friend” left Child Support Services. County payroll records, however, show “Friend” left the District Attorney’s Office in December 1997, less than six months before they testified their relationship allegedly began.

The District Attorney later hired “Friend” to transcribe records for the District Attorney’s Office on a part-time basis (from late 1999 through early summer 2001). During this time “Friend’s” child support case was still under the auspices of the District Attorney. The District Attorney did

¹ *PROFESSIONALISM, A Sourcebook of Ethics and Civil Liability Principles for Prosecutors*, by the Ethic Committee of the California District Attorneys Association; Chapter X, Page X-1.

not see any problem with an appearance of impropriety with “Friend’s” case being handled by his office.

“Friend” worked for another County Department from March 2002 to November 2002. According to “Friend,” the District Attorney told her his office was short-handed and asked if she would like an “Extra Help” position. The following day the District Attorney requested approval for the “Extra Help” position. He also requested “Friend’s” position be upgraded from Legal Office Assistant I/II to Legal Secretary I/II. He based his request on the fact that vacancies existed in the office of one full time Legal Secretary and 2.5 full time Legal Office Assistant positions. Since the new position was “Extra Help,” the District Attorney was allowed to hire without posting for the position or using a pool of five candidates supplied by Human Resources. “Friend” began working for the District Attorney in December 3, 2002, as a Legal Secretary II.

According to Human Resources, the District Attorney’s Office has been short three legal assistant/secretary positions since October 2002 and has not filled any of these positions as of May 2003. The District Attorney told this Grand Jury his office was down five to six clerical positions, which conflicts with Human Resources information that only three positions are currently open.

“Friend” testified she may work up to 40 hours a week as extra help. Records indicate she averages approximately 30 hours per week. When asked how it is determined the number of hours a week “Friend” works, the District Attorney testified it depended partially upon the needs in his office and partially upon her time commitment to another job she holds.

In addition to “Friend” currently working on a part time basis in the District Attorney’s office, “Friend” also works part time for a local family law attorney. The family law attorney is married to the Chief Assistant District Attorney who reports to the District Attorney. The District Attorney testified the Chief Assistant District Attorney is also the person who handles any cases involving “Friend,” “Friend’s” son and any criminal matters involving the Complainant and “Friend”.

The Grand Jury interviews established the personal relationship between the District Attorney and “Friend” is known to the staff in the District Attorney’s Office. The District Attorney testified his subordinate employees would tell him if work problems arose with regard to his “Friend’s” work performance. If “Friend’s” supervisor or co-workers have an issue with “Friend’s” work performance they are placed in the untenable position of having to raise their concern with their department head who is also “Friend’s” boyfriend.

The District Attorney denies that “Friend’s” employment creates the perception or appearance of impropriety. He testified that some people may perceive a conflict regardless of what he says or does and some people may be offended by the situation. He stated, however, his office operations would be in serious trouble without “Friend’s” extra help.

Potential Violation of Rule 5-300 of the California Rules of Professional Conduct the State Bar Act (ex parte communications)

“Rule [of Professional Conduct] 5-300. Contact with Officials . . .

(B) A member shall not directly or indirectly communicate with or argue to a judge or judicial officer upon the merits of a contested matter pending before such judge or judicial officers, except:

- (1) In open court; or
- (2) With the consent of all other counsel in such matter, or
- (3) In the presence of all other counsel in such matter, or
- (4) In writing with a copy thereof furnished to such other counsel; or
- (5) In ex parte matters.”

In 1999, a court clerk apparently failed to delete a child’s name on a temporary restraining order served on the El Dorado County District Attorney’s “Friend.” This caused the “Friend” to believe the Court had issued an Order restraining her contact with her child. She was upset and told her boyfriend, the District Attorney, about what had happened. The District Attorney then telephoned a Judge regarding this issue, and contacted the Commissioner presiding over the “Friend’s” case. According to the Commissioner, the District Attorney contacted him as he was walking into the courthouse demanding to know why the Commissioner had changed custody.

The District Attorney initially claimed that his communication with the Commissioner presiding over his “Friend’s” case was not a prohibited ex parte communication because he was not a party to the case and therefore he could speak [ex parte] with the Commissioner.

Rule 5-300 (B) clearly and affirmatively prohibits a “member” of the bar, such as the District Attorney, from communicating, ex parte, with a judge or judicial officer about a case. It does not matter that the District Attorney was not personally involved as a party. He is a “member” of the State Bar of California.

The District Attorney’s communication with the Commissioner, according to the two Judges who spoke with the District Attorney about the incident, was an impermissible ex parte communication and therefore a violation of the Rules of Professional Conduct 5-300.

The District Attorney compromised his position by later testifying, under oath before this Grand Jury, that he contacted the Commissioner because of inconsistent terms within two separate copies of the same restraining order. He said he felt it was his duty to do so because he might be called upon to enforce the Court Order a violation of which would be a misdemeanor. However, the District Attorney could not recall any other time when he personally investigated a misdemeanor since he became the District Attorney of El Dorado County. He testified his conversation with the Commissioner was not on the merits of the case and that his demeanor was calm.

The Grand Jury investigation disclosed the District Attorney went to the general filing clerk’s window to see the file in question. The file was unavailable (presumably it was still with the Commissioner’s judicial assistant) and the clerks were unable, at that time, to retrieve it. According to a clerk who observed the interaction, the District Attorney was rude and acted in a manner unbecoming a District Attorney.

An attorney also witnessed the District Attorney's actions during this transaction. According to this attorney's testimony, the District Attorney came to the clerk and "proceeded to raise hell". The District Attorney wanted to see a file and was adamant about it. The attorney characterized the District Attorney's manner as abrupt and curt.

The Commissioner wrote that the District Attorney was outraged because of the Commissioner's Order. The Commissioner told the District Attorney he had no idea what the District Attorney was talking about. After the District Attorney left, the Commissioner went to the files to see what the problem was. At that point in time, the Commissioner saw the error and contacted the District Attorney to inform him of same.

Thus, it seems clear, if the Court file was not available to the District Attorney before he spoke to the Commissioner, it was not possible for the District Attorney to have or be aware of two Restraining Orders during his conversation with the Commissioner. This Grand Jury finds the District Attorney's sworn testimony to be untrue.

Another issue arose during the District Attorney's ex parte conversation with the Commissioner. The District Attorney told the Commissioner another Judge had temporarily vacated the Commissioner's Order. During his testimony to this Grand Jury, the District Attorney denied telling the Commissioner that he had spoken with another Judge who was going to vacate the Commissioner's Order.

The District Attorney testified to this Grand Jury that what he said to the Commissioner was that he spoke with a Judge and asked the Judge to temporarily put a temporary hold on any enforcement of the Order until the District Attorney had the opportunity to clarify which Order was correct. The evidence received by the Grand Jury does not support his testimony.

The Grand Jury reviewed e-mails between the Commissioner, the Judge, the District Attorney, and a letter from the Commissioner. These documents disclosed the District Attorney did telephone a Judge before his discussion with the Commissioner. His telephone conversation with the Judge, however, did not include anything about the Judge placing a temporary hold on any enforcement of the Commissioner's Order. This is contrary to what the District Attorney told the Commissioner and this Grand Jury. During that telephone conversation the District Attorney asked the Judge what to do regarding the Order. The Judge told the District Attorney to have his "Friend" type a declaration and seek an Ex parte Order from the Commissioner modifying the Order.

The Grand Jury finds the District Attorney's statement to the Commissioner, regarding the Order being vacated or regarding a temporary hold and his sworn statements to this Grand Jury concerning this incident, to be lacking in truth and veracity.

The District Attorney's statement to the Commissioner, about the Judge placing a "hold" on the Order, was a violation of Business & Professions Code, Section 6068 (d). That Section concerns attorneys and says, in part, a member of the Bar should:

“(d)... never seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law.”

The District Attorney’s statement to the Commissioner was an attempt to mislead him by a false statement of fact. According to the Judge, as stated previously, the District Attorney never mentioned putting a hold or temporary stay on the Commissioner’s Order to him.

Of greater seriousness, in the view of the Grand Jury, are the statements the District Attorney made to the Grand Jury to exculpate or insulate himself from the communication he had with the Commissioner.

After his second appearance before this Grand Jury, the District Attorney sent the Grand Jury a letter. His letter misquoted Rule 5-300 (B). He wrote, “A member may directly or indirectly communicate with or argue to a judge or judicial officer upon the merits of a contested matter pending before such judge or judicial officer, except...” [emphasis added]. The Rule actually states “A member shall not directly or indirectly communicate with or argue to a judge or judicial officer upon the merits of a contested matter pending before such judge or judicial officer, except...” [emphasis added].

During his testimony to the Grand Jury and in a letter he sent to the Grand Jury to “clarify” his testimony, the District Attorney again testified that the two Judges told him his communication with the Commissioner was not a prohibited ex parte communication.

The Grand Jury investigation determined both the Presiding Judge and the Assistant Presiding Judge met with the District Attorney because the Commissioner informed them of the District Attorney’s ex parte communication. The purpose of the meeting was to admonish the District Attorney about the improper nature of his communication and to ensure it did not occur again. The District Attorney misrepresented these facts to the Grand Jury.

Another issue concerns a letter the District Attorney wrote to the California State Bar. The District Attorney wrote the letter after the Complainant contacted the State Bar about the District Attorney’s ex parte communication discussed above. The District Attorney’s letter denied any misconduct and offered his explanations as to what happened.

The District Attorney’s letter to the State Bar was misleading. In his letter to the State Bar, the District Attorney wrote he spoke with the Presiding Judge and the Assistant Presiding Judge about his communications to the Commissioner and the Judges were satisfied that no inappropriate conduct took place. This statement in the District Attorney’s letter to the State Bar is not true. Both the Presiding Judge and the Assistant Presiding Judge advised the Grand Jury they characterized the District Attorney’s communication with the Commissioner as an “inappropriate ex parte communication.” They told this to the District Attorney during their meeting on this issue.

In his letter to the California State Bar, the District Attorney wrote he believed the Commissioner recused himself from his “Friend’s” case because of extensive frivolous litigation by the Complainant.

The District Attorney's "belief" is not based on fact. The Commissioner signed a Minute Order saying the reason for his recusal arose from the unsolicited ex parte communication from the El Dorado County District Attorney's Office. The Commissioner reported that he disqualified himself due to the District Attorney's involvement and ex parte communication.

Based only on information received from the District Attorney, the State Bar wrote to the District Attorney and said it had completed the investigation of the allegations of professional misconduct and concluded the matter did not warrant further action. The State Bar closed the matter without prejudice to further proceedings as appropriate.

The Grand Jury finds that the District Attorney's communication with the Commissioner, and, more seriously, his misrepresentation of the facts to this Grand Jury and to the California State Bar, to be completely at variance with the conduct expected of attorneys in public office. This is especially true for the District Attorney because "Prosecutors are entrusted with great power and responsibilities. For that reason the public and the judiciary hold them to the highest ethical standards..."²

A District Attorney should at all times conduct himself in such a way as to be above reproach and to strictly adhere to the highest standards of conduct and avoid any appearance of self service or impropriety.

Findings

- F1. The District Attorney involved himself in "Friend's" Court proceedings with the Complainant.
- F2. The District Attorney's Office continues to handle "Friend's" son's criminal cases resulting in the appearance of impropriety to the public.
- F3. The District Attorney did not follow his office procedures relating to the logging in and custody of "Friend's" weapon.
- F4. The District Attorney has \$1,254.00 in his personal office safe for eight years and cannot explain this.
- F5. The District Attorney does not maintain a complete and proper evidence log of the contents of his personal office safe.
- F6. The District Attorney hired "Friend" to work in his office on several occasions, most recently December 2002, while involved in a personal relationship with her.
- F7. The District Attorney's "Friend" working in his office has created a perception of favoritism and an adverse effect on staff morale.

² *PROFESSIONALISM, A Sourcebook of Ethics and Civil Liability Principles for Prosecutors*, by the Ethic Committee of the California District Attorneys Association; Chapter X, Page X-1.

- F8. The District Attorney had an ex parte communication with a Court Commissioner in violation of Rule 5-300 of the California Rules of Professional Conduct for attorneys.
- F9. The District Attorney misled a Court Commissioner with a false statement of fact in violation of Business & Professions Code, Section 6068 (d).
- F10. The District Attorney misrepresented facts regarding his communication with the Commissioner to the State Bar of California and to this Grand Jury.
- F11. The District Attorney sent a letter to the Grand Jury misquoting Rule 5-300 of the California Rules of Professional Conduct for attorneys.
- F12. Sworn testimony by the District Attorney and other witnesses conflicts in important and significant details.
- F13. Portions of the District Attorney’s testimony and documentation were found to be lacking in truth and veracity.

Recommendations

- R1. The District Attorney should establish proper written procedures for all cases involving potential conflict of interest.
- R2. The District Attorney should establish written procedures pertaining to his “personal” safe whereby all items are properly logged in and out with the appropriate detailed information.
- R3. The personal safe and evidence locker should be audited annually.
- R4. All cash received should be maintained in “double” custody.
- R5. To avoid the appearance of a conflict of interest, the District Attorney should set up a written protocol regarding cases whenever the accused is related to or has a relationship with an employee in the District Attorney’s Office, including the District Attorney.
- R6. The El Dorado County Board of Supervisors should revise the County’s nepotism policy to include “significant others.”

Responses Required for Recommendations

R1 through R5	El Dorado County District Attorney
R6	El Dorado County Board of Supervisors

CRIMINAL JUSTICE COMMITTEE

Non-Action by District Attorney

Citizen Complaint #C41-02/03

Reason for the Report

A citizen's complaint alleges the District Attorney failed to perform his job because he did not prosecute the alleged leader of the Women Helping Women organization in El Dorado County.

Scope of the Investigation

The members of the Grand Jury interviewed:

- The Complainant;
- Various participants of Women Helping Women;
- Law Enforcement Officials from El Dorado County, Placerville, and South Lake Tahoe;
- Deputy District Attorney for El Dorado County.

The Grand Jury also reviewed:

- Various written information including newspaper articles, Women Helping Women Newsletters, Faxes, notes provided by Women Helping Women participants;
- Law Enforcement Reports;
- Video tape of national television program featuring Women Helping Women type of organizations.

Background

Women Helping Women, determined by the District Attorney to be a pyramid scheme in violation of Penal Code 327, started operations in Placerville during the year 2000. Subsequently the organization moved from the Placerville City limits to various locations on the Western Slope of El Dorado County during 2001. This shift in location changed the jurisdiction from Placerville Police Department to the El Dorado County Sheriff's Department. The Women Helping Women activities then moved to Sacramento and Placer Counties. While a similar organization was started in South Lake Tahoe, it did not flourish.

Five participants of the El Dorado County Women Helping Women met with the District Attorney on February 13, 2002, to discuss the legality of the organization. During the meeting the District Attorney advised the group that Women Helping Women was a pyramid scheme and unlawful. He informed the participants that, if they stopped all their group activities in El

Dorado County as of that date, no charges would be brought against them. The alleged head of El Dorado County Women Helping Women was included in the offer as she was one of the five women in the meeting with the District Attorney.

Our investigation revealed it was difficult to substantiate the facts in the case. Individuals would use only first names and an initial for last names on Women Helping Women documents. To further complicate identifying the participants, many individuals did not use their real names, signed up friends and relatives without their knowledge, and blackened out names and phone numbers on documents . When asked to give names of witnesses, the information was refused because the individuals did not want to involve others. Also, it was difficult to prove the actual monetary value involved as all transactions were paid in cash.

There was an investigation underway by the Placerville Police Department when Women Helping Women moved activities out of the their jurisdiction. Their investigative report was sent to the District Attorney.

The El Dorado County Sheriff's Department formed a task force comprised of two Sheriff's Detectives and one investigator from the District Attorney's Office in October 2002. The result of the investigation, which was conducted by the two Sheriff's Detectives, did not have sufficient evidence for criminal action. The investigative report was forwarded to the District Attorney's Office.

During our interview with the Deputy District Attorney, the Grand Jury was informed the Deputy District Attorney had reviewed the reports from both the Placerville Police and the Sheriff's Departments and determined there was insufficient evidence for further action. The reports, with the Deputy District Attorney's recommendation for no action, were given to the District Attorney for final review.

Findings

- F1. Investigations were conducted by both the Placerville Police Department and the El Dorado County Sheriff's Department into the activities of Women Helping Women in El Dorado County.
- F2. The Placerville Police Department and El Dorado County Sheriff's Department investigative reports were forwarded to the District Attorney.
- F3. On February 13, 2002 meeting with five members of Women Helping Women, the District Attorney advised the women no action would be taken if they stopped all group activities in El Dorado County as of that date.
- F4. The alleged head of El Dorado County Women Helping Women was one of the five women who met with the District Attorney and was told no charges would be brought against her if she stopped all her activities in El Dorado County as of that date.

F5. The District Attorney has not taken any action against any members of Women Helping Women in El Dorado County.

Responses Required to Findings

F3 through F5

El Dorado County District Attorney

No Recommendations

**CRIMINAL
JUSTICE
(JAIL REPORTS)**

CRIMINAL JUSTICE COMMITTEE

El Dorado County Jail, Placerville

Reason for the Report

California Penal Code authorizes and directs Grand Juries to inspect and report annually on operations of all public prisons located within the boundaries of each county.

Scope of the Inspection

Members of the Grand Jury made a comprehensive inspection of the Placerville Jail facility on February 28, 2003.

- The Jail Commander briefed jury members on Jail operations;
- The Jail Commander conducted a comprehensive tour of the facilities;
- Staffing levels were explained and discussed;
- Inspection Reports were reviewed;
- Recommendations of previous Grand Juries were discussed;
- Implementation of those recommendations was explained to and reviewed by the inspecting members;
- Grand Jury Reports for 2000/01 and 2001/02 were reviewed.

Background

The Placerville Jail facility was built in 1988 as a “direct supervision” jail wherein inmates have direct contact with staff. Original plans allow for the future expansion of a second wing.

Staffing for the facility totals 103.5. The total is comprised of a Captain responsible for both Placerville and South Lake Tahoe facilities, a Lieutenant in charge of the facility, Correctional Officers, Sheriff Assistants, and Cooks. The staff provides the coverage of the jail facility, the Work Program, Transportation, and the Bailiff/Court Security.

The jail facility is adequate and has an oversized booking area and kitchen in anticipating future expansion. The central control booth floor showed excessive wear. The original floor is old, worn and cannot be cleaned. In the main hall an antenna wire was exposed.

The jail holds a maximum of 243 inmates and is rarely filled to capacity. When this Grand Jury inspected the facilities, there were 185 inmates comprising of 160 males and 25 females. Of these inmates, 180 were from El Dorado County, four were from Amador County, and one from the U.S. Marshall. Two additional Placerville inmates were being housed in Amador County Jail. In addition there were 23 inmates on the Electronic Monitoring Program.

The Work Program assists individuals convicted of drunk driving, driving with suspended license, white-collar crimes, or misdemeanor whose sentences require jail time of ten to fifteen days. The individuals are allowed to continue their jobs, live at home, and not be on the Electronic Monitoring Program. In exchange, individuals work off the sentence by performing grounds and maintenance work at the fairgrounds, El Dorado High School, Consumes Community College, Veterans Hall or other local places and pay \$20 for each day worked. Payments to participate in this program totaled \$56,580 for the fiscal year 2001/2002 and \$57,100 for the first nine months of the current fiscal year. The funds received are credited to the General Fund of the County.

Space is rented to the U.S. Marshall and other counties. If necessary for security needs, for example to separate gang members, inmates are sent to other county jails. The jail has housed no minors in the past three years.

The kitchen staff is comprised of one supervising cook and three cooks with several inmates assisting. A part-time dietician reviews the meal plans for nutritional value. During the inspection of the kitchen it was noted that some vegetables appeared to be old and need to be discarded. Two food containers lids are cracked. Similar conditions have been reported in the previous Grand Jury report.

Medical and dental needs are provided on site. Full time contract nursing services are available with a doctor on call. A contract dentist provides emergency dental care on premises.

Findings

- F1. The central control booth needs new floor covering.
- F2. The antenna wire was exposed in the main hallway
- F3. Some produce was old and needed to be discarded.
- F4. Two food storage bins had cracked lids.

Recommendations

- R1. The central control booth floor covering should be replaced.
- R2. The antenna wire in the main hall should be put in a conduit.
- R3. Produce should be checked regularly.
- R4. Cracked food storage lids should be replaced.

Responses Required for Findings

F1 through F4

El Dorado County Board of Supervisors
El Dorado County Sheriff

Responses Required for Recommendations

R1 through R4

El Dorado County Board of Supervisors
El Dorado County Sheriff

CRIMINAL JUSTICE COMMITTEE

El Dorado County Jail, South Lake Tahoe

Reason for the Report

California Penal Code authorizes and directs Grand Juries to inspect and report annually on operations of all public prisons located within the boundaries of each county.

Scope of the Investigation

Members of the Grand Jury made a comprehensive inspection of the South Lake Tahoe Jail facility on September 20, 2002:

- Jury Members were briefed on Jail operations by the Jail Commander;
- The Jail commander conducted a comprehensive tour of the facilities;
- Staffing levels were discussed and explained;
- Recommendations of previous Grand Juries were discussed;
- Implementation of the recommendations was explained to and reviewed by the inspecting members;
- Plans and location for the new Juvenile Hall to be constructed next to the Jail were reviewed and discussed;
- Grand Jury Reports for 2000/01 and 2001/02 were reviewed.

Background

The South Lake Tahoe Jail premises appear to be well maintained and exceptionally clean. Renovation/construction is underway for a second sobering cell. Although plans had been made for a new juvenile hall to attach to the jail, current plans are for the premises to be adjacent and separate.

The staff appears well groomed and cooperative. Medical Staff, which is provided through contract, is available 24 hours and appears to be adequate. Dental services currently are obtained by transporting prisoners from South Lake Tahoe to Placerville Jail. However, dental services are available locally, which may be more cost effective.

Correctional officers are scheduled for 12-hour shifts three days one week and four days the next week (3/4). In addition, they routinely work additional overtime hours. The use of overtime to supplement staffing needs is a common practice raising a concern of safety and effectiveness. Since the inspection, the new Sheriff has modified and improved the work schedules.

The design and location of the ramp for the disabled which leads into the public area poses a safety hazard to the users and a potential liability to the County. During certain weather conditions the ramp must be closed. Since 1998, \$31,860 has been appropriated from the

Criminal Justice Trust Fund for the ramp for the disabled as evidenced on the County of El Dorado Proposed Budget and Workplan (General Services, Carry-over Facility Projects, 98-21 South Lake Tahoe Sheriff Handicap Ramp). The County has been aware of the problem with the ramp and considered possible solutions, however, it has failed to take action to correct the problem.

Security in the hallway between the jail and the Court Building needs to be improved. The hallway does not have adequate camera surveillance. The hallway is accessible from outside by key. Numerous County employees have access to the area.

Findings

- F1. Prisoners are transported from South Lake Tahoe to Placerville for dental services.
- F2. The correctional officers routinely work 12 hour shifts with substantial additional overtime.
- F3. Although \$31,860 was appropriated from the Criminal Justice Trust Fund in 1998 and included in the County of El Dorado Proposed Budget and Workplan (General Services Carryover Facility Projects, 98-21 South Lake Tahoe Sheriff Handicap Ramp) necessary improvements to the ramp for the disabled entrance have not been made resulting in continued safety hazard to users and potential liability to the County.
- F4. Current camera surveillance in the hallway between the jail and Court Building is not adequate.

Recommendations

- R1. Local dental services should be utilized if appropriate.
- R2. Staffing should be adequate to minimize the need for overtime.
- R3. The ramp for the disabled should immediately be improved to meet safety conditions and the Americans with Disabilities Act (ADA) requirements.
- R4. Camera surveillance in the hallway between the jail and Court Building should be properly and adequately upgraded.

Responses Required for Findings

- F1 – F4 El Dorado County Sheriff
 El Dorado County Board of Supervisors
- F3 El Dorado County Department of General Services

Responses Required for Recommendations

R1 – R4	El Dorado County Sheriff El Dorado County Board of Supervisors
R3	El Dorado County Department of General Services

CRIMINAL JUSTICE COMMITTEE

El Dorado County Juvenile Hall – Placerville

Reason for the Report

California Penal Code authorizes and directs Grand Juries to inspect and report annually on operations of all public prisons located within the boundaries of each county.

Scope of the Inspection

Members of the Grand Jury inspected El Dorado County Juvenile Hall - Placerville on August 21, 2002 and April 9, 2003.

- Jury members met with the Chief Probation Officer and the Deputy Chief Probation Officer;
- The Chief Probation Officer and the Deputy Chief Probation Officer jointly conducted comprehensive tours of the facility with the Grand Jury Members
- Inspection reports were reviewed;
- The Principal/lead teacher/counselor and teachers were interviewed;
- Kitchen supervisor and assistants were interviewed;
- Several wards were interviewed;
- Grand Jury reports for 2000/2001 and 2001/2002 were reviewed.

Background

Juvenile Hall was built in 1971 as a “direct supervision” jail for juveniles (wards) where they have direct contact with the staff. The facility, originally built to house 22 juveniles, has been expanded to house 40. When necessary, extra beds are used to accommodate additional wards. Due to Court Orders capping the number of juveniles housed at the facility at 42, Court approval is required and obtained for all exceptions. Juvenile Hall has housed as many as 56. Due to space limitations, counselors, who are contracted, are required to meet with the wards in open activity areas.

While currently there are not any plans for new or expanded juvenile facilities in Placerville, plans are underway for a new juvenile hall in South Lake Tahoe. Groundbreaking for the new facility is scheduled for April 30, 2003, with completion anticipated in about a year. This new facility which will accommodate up to 40 juveniles will help alleviate the periodic overcrowding condition of the current Placerville juvenile facility.

Juvenile Hall is used to house both male and female juveniles between the ages of 8 to 19. On the date of the Jury’s last visit there was a total of 36 juveniles comprised of 29 male and 7 female. Of these juveniles, 25 were from the west slope, 10 from South Lake Tahoe and one from Alpine County. Juvenile Hall does on occasion house, by contract, juveniles from Amador

and Alpine Counties. Amador County does not have a juvenile hall facility. Special arrangements have been made with Alpine County to house four wards a year, one at a time, for 30-day drug/substance abuse treatment.

While the average stay is between 28 to 30 days, some juveniles may stay a day while others up to a year. Juveniles requiring longer detention time are placed at a youth ranch within California as directed by Court Order. In addition, some juveniles are placed on electronic house supervision, which allows them to stay in their homes and continue to go to school.

Four supervisors and 16 permanent line employees staff the facilities. The facilities appear neat, clean, and well run. However, it is in need of painting, as it has not been painted in seven years. New baseboards are needed in the entry, halls, and general-purpose gym. Cell #14 has a cracked door window. In addition, the HVAC vents in the classrooms are dirty.

Juvenile Hall has an outstanding school program administered on premises by the Principal/lead teacher/counselor with three teachers in two classrooms. Individual school programs are prepared and administered for each ward, including Special Education. Juveniles attend school Monday through Friday and weekly meet with a teacher to review the individual's progress in work packets. When juveniles are to be released, their next school is contacted to help provide a smooth transition. In most cases the juveniles are placed back in their previous school.

All food for the juveniles is prepared on premises by the kitchen supervisor and two cooks with clean up performed by the juveniles. Menus are planned for several weeks in advance, and reviewed annually for nutritional value by a contract dietician. Special meals are provided as needed for diet, doctor's orders, allergies, and religious needs with medical related requests approval by the facility nurse.

Medical needs are provided through contracted nursing services with a medical doctor on call. Mental health counseling is provided through contract. In addition drug/substance abuse programs are available. The health facility room has no running water; the nurse has no water to wash her hands between patients.

While the facility is constructed of non-flammable material, any fire could create smoke conditions, which could cause serious harm to anyone in the facility. This Grand Jury concurs with the 2001/2002 Grand Jury recommendations that air packs (emergency breathing apparatus) should be available on premises and staff trained in their use. During our review of all the other correction facilities in the County, with the exception of Juvenile Hall, air packs are available and staffs are trained in their proper use.

Findings

- F1. Adequate space is not available for individual counseling.
- F2. The facility needs painting.
- F3. The baseboards in the entry, halls and general-purpose gym need to be replaced.

- F4. Cell #14 door window is cracked.
- F5. The HVAC vents in the classrooms are dirty.
- F6. No running water is available in the health facility room.
- F7. Air packs are not available in case of fire.

Recommendations

- R1. The facilities should be painted.
- R2. Baseboards should be replaced as needed.
- R3. Cell #14 door window should be replaced.
- R4. The health facility room should have running hot and cold water and blankets.
- R5. The HVAC vents in the classrooms should be cleaned.
- R6. Air packs should be available in Juvenile Hall for life safety and to limit potential liability.
- R7. The staff should be trained in the use of air packs.

Commendations

The Chief Probation Officer and the staff of Juvenile Hall in Placerville provide outstanding service in an inadequate, old, facility, which is often over capacity. Special recognition is given teaching staff for the exceptional individual educational program.

Responses Required for Findings

F1 through F7
El Dorado County Board of Supervisors
El Dorado County Probation Department

Responses Required for Recommendations

R1 through R7
El Dorado County Board of Supervisors
El Dorado County Probation Department

CRIMINAL JUSTICE COMMITTEE

Growlersberg Conservation Camp, Georgetown, CA

Reason for the Report

The California Penal Code requires Grand Juries to inspect and report annually on operations of all public prisons located within boundaries of each county.

Scope of the Investigation

Members of the Grand Jury inspected the Growlersberg Conservation Camp on March 7, 2003. The Jury members met with the Camp Commander of the Department of Corrections and the Assistant Chief of Administration for the Department of Forestry and Fire Protections. The Camp Commander escorted the Jury Members on a tour of the facility. The following documents were reviewed:

- Inmate Orientation Handbook
- Camp Reports
- Inspection reports
- Staff and Inmates written reviews of meals
- Performance evaluations of inmates
- Grand Jury Reports for 2000/2001 and 2001/2002

Background

Growlersberg Conservation Camp (Camp), a minimum security correctional facility established in 1967, is one of 18 camps operated by the Sierra Conservation Center. The Camp is jointly maintained and administered by the California Department of Corrections and California Department of Forestry and Fire Protection. The California Department of Corrections is responsible for the inmates, laundry, and kitchen. The Department of Forestry and Fire Protection is responsible for the plant facilities, which include the buildings and fire fighting equipment.

The Camp appears to be very well run and maintained. The Camp is clean, quiet, and orderly. The addition of access ramps for the disabled to the indoor and outdoor visitation areas are now in compliance with Americans with Disability Act (ADA).

The Grand Jury Reports for 2000/2001 and 2001/2002 noted the need for an updated kitchen, with special concern regarding the kitchen-stove hood. This kitchen is part of the original 1967 construction. The Camp is scheduled for a new kitchen facility in the fiscal year 2003/2004. Due to State Budget constraints the scheduled construction may be postponed. The kitchen-stove hood will not be updated because of cost and the planned new kitchen facility. The State Fire Marshall, Department of Forestry, and Department of Correction have an agreement that until

funds are allocated to either restore the hood to code or build a new dining room/kitchen facility, an inmate specially trained to fight grease and chemical fires with special fire extinguishing apparatus must be on duty in the kitchen during cooking.

The Camp holds a maximum of 132 inmates. Inmates are thoroughly screened and classified. Sexual offenders, arsonists, and violent inmates are not classified for the Camp, as this is a minimum-security facility with open dorms and no fences. Inmates are required to have three years or less remaining on their sentences. The Camp is fully maintained by the inmates under staff supervision.

All inmates are required to work, with work ethic strongly emphasized. Work assignments, which include fire and rescue crews, laundry, kitchen, grounds, etc., are based on skill and needs. Inmates are given written job descriptions and written performance evaluations. They are paid a nominal hourly rate for their services.

Five fire crews, comprised of 16 to 17 inmates each, fight fires and help in rescues wherever needed in California and along the Nevada border. In addition, 22 inmates staff the Mobile Kitchen Unit, which can provide up to 3,000 meals at a time. Inmates also work in the Mill and Cabinet Shop, constructing desks, cabinets, tables, and other various wood furniture items for tax supported agencies at cost.

For the past eleven years the inmates have participated in "Helping Hands" where they raise funds through a comprehensive recycling program. Funds received from this program along with donations from the staff, civilians, and local businesses are used at Christmas to provide new bicycles, assembled by the inmates, and helmets for children in the community. The Superintendent of the local school district provides the Camp Commander with a list of parents and students to contact. The Camp Commander then contacts the parents asking if they wish to participate in the program. The bicycles and helmets are brought to a local school where the children make their selection.

Finding

F1. A solution to the code non-compliance of the kitchen hood has been agreed upon by the State Fire Marshall, Department of Forestry and Department of Corrections.

Response to Finding

F1 California State Department of Forestry
California State Department of Corrections

EDUCATION

EDUCATION COMMITTEE

El Dorado County School Bus Transportation General Review

Reason for the Report

The Grand Jury selected El Dorado County school bus transportation for general review.

Scope of the Investigation

The Grand Jury did the following:

- Surveyed transportation offices of each school;
- Analyzed data obtained from the surveys;
- Obtained information from the California Highway Patrol (CHP) pertaining to safety conditions of school busses.

Background

School bus transportation has not been reviewed by the Grand Jury in the recent past, therefore it was decided to undertake such an investigation.

A one-page survey was created and mailed to the transportation supervisors of each school providing bus transportation. All surveys were returned and analyzed. A total of 17 school districts provide bus transportation. Most school districts own their own busses. Expenses for maintenance of busses vary considerably from one school to another. The main finding is that none of the districts had any substantial safety problems to report regarding their bus transportation over the past two years

The California Highway Patrol (CHP) is responsible for annual safety inspections of each school bus operating in the State of California. The committee received a copy of the safety review (Exception report) from the CHP Safety Review officer for each bus operating in El Dorado County.

The CHP provided this committee with a report of exceptions to safety inspections, according to individual schools and school districts. This report, which notes any exceptions to approved safety conditions, revealed that no school district bus received a significant exception report during the past year although a few minor exceptions were noted and had been corrected.

Findings

- F1. School districts within El Dorado County offer school bus transportation to hundreds of students each day throughout the year.
- F2. All school buses in the 17 school districts are inspected annually by a safety inspection program of the California Highway Patrol, and no substantial safety exceptions were noted during the past year.

No Recommendations

EDUCATION COMMITTEE

El Dorado Union High School

Placerville

Reason for the Report

The Grand Jury selected El Dorado High School (EDUHS) for a general review.

Scope of the Investigation

The members of the Grand Jury:

- Interviewed the principal and the vice-principal;
- Toured the school, including the cafeteria, the library, the gymnasium and the computer laboratories.

Background

The Grand Jury met with and interviewed the principal and vice principal of the school on February 10, 2002. The current principal was appointed mid-year 2002. The vice-principal has been at the school in varying capacities for 31 years.

The school site was developed in 1905 and in 1928, the City of Placerville built the high school. The current physical plant includes 57 classrooms, 2 gyms, and several activity rooms. All of the buildings are permanent with the exception of 9 portables. A total of 345 storage lockers are available to students, but 84 of them are unassigned as many students do not want them. Lockers are assigned on a first come, first serve, basis.

Modernization funds have been helpful in bringing the buildings up to standard. School maintenance is excellent. The campus has the smallest acreage when compared with the other local schools. Maintenance is difficult due to the age of the buildings and the heavy use by the community. There are 5 daytime maintenance staff and 4.5 night staff. Swimming pool, gyms and athletic fields are all community shared.

At present, 1305 students are enrolled, this is down from 1600 students enrolled five years ago. There are 72 teachers, including a librarian. 47 teachers are classified. The student - teacher ratio is 30 - 1. In English/ Math the ratio is 20 to 1.

A Health Academy program is offered, in which students interested in the health fields are given special counseling. Another program, Advancement Via Individual Determination (AVID), identifies 20 students each year who are given special attention to assure their success in high school.

A Sustained Silent Reading Program is well established on the campus. Every student has required reading for 20 minutes each day following announcements. This program is unique to the school and has been very rewarding. It encourages students to read for pleasure.

The school has three computer labs and one computer in every classroom. The labs appear to be fully used by the students.

Vista High School is a new on-site high school located on the campus of EDUHS which offers alternative education. This alternative education program allows staff to keep these students on site. The students are given individual education plans and work with certified teachers. A total of 30 students are currently enrolled.

The campus offers a full-time drama and full time music teacher, and drama costumes are created in the Home Economic classes.

Special Education students include 135 resource students, 17 special day classes, 10 students who are severely handicapped and 16 speech and language students. Special education students comprise about 20 percent of the student body, -- most are "mainstreamed." This figure is high according to the principal.

The school has a significant Title I population. (Title I students include low-achieving low-income, limited English, American Indian, migrants, neglected or delinquent, students with disabilities, and those who need reading assistance.) Test results show El Dorado HS to be doing well when compared to similar school populations. The State testing is important, but results need to be more timely to be helpful.

An assigned school nurse is shared with another school. A full-time health aide is on duty. Three full-time counselors are also on staff, along with the Healthy Start program. Healthy Start provides supplemental tutoring after school among other activities.

Art and music are important programs at the EDUHS. The campus currently has a large amphitheater and a small theatre. A school and community planning committee has been formed to help design and build a 500 seat theatre, with an art gallery, and an amphitheater to accommodate 300 permanent seats. Private gifts and bond funding are being explored. The proposed complex would be shared with the Placerville community.

The Assistant principal is responsible for unifying an evacuation and lock down plan. The District is currently developing a uniform plan.

A full-time police officer and a full-time probation officer are assigned to the school. Strong relationships have been established with the fire and sheriff's departments.

The school has a 7-period day. Buses are shared with other schools. Students attend from as far away as Kyburz.

To assist in student discipline problems, an In-house suspension room is used. When this is used, students are not sent home and therefore do not lose a day of school. Teachers say "lack of respect" and "poor language" (commonly used in TV shows) are problems in the classrooms. The campus has Safe School Ambassadors, selected from the student body, who work to prevent campus confrontations from occurring.

Drugs and alcohol are always a continuing problem. The prescription drugs Rytalin and Vitagen are being sold illegally to young students for \$5 to \$10 a pill. Attempts to control this are three campus monitors, police and a full-time probation officer who has authority to search students.

The usual after school programs are offered, in addition to yoga, art, and dancing. The school also offers ski and snowboard team sports.

Buildings, classrooms, and grounds appeared to be very well maintained and attractive. Elevators and ramps are available for handicapped.

No Findings or Recommendations

EDUCATION COMMITTEE
Indian Diggings Elementary School
Somerset

Reason for the Report

The Grand Jury selected Indian Diggings Elementary School for a general review:

Scope of the Investigation

Members of the Grand Jury:

- Visited the School on January 31, 2003;
- Were given on an extensive tour of the School by the Superintendent;
- Reviewed various school plans, including emergency procedures, funding, and staffing;
- Reviewed Grand Jury reports for 2000/2001 and 2001/2002 and found no findings or recommendations pertaining to the school.

Background

Indian Diggings Elementary School, a two-room school with grades K - 8, has been in existence since 1856. The school burned down in 1958 and was rebuilt primarily with volunteer labor and materials. There are two classrooms, a multi-purpose room, small library, and office space. The school owns an acre of land that is not utilized. Suggestions for use of the land have included building a swimming pool and tennis courts for community use. However, the school is unable to fund these projects.

The facility consists of 4 full-time credentialed employees and one exchange teacher from Japan. The Superintendent functions as the principal and upper grade teacher. The faculty perform all positions necessary including yard duty attendant, Special Needs Instructor, school secretary, etc. The school building and grounds are well maintained by the part-time janitor.

Since the school population is small, special services are provided on a limited basis. A school nurse is available four days a year. The nurse tests vision, checks immunization records, tests hearing, and provides CPR training for the teachers. A music/dance instructor comes in to train the students for performances in performance arts. A karate teacher also comes in periodically to instruct the students and one teacher that continues the instruction and practices with the students.

The enrollment consists of 15 students in grades K - 3 and 21 students in grades 4 – 8. Of these total 36 students, 18 are inter-district transfers from Pioneer County and one from Amador

County. Only 2 students have transferred this year to another district. Enrollment throughout the years varies from the lowest figure of 24 to the high of 44 students.

Educational opportunities in this small school are impressive. All students may participate in cross-country skiing with boots and skis available for all students. Weeklong field trips, planned with parents, are available for the upper grades with the lower grades joining for part of the time.

A financial reward program has been developed to encourage students to demonstrate good behavior and earn good grades. The students earn "Ono Bucks" and are required to maintain records of "Ono Bucks" earned. When students spend "Ono Bucks" at the General Store, which is supplied through donations, they are required to record the transactions in their checkbooks.

The school has a large multipurpose room, which was built in 1996-97 with grant funds. This room contains a kitchen, a full stage with curtain for play productions, a large-screen television, gym, craft room, and an elevator for the disabled. The elevator, which was not operable at the time of Committee's visit, is being used for storage.

In the past seven years, the Superintendent applied for and received approximately \$750,000 in grant funds, part of which was used to build the multipurpose room. Other grants have provided for chain-link fencing (to keep bobcats out), water tanks (no public water), computers (each student has a computer), satellite dish, sets of classical literature, and grassed play areas and fields.

The Pioneer Lions Club of Somerset offers additional support to the school. Over the past seven years, the Club has donated funds for field trips, including Spring Camp Science Trip, a student store structure, provided picnic tables, and obtained a ball wall.

Findings

- F1. The school owns an acre of land that is not being utilized due to funding.
- F2. The elevator for disabled is not in working condition.

Recommendation

- R1. The elevator should be repaired.

Commendations

The Teaching Principal/Superintendent has obtained numerous grants to improve this unique school. He and his staff provide excellent opportunities for their students.

Responses to Findings

F1 and F2 Indian Diggings School Teaching Principal/Superintendent

Response to Recommendation

R1 Indian Diggings School Teaching Principal/Superintendent

EDUCATION COMMITTEE

Latrobe School & Miller Hill School

Latrobe

Reason for the Report

Since the Latrobe School District had not been visited in at least 5 years the Grand Jury decided it should be visited this year.

Scope of the Investigation

The Grand Jury:

- Visited Latrobe School;
- Visited Miller Hill School;
- Interviewed the Secretary and three teachers.

Background

Latrobe School is comprised of two schools, K through 3 and 4 through 8. The original school building, built in 1911, is still being used on the Latrobe School site. The newer building is several years old. All buildings are well maintained. Miller Hill School is two years old with a new library. There are 100 students on each campus. The schools have more than adequate space to house that number of students. Several classes were observed, including a Special Education class. Classes appeared to be well run and orderly.

School busses are contracted from the El Dorado High School District and function well.

Commendations

The schools are well run. We would like to commend the faculty and administration for their fine work.

No Findings or Recommendations

EDUCATION COMMITTEE

Edwin Markham Middle School

Placerville

Reason for the Report

The Grand Jury selected Edwin Markham Middle School to review the status of the building repairs recommended in the 2001-2002 Grand Jury Report, and for a general review.

Scope of the Investigation

The members of the Grand Jury:

- Interviewed the Superintendent and the Principal;
- Toured the school grounds;
- Visited the special science laboratory and several classes including an 8th grade math class;
- Reviewed the Grand Jury report for 2001/2002.

Background

The school was opened in 1950, and has 756 students. According to the principal, the students consistently score above average on the State Administrative Tests.

The curriculum provides at least 2 elective activities for every student. These electives consist of art, music and drama. The school day begins at 7:44 a.m. and ends at 2:05 p.m. The classes that were visited were orderly and well run. Teachers appear to be involved and interested in the students.

The previous Grand Jury report identified dry-rot and drainage problems in several buildings. While the repair work has not been started to date, the recent passage of school bonds will enable a complete remodeling of the facility. This remodeling will correct the drainage and dry-rot. The architect's plan for the remodeling should be ready for approval by the end of summer 2003.

Findings

- F1. Repairs reported by 2001-2002 Grand Jury have not been accomplished.
- F2. Passage of school bonds will enable a complete remodeling of the school.
- F3. Repairs/remodeling will commence within the year.

Education Committee

Ponderosa High School

Shingle Springs

Reason for the Report

The Grand Jury selected Ponderosa High School for a general review.

Scope of the Investigation

The members of the Grand Jury interviewed the following Ponderosa High School staff:

- Principal;
- Vice Principal;
- Library Media Teacher;
- El Dorado County Sheriff School Resource Officer;
- Food Service Supervisor/Manager;
- Food Service worker.

The Grand Jury members:

- Reviewed El Dorado Union High School District 2000/02 Strategic Planning Goals;
- Visited Ponderosa High school, met staff, and toured campus.

Background

Ponderosa High School opened as a two-year high school in 1963 with 1100 students. The student population, which reached 2200 in the year 2000/01, was reduced with the opening of Union Mine High School. Today the campus, which is located in a semi-rural setting of 40 acres, is a four-year school with over 1800 students. It is one of five high schools in the El Dorado Union High School District and was selected to receive a California Distinguished School Award in 2001.

The current principal has been in his current position for the past 18 years. The school staff includes 7 management positions: 3 vice-principals that each assists 600 students and 4 counselors, each of whom assists 450 students. There are 92 full and part-time teachers with the student-to-teacher ratio of 30 to 1. All teachers, except two, have credentials and teach in their major or minor field. There are also 50 classified personnel that include clerical, kitchen, and maintenance positions.

The school ranks well above average on overall test scores and well above average compared to similar schools in State tests. The student dropout rate is approximately 1.8 percent while the State average dropout rate is 2.8 percent. Two-thirds of graduating students continue to college.

The campus is the District's magnet school for agriculture and special education students. The agricultural program has 160 students. The campus has classes for 110 special education students for whom an integrated approach to classroom instruction is provided. These students come to this magnet campus from the Western Slope of the County.

The school hosts numerous after-school art and athletic programs. Arts include theatre/drama, orchestra, band, chorus, speech, debate, and photography. Athletics include traditional sports as well as rugby, swimming, boys' and girls' golf, softball, soccer and volleyball.

School facilities include 88 classrooms, of which 50 percent are modular portable structures. These buildings will remain at the Ponderosa campus due to the prohibitive cost of new construction. The District has been proactive in modernizing Ponderosa's physical plant by obtaining approximately \$2.5 million in grants. The State Modernization Grant has been used for landscaping projects, carpeting classroom, adding portable classrooms, building a permanent science laboratory building, replacing the gym ceiling, completing the county/school district joint project soccer field, and creating new plaza areas for student use. This summer the State Modernization funds will be used to enhance all campus permanent buildings by facing them with brick exteriors.

The campus has 250 student lockers available, but space per student is limited. Two students share a locker, while freshman students are not provided lockers.

The school's library is the largest high school library in the County with over 7,000 square feet of space and contains over 21,000 books. Students have continuous access to the facility from 7:00 a.m. to 4:30 p.m. as well as at home access to the school's online database resources at their Web site. Ponderosa has benefited from the California Library Grant, which contributes as much as \$28.00 per student. Today this grant has been reduced to \$1.99 per student.

The campus has a self-supporting cafeteria that provides a hot breakfast and lunch daily as well as a walk-up snack bar. Lunchtime is divided into two periods to accommodate all students. About 350 students purchase a cafeteria meal each day. Meals are affordable and do not exceed \$2.00. Free and reduced lunch programs are also available.

The campus is maintained with a limited staff. On a daytime basis, one person is assigned to all the athletic fields, one gardener for the grounds, one custodian for the buildings, and one maintenance person for equipment. Five custodians work in the evenings. Classrooms are cleaned on alternating days. A half-time employee cleans the cafeteria.

A full-time Deputy Sheriff is funded by grants from the County and the Sheriff's Department. Four paid adult campus monitors patrol the school either by foot or bicycle throughout the school day. Administrators and teachers monitor all evening activities on a rotation basis. The school safety committee meets several times a year to update the school's safety plan each year. The

school is not far from the Shingle Springs Fire Department and emergency treatment is quickly available.

The district provides bus transportation used only by one-third of the student population. A majority of the students drive or carpool. Parking space offered on campus is inadequate; therefore many students park on adjacent roads. This often congests the two-lane road that fronts the school. In addition, there are no streetlights or stop lights at the two main entrances from Ponderosa Road. Only one School Zone warning sign is posted. Buses arrive and depart using a narrow circular driveway that does not allow parking or access to parents who pick-up or drop-off students. Parents who wish to avoid the congestion stop on the street to unload passengers, thus blocking traffic and cause an unsafe situation for cars and pedestrians. The traffic and parking problems are expected to increase next year when all students begin and end school at the same time.

The school has developed a Web site (<http://bruin.eduhsd.k12.ca.us/>) which provides students and parents access to daily bulletins, calendars, online resources, art, and athletic schedules. In addition, next year each department will offer homework and project assignments to be accessible online.

Findings

- F1. The Science Laboratory Building is the only permanent building built in the last 18 years. All other additions have been modular classrooms.
- F2. Locker space is not available for all students.
- F3. Parking is a problem. Students park on the congested two-lane road in front of the school as well as adjacent roads. As the student population continues to grow, this problem will increase dramatically.
- F4. The limited vehicle entrances for students, buses, and visitors create unsafe and hazardous conditions on these roads.
- F5. There is only one School Zone warning sign located near a blind curve on the south side of the campus.
- F6. There is inadequate space to pick-up or drop-off students so students are frequently dropped off on the main roadway.
- F7. There are no streetlights in front of the school on Ponderosa Road. This causes unsafe conditions for students and parents that attend evening after-school activities and for students arriving during early morning hours, especially in the winter months.
- F8. The restrooms are not always clean and are not well stocked with supplies.

Recommendations

- R1. Additional student locker space should be provided.
- R2. The current student parking needs should be evaluated.
- R3. An additional entrance on the south side of the lot should be considered and this entrance should have a three-way stop sign or traffic actuated stoplight.
- R4. Additional School Zone warning signs should be installed on Meder Road and the north side of the campus on Ponderosa Road.
- R5. A turnout area should be added off Ponderosa Road for drivers to pick-up and drop-off students.
- R6. Streetlights should be installed in front of the campus on Ponderosa Road.
- R7. Restrooms should be inspected for cleanliness and supplies by daytime maintenance staff each morning, especially in Building P.

Commendations

The Grand Jury commends the Principal, faculty, and staff for their enthusiastic school spirit and continued dedication to the academic performance and well being of the students at Ponderosa High School. We further commend the school for becoming a California Distinguished High School.

Responses Required for Findings

- F1 through F7 Superintendent, El Dorado County Office of Education
 Superintendent, El Dorado High School District
- F1 through F8 Principal, Ponderosa High School
- F3 through F7 El Dorado County Board of Supervisors
 El Dorado County Department of Transportation

Responses Required for Recommendations

- R1 through R6 Superintendent, El Dorado County Office of Education
 Superintendent, El Dorado High School District
- R1 through R7 Principal, Ponderosa High School
- R2 through R6 El Dorado County Board of Supervisors
 El Dorado County Department of Transportation

EDUCATION COMMITTEE

South Tahoe Middle School

City of South Lake Tahoe

Reason for the Report

The South Tahoe Middle School was chosen as part of a general review.

Scope of the Investigation

The members of the Grand Jury:

- Interviewed the Principal;
- Toured the facility.

Background

South Tahoe Middle School is 40 years old. The school appears to be well managed and well staffed. There are three grade levels: 6-8. The school population numbers about 1200 students with faculty and staff of 56. School facilities include a television station, multi-purpose room, and a gymnasium. A wide variety of after-school activities are offered which include sports, music, cheerleading, dance, yearbook, and additional academic programs.

No Findings or Recommendations

EDUCATION COMMITTEE

El Dorado County Library, South Lake Tahoe Branch Library

Citizen Complaint #C43-02/03

Reason for the Report

A citizen's complaint was received alleging that the South Lake Tahoe Branch Library is not providing receipts for payments of fines and miscellaneous fees.

Scope of the Investigation

The members of the Grand Jury

- Made an unannounced visit to the South Lake Tahoe Branch library;
- Interviewed the Branch Supervisor;
- Toured the Library;
- Reviewed the accounting and computer system at the Library.

Background

The library is staffed by five and one-half full-time employees, and two part-time. It is open 41 hours each week. The hours are Tuesday and Wednesday, 10am to 8pm, and Thursday, Friday, and Saturday 10am to 5pm.

The library has an excellent system to record all income. Receipts are give to patrons on request for small amounts such as 25¢ fines and copy charges. Patrons who make larger payments may request a receipt and a printout for all past activity. Receipts are prepared at the time a fine is paid for overdue books the library clerk updates the patron's computer records to reflect that payment.

The Branch Supervisor advised the members of the Grand Jury that a new computer system will be installed in mid April 2003.

Findings

- F1. Receipts are issued upon request for all fees paid. Larger fines and fees are tracked by the Library's computer system.
- F2. The staff includes five and one-half full time and two part time employees.
- F3. The library is open 41 hours per week.

Recommendations

- R1. The Library should post a notice that receipts are available for all amounts paid to the Library.
- R2. Employees should be scheduled to allow for extended hours of operation.

Commendation

The library staff should be commended for a well-run and clean facility.

Responses Required for Findings

F1-F3 Supervisor, South Lake Tahoe Branch Library

Responses Required for Recommendations

R1 and R2 Supervisor, South Lake Tahoe Branch Library

GOVERNMENT & ADMINISTRATION

GOVERNMENT & ADMINISTRATION COMMITTEE

Purchase of a Doctor's Services for a "Fitness for Duty" Evaluation

Citizen Complaint #C5-02/03

Reason for the Report

The complaint alleges that the process and procedures used to obtain the services of a consulting doctor contracted by the Department of Human Resources were inappropriate and improper. (The employee has a great disadvantage in this process of separation from service.)

Scope of the Investigation

The Grand Jury interviewed the following persons :

- Complainant;
- Director, Department of Human Resources, El Dorado County;
- Manager, Procurement and Contracts, Department of General Services, El Dorado County.

The Grand Jury also reviewed the following items:

- A memo from the Director of Human Resources regarding fitness-for duty examinations;
- Statistics of fitness for duty 2000/01 and 2001/02;
- Purchase Order for doctor's services;
- County's policies and procedures regarding purchases and contracts;
- Total Purchase Order List for every Department from Fiscal Year 2001-02 through 2002-03;
- General Services Department memos issued to all County Departments regarding confirming purchase orders, purchasing procedures, and new contracts.

Background

There are approximately 1800 El Dorado County employees. In fiscal years 2000/01 and 2001/02 ten fitness for duty examinations were conducted in Sacramento for County employees.

The El Dorado County Personnel Management Resolution 228-84 1105(b) authorizes a departmental representative to request a fitness-for-duty examination. The section states:

“An appointing authority who has reasonable cause to believe that there are physical or mental health conditions present in an employee which endanger the health or safety of the employee, other employees, or the public, or which impair the employee’s performance of duty, may order the employee to undergo at County expense and on the employee’s paid time a physical, medical, and/or psychiatric examination by a licensed physician and receive a report of the findings on such examination. If the examining physician recommends that treatment for physical or mental health problems, including leave, are in the best interest of the employee or the County in relation to the employee overcoming any disability and/or performing his or her duties, the appointing authority may direct the employee to take such leave and/or undergo such treatment.”

Fitness for duty examinations are to be used as last resort. They are initiated when an appointing authority observes serious performance and behavior difficulties and where they believe there may be a medical cause for employee’s non-performance. A manager initiates the process by contacting the Department of Human Resources where upon an alternative course of action may be recommended to them. If an alternate action is not recommended, the Community Nursing/Occupational Health Division Manager in the Department of Public Health performs a second review. If the opinions agree, the Department of Human Resources will initiate the evaluation process and schedule an appointment with the appropriate physician.

Employees must attend the appointment. If an employee fails to attend, they can be disciplined. To date, records indicate that no employee has ever refused. In some instances, the evaluating doctor may request medical records from an employee’s treating physician. In other cases, the evaluator may refer an employee back to the treating physician or health care provider for follow-up and/or additional treatment. If at the conclusion of the evaluation an employee requests a second doctor’s opinion, he may do so at his own expense. To date no employee has made the request for a second evaluation.

In fiscal year 2000/01, five fitness for duty examinations were conducted. One employee was found fit and returned to service; two employees were found not fit and separated from service (one of the two employees was evaluated initially, and subsequently reevaluated as a result of new information); and the fourth employee was found fit but subsequently separated from service.

In fiscal year 2001/02, five fitness for duty examinations were conducted. Three of the five employees were found not fit and separated from service; one was found fit, returned to work, and subsequently separated from service; one employee returned to work after initial review.

The Grand Jury investigated broader issues related to the County’s handling of purchase orders and contracts. The investigation revealed doctors currently being used for evaluations do not have a contract with the County, yet the County purchase orders are approved to pay them as individuals. The County claims they are using an existing contract with Sutter Occupational Health Services (SOHS). It includes services of a physician who can conduct a fitness-for-duty examination. Additional testing can be referred to specialists within the SOHS system. SOHS is not identified for payment on purchase orders for the evaluations. It appears therefore, the

County is circumventing the contracting and purchase order system. Since no contract monitor is identified in the SOHS contract, the Public Health Occupational Health Manager reviews the services received and evaluates invoices. It is our understanding a flat fee is charged by these doctors at a rate of \$300 per hour. The fee includes analysis of testing data and the report.

Since contracts and purchase order procedures were addressed by the previous Grand Jury, we followed up with County staff to determine if former recommendations had been followed. Most purchase orders in past years were prepared after the fact. At the time of this report, the problem appears to be corrected. Regarding “fitness for duty” evaluations, the Director of Human Resources is currently working with the County’s Purchasing Agent to determine the viability and feasibility of having contracts with the individual doctors.

Findings

- F1. Of the nine County employees tested during 2000/01 and 2001/02, five were found unfit for duty.
- F2. Employees must travel to the doctor’s office in Sacramento, including employees who reside and work in South Lake Tahoe.
- F3. Some departments do not consistently follow purchase order and contract procedures and policies set forth by the Board of Supervisors.
- F4. Department Directors are not held accountable for following policies and procedures related to purchase orders and contracts by the CAO and the Board of Supervisors.
- F5. The County did not appropriately contract for the doctor’s services directly and therefore the County was probably not protected from liability and potential litigation.

Recommendations

- R1. The Board of Supervisors, with the assistance of the County Counsel and the Manager of Procurement and Contracts’ Office, should establish and enforce a procedure for departments to meet legal specifications and to be in compliance with procedures in awarding contracts for services.
- R2. The Board of Supervisors and the CAO should hold all County departments accountable for the policies and procedures established by the Manager of Procurement and Contracts’ Office.
- R3. The Department of General Services and the Procurement and Contracts’ Office personnel should design and provide a series of training programs on purchase orders and contract procedures for County staff.
- R4. Department Directors should be evaluated on their adherence to County procedures and their attendance at required training sessions.

- R5. Confirming purchase orders (after the fact purchases) should not be acceptable. A memo signed by the Department Director explaining the nature of the “confirming” requisition should accompany all confirming purchase orders. The CAO should be required to approve retroactive purchases not authorized by the Purchasing Agent.

Commendations

The Grand Jury wishes to commend Bonnie Rich, Manager of Procurement and Contracts, and her assistant, Donna Cademartori, for their commendable efforts to reduce the County’s confirming purchase orders from 74 percent in 2000-01 to less than 3 percent during 2002-03.

Responses Required for Findings

F1 through F5	El Dorado County Board of Supervisors El Dorado Chief Administrative Officer
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Responses Required for Recommendations

R1 through R5	El Dorado Board of Supervisors
R1, R2 and R5	El Dorado Chief Administrative Officer
R1, R2 and R3, R5	Director, Department of General Services, El Dorado County
R1	El Dorado County Counsel

GOVERNMENT & ADMINISTRATION COMMITTEE

City of South Lake Tahoe Transient Occupancy Tax (TOT)

Citizen Complaint #C7-02/03

Reason for the Report

The Grand Jury received a citizen's complaint alleging that a City of South Lake Tahoe (SLT) vacation rental agency was not paying the full amount of the Transient Occupancy Tax (TOT) as required by Law. The complainant also raised the possibility that other rental agencies were not paying the full tax as well.

Scope of the Investigation

The Grand Jury interviewed the following persons:

- City Attorney, City of South Lake Tahoe;
- Two current City Council members, City of South Lake Tahoe;
- Senior Accounting Technician, City of South Lake Tahoe;
- Former City Council member, City of South Lake Tahoe;
- Complainant;
- County Counsel, El Dorado County;
- Chief Assistant District Attorney, El Dorado County;
- Auditor-Controller, El Dorado County;
- Former City Manager;
- Former Accounting Manager, City of South Lake Tahoe;
- Revenue Supervisor, City of South Lake Tahoe;
- Private Investigator/Auditor, contracted by the 2002-03 Grand Jury.

The Grand Jury also reviewed the following items:

- South Lake Tahoe City Occupancy/Lodging Code Sections (Chapter 28A et seq.);
- City of South Lake Tahoe Policy and Procedures regarding TOTs;
- Transient Occupancy Tax Code, El Dorado County, California;
- City of South Lake Tahoe & Lodging Association clarification of TOT;
- Transient Occupancy Tax Ordinance, Douglas County, Nevada;
- Videotapes of the City of South Lake Tahoe Council Meeting discussing TOTs;
- Transient Occupancy Tax Report Form;
- Audit report by the Private Investigator/Auditor;
- City of SLT Ordinance Amending Vacation Home Rentals ;
- A letter attempting to define SLT City Code 28A-3, which defines "rent," written by an attorney who represents two of the rental agencies;
- A legal opinion from County Counsel defining "rent" as it pertains to El Dorado County's Code.

Background

Chapter 28A-3 of the City of South Lake Tahoe's City Code defining "rent" reads as follows: "Rent' means the consideration charged, whether or not received, for the occupancy of space in a transient lodging facility valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefore whatsoever."

Exactly what items are considered as "rent" under that code section is an apparent problem within the City. Some vacation home agencies charge Transient Occupancy Tax (TOT) on the extras, such as cleaning fees, booking fees, pet fees, spa maintenance fees, extra cots, etc. Others do not and take the position that "rent" means only the amount paid for the room. This leads to an unequal playing field. In addition, the City is inconsistent as to who owes "rent" and the definition of rent. Hotels and motels that delineate the extra charges are required by the City to pay the TOT of those charges. However, when it comes to rental agencies, that decision is left to the individual rental agencies. Therefore, some pay TOT on the additional charges, and others do not.

It appears that in May 2001 the City of SLT and the South Lake Tahoe Lodging Association arrived at a "clarification" regarding the TOT. This clarification states, in part:

"If a lodging property collects revenue for a room, then TOT tax be charged." In addition, the "clarification" also states "If a property charges an additional amount for rollaway, refrigerator, utility surcharge, guest amenities, towels, etc., then that charge is taxable."

The County of El Dorado has a TOT ordinance and the definition of rent is almost identical to that of SLT. At the request of the Grand Jury, County Counsel provided a legal opinion as to the definition of "rent", as it pertains to the County of El Dorado. The opinion states, in part, "...the definition of taxable "rent"; focuses on what the renter is charged rather than what the facility owner, operator or subcontractor may receive, and it is written to be as broad as possible to capture everything "of any kind or nature" that the renter pays in order to occupy the premises "without any deduction therefrom whatsoever."

The definition of "rent" pursuant to the SLT City Code, the "clarification" between the city of SLT and the South Lake Tahoe Lodging Association appears to include any revenue generated by the rental of the room is taxable.

However, in late February 2003, because of the inconsistencies in the interpretation of "rent," this Committee asked the SLT City Attorney for her opinion as to the definition of "rent" and, although one was promised, as of May 31st, it has not been received.

Vacation rentals are private residences that are rented out for less than 30 days. The term also includes motels and hotels. A TOT is collected from all such vacation rentals as well as hotels and motels. Although the TOT represents a significant portion of South Lake Tahoe's revenue, there has not been an audit of these businesses for many years.

The City began an audit on motels and hotels but declined the Grand Jury's request to reassign or hire an auditor for auditing vacation rentals until the motel/hotel audits were completed. The City Attorney made the suggestion that if the Grand Jury had the funds with which to hire an auditor, they would be happy to assist with the administrative subpoenas.

Based on the City auditor's preliminary reports on the collection of TOT at motels and hotels, it became apparent there was an under-collection of TOTs. These under-collections contribute to the ongoing shortfall of revenues for the City of SLT.

There is an inherent difficulty in determining the full amount of tax to be collected for the rental of vacation homes. An honor system prevails with the owners or their representatives informing the City when a given house has been rented. Most rentals are handled by rental agencies, which collect the rent, pay the TOT, and then forward the difference minus their fee and other costs to the respective owner.

On several occasions this committee requested the El Dorado County Auditor-Controller for assistance in conducting audits of several vacation rental agencies. These requests were denied.

In order to ascertain whether in fact the agencies have been collecting and/or paying the TOT, the Grand Jury had no other recourse but to retain the services of a skilled investigator/auditor. He was retained to conduct an audit on a representative sampling of five agencies doing business in the City of SLT.

In summary, the methodology used by the Investigator included the following steps:

- Met with the person in charge of overseeing the rental of vacation homes to receive an overview of the agency's rental procedures and the collection of TOT. This included identifying which charges the agency subjected to TOT collection and which they did not.
- Reviewed a sampling of rental records from June, July and August 2002 and compared the agency's actual practice with stated procedures. This included reviewing the following records:
 - All rental registration forms and renter bills for one month, of the sample period, to determine if the actual charges were consistent with the agencies stated procedures.
 - Ten percent of the "owner folders," which each agency maintains for the individual properties they represent. This was done to verify the accuracy of the rental activity recorded on the renter bills, to verify that all rental activity was being recorded and to determine if the charges for all rentals occurring in the entire three-month sample period were consistent with the agency's stated practices.

- Property cleaning records to determine if unreported rentals might be occurring.
- Month-end rental recaps to ensure TOT was remitted for all qualifying rentals during the sample period.
- Individual rental records to resolve discrepancies discovered during the review process.
- Records listing the amount of money collected for cleaning, booking and other fees during calendar year 2002.

During the course of the investigation, the Investigator determined that a large number of vacation homes were being rented directly by the owners.

City records reflect that in January 2003, there were a total of 1191 vacation homes registered with the City with 843 being handled by rental agents and 348 being handled by the owners directly. These numbers fluctuate slightly throughout the year as homes are added and removed but remain fairly constant.

One common way owners rent their homes is to advertise them on the Internet.

The Investigator checked Internet listings for “vacation homes in South Lake Tahoe” and located two large and many small Web sites with rental listings. The two largest sources of listings were found at <http://www.vrbo.com> and <http://www.avacationrental.com>.

The <http://www.vrbo.com> site stands for “vacation rentals by owner” and contains approximately 125 separate homes under their SLT listing. The <http://www.avacationrental.com> site stands for “A Vacation Rental” and lists 66 homes in the Lake Tahoe area. These Web sites list homes in the City of SLT, the unincorporated area of El Dorado County, as well as in Alpine County and Nevada.

Usually, an address is not part of the Internet listing so it is necessary to contact the owner to determine where the property is located.

In an attempt to determine how many of these owners collect and remit the required TOT, the Investigator posed as a potential renter and sent emails to 27 properties listed on the <http://www.vrbo.com> Web site. The e-mail requested the address of the home and a breakdown of all charges. The following results were achieved:

- Twenty of the 27 property owners responded to the Investigator’s inquiry:

- Of those 20:
 - 4 did not provide addresses as requested.
 - 11 were located within the City of SLT.
 - 5 were located outside the City of SLT.
- Of the 11 within the City of SLT, City records revealed that:
 - 4 had a history of paying TOT tax.
 - 7 were not remitting TOT.
- Of the 7 not remitting TOT:
 - 3 were also represented by rental agencies.
 - 2 indicated that tax was included in the quoted rate, however, TOT was not remitted to the City.
 - 2 were not registered with the City as vacation rentals as required by City law.

While sampling the rental records at the various rental agencies, the Investigator noted a number of properties with high usage by “guests of the owner.” Rental agency personnel believe that many of these uses were actually rentals booked directly by the owners.

The Investigator selected 12 properties with high “guest” usage and checked City records to determine if the owners were remitting TOT. Only 3 of the 12 of the owners paid TOT during 2002.

It should be noted that the failure to pay TOT by the owners of homes with high “guest” usage might not be improper. Non-renting guests may have used the homes. However, this type of usage most likely involves some amount of tax avoidance and is worthy of more in-depth scrutiny by City staff.

Presently, all homes used as vacation rentals are required to be registered with the City (SLTCC 28A). During 2002, there was no charge to register a home. However, on January 21, 2003, Ordinance No. 928 was adopted by the City Council. This ordinance enacts a \$75 fee to register a vacation home. It also places restrictions on the number of people who can stay in a vacation home, regulates parking and makes owners responsible for the conduct of their renters. City staff mailed a packet of information to all vacation rental property owners and managers in April 2003.

Rental agencies representing vacation homes are required to have a City business license.

Vacation rental agencies collect and remit the TOT for rentals they handle. Individual property owners are responsible for collecting and remitting the TOT for rentals they book on their own.

Vacation home rental agencies are required to remit TOT on a monthly basis. TOT for vacation homes rented directly by the owners is remitted on a quarterly basis. Payments are due by the tenth day of the month following the end of the reporting period. Late payments are subject to penalty and interest charges.

Remittance of TOT by vacation home rental agencies and owners can best be described as being based on the “honor” system. Historically, the remittance of TOT for vacation homes has not been the subject of audit by the City.

The City generates and sends TOT remittance forms to each rental agency and registered homeowner each billing cycle. The same form is used for both types of TOT payments.

The form contains a series of 8 lines that are filled out to calculate the proper amount of TOT. The lines include spaces to list the gross rent, allowable deductions, the tax due and any penalties and/or interest due. A payment envelope is attached to each form.

The rental of vacation homes is big business in the City of SLT. According to City records, there are 1191 vacation homes and over 20 rental businesses registered with the City. There are also a small number of additional homes being rented that are not registered.

TOT collected from all sources amounted to almost \$9 million in fiscal year 2001-02. This is approximately 40 percent of the entire City budget.

It would appear, however, that a substantial portion of TOT is not being collected. This is evident by the under-payment of TOT by most rental agencies based on their interpretation of which charges are subject to TOT collection and the non-payment of TOT by some homeowners who rent their homes without using an agent.

The 5 agencies surveyed for this report handled 426 of the 843 homes registered with the City as being represented by rental agents.

If the fees the 5 surveyed agencies charged for cleaning, booking and hot tub usage are subject to the 10 per cent TOT tax, those 5 agencies should have paid the following additional TOT in 2002:

Agency 1	\$ 7,600
Agency 2	61,327
Agency 3	27,020
Agency 4	360
Agency 5	<u>000</u>
Additional TOT due:	\$ 96,307

Note: One of the above agencies, which handled 110 vacation homes, paid TOT on all extra costs. Therefore, the amount of unpaid TOT per home handled by the surveyed agencies is \$374.76 (426 total homes – 110 homes for which total tax was paid = 316 homes for which total

tax was not paid. Additional tax owed of \$96,307 divided by 316 homes equals \$304.76 per home.).

The rental agencies not surveyed for this report handled 417 homes. For the purposes of this report, it has been assumed that the rental agencies not surveyed have similar charges to those surveyed, have a rental frequency similar to that of the surveyed agencies and only collect TOT on the daily rental rate. Based on those assumptions, the non-surveyed agencies owe an estimated additional TOT of \$127,085 (\$304.76 per home multiplied by 417 homes).

This makes the estimated additional TOT due from rental agencies \$223,392 (\$96,307 plus \$127,085).

Estimating the amount of tax owed by those owners who rent their homes directly is a difficult area in which to make an accurate estimate because there is no norm to follow and there is little documentation on which to predict the amount of rental activity.

City records reflect 348 vacation rental homes being rented directly by the owners.

City TOT payment records reflect that 201 individual property owners paid a total of \$209,330 in TOT during 2002. This equates to an average of \$1041 per home (\$209,330 divided by 201).

However, City records also disclosed that rental agencies were listed as handling 58 of the 201 properties. Therefore, 59 percent (205 of 348) of the property owners who are registered as handling their own rental bookings did not pay any TOT in 2002.

TOT payments were checked for 12 of the properties with the highest usage and only 3 were remitting TOT. The remaining 9 properties had 64 “guest of owner” uses totaling 479 days during the 3-month sample period.

Given the high level of non-payment in the above two examples, it would not be unrealistic to assume that half of the homeowners who did not remit TOT in 2002 had some unreported rental activity.

A conservative approach to estimating the amount of TOT those homeowners may not have remitted would be to multiply the average TOT paid by individual homeowners in 2002 (\$1041) by a number equal to 40 percent of homeowners who did not pay TOT in 2002 (205 x 40% = 82). This makes the estimated additional TOT due from individual homeowners \$85,362 (\$1041 x 82).

Therefore, the total estimated additional TOT due from rental agencies and individual homeowners is \$308,754 (\$223,392 + \$85,362).

A survey of 11 homes advertised for rent on the Internet revealed that 7 (64%) were not remitting TOT to the City. If this percentage is even close to actual number of the individual homeowners not remitting TOT, then the City is losing a significant amount of tax revenue. This area is worthy of additional scrutiny by the City.

There is a lack of consistency within the City in collecting delinquent accounts. Pursuant to Chapter 28 A, the City has several options available for this. These include (1) offer a prepayment plan, (2) place a lien on the property, (3) revoke the motel/hotel license or permit, and (4) arrange for the sale of the property to pay for delinquent back taxes. As of this date, options 3 and 4 have not been used.

In one instance, an owner owed the City \$65,000 for delinquent TOT payments and penalties. This party was habitually delinquent in paying the TOTs he collected on behalf of the City. Because of this, the City Attorney placed a lien to be placed on this particular property. Thereafter, the City Attorney met with the owner, who asked the City Attorney to remove the lien in order for him to re-finance that particular property. Although the owner refused to tell the City Attorney the amount for which he was re-financing the property, she agreed to temporarily remove the lien based on his oral agreement to pay the money owed to the City. After the owner refinanced his property, he did not live up to the oral agreement and only paid \$5,000 towards his delinquent taxes. The City Attorney then placed another lien on the property. To date, the money is still owed.

It should be noted that the councilpersons interviewed stated they were not aware of the above transaction. In addition, one councilperson was under the mistaken impression that the City's lien on property for failure to pay taxes superceded the Mortgage holder of the property. However, all councilpersons interviewed said they would immediately pursue the TOT issues.

During this investigation it was discovered that the City of SLT is using "reserve funds" to cover budget deficits. This has amounted to approximately four million dollars in the past two years. If the City of SLT continues on its present course, the reserve fund will be depleted within the next two years.

Findings:

- F1. The City of South Lake Tahoe is inconsistent in their collection of TOTs due to the definition as to what is considered "rent."
- F2. At present, the City is not following their own clarification along with the South Lake Tahoe Lodging Association's recommendations as to what is to be considered as "rent."
- F3. City records show there are 1,191 vacation rental homes in SLT.
- F4. Rental agencies handle bookings for 843 of the registered vacation rental homes.
- F5. Individual homeowners account for the remaining 348 registered vacation rental homes.
- F6. Some individual homeowners are renting their property as a vacation home without registering with the City.
- F7. Some individual homeowners are renting their property without collecting TOT.

- F8. TOT collected from all rental sources amounted to almost \$9 million dollars in the fiscal year 2001-02.
- F9. The annual City budget is dependent on TOT revenues.
- F10. For the last two years, the City of SLT has had a budget shortfall in excess of \$ 2 million dollars a year.
- F11. Reserve funds are being used to balance the City's budget.
- F12. About \$ 4 million dollars is left in the City's reserve funds.
- F13. The City of SLT has not filled the Finance Director's position for the last 12 months. The City of SLT as of 5/03 presently has filled the position .
- F14. The City Council is not adequately informed regarding the delinquent TOTs.
- F15. Of the five rental agencies audited for this investigation, the Investigator estimated that nearly \$100,000 underpayment of TOT occurred in 2002.
- F16. It was further estimated that over \$224,000 was underpaid by all rental agencies in 2002.
- F17. Individual homeowners, as distinct from agencies, may have underpaid an additional TOT of approximately \$85,000.
- F18. This year the City hired an individual to audit the motels and hotels regarding payment of TOT.
- F19. In one period, fom August 2002 to March 2003, this person found uncollected tax amounting to over \$375,000.
- F20. Motels, hotels, vacation homes, and rental agencies are responsible to pay their TOTs owed on an honor system.
- F21. Although the City has stringent methods of dealing with delinquent TOTs, the prevailing method used is to put a lien on the property.
- F22. There are no written guidelines as to the definition of "rent" as expressed in Chapter 28A-3 of the City Code.
- F23. Some agencies and motels pay TOT on all revenue generated by the rental of the room, and others do not.
- F24. On several occasions, this committee requested the El Dorado County Auditor-Controller for assistance to investigate the initial complaint filed. The requests were denied.

Recommendations

- R1. The City should immediately define the specific charges that are subject to the collection of TOT and inform the rental community so that all persons renting out properties are subject to the same rules.
- R2. The City should add criminal sanctions to the City Code provision dealing with the non-payment of TOT. Such a sanction would add a tool to be used with flagrant violators, particularly those who collect tax but fail to remit it to the City.
- R3. The City Council should receive monthly reports from the City Manager regarding the amount of TOT delinquencies, the length of time the facility has been delinquent and the efforts being utilized to collect those delinquencies.
- R4. The City Council should become more involved with the City Manager and City Attorney in overseeing and approving legal action against businesses and person's delinquent in their TOT payments, when it is agreed that full payment of the delinquent amount will not be made.
- R5. The City should implement a comprehensive and on-going audit program of vacation rental homes. This program should include the auditing of rental agency practices and records, the monitoring of advertisements on the Internet, in newspapers and in other publications and locations, and on-site checking of rental homes where tax avoidance is suspected.
- R6. The City should require vacation rental agencies to submit with their monthly TOT remittance, a copy of their internal month-end report which lists the specific properties rented, the dates of each rental, a breakdown of the total fees charged, by category, for each rental, and the dates any property was not available because the owner had blocked its use. This would allow City staff to be more proactive in their oversight duties without the need to go to a rental agency to review records. This would not create any additional work for most of the agencies.
- R7. A more in-depth scrutiny by the City staff should be made of high "guest" usage homes to ensure proper collection of TOT.
- R8. The City's TOT remittance form should be changed to allow sufficient space to permit the rental agents to list the total number of units rented each day and for property owners to list the total number of days the unit was rented.

Commendations

As a result of the Grand Jury investigation, the City Council of South Lake Tahoe now appears to be actively pursuing the Transient Occupancy Tax issue.

The Grand Jury members wish to commend the Senior Accounting Technician hired in April 2003 for her outstanding work in auditing hotels and motels of the City of SLT.

Responses Required for Findings

F1 1-2, 6, 10-12, 14, 17, 19, 21-23	City Council of South Lake Tahoe
F2 1-2, 6-7,14-17, 19, 23	City Manager of South Lake Tahoe
F1 and F21	City Attorney of South Lake Tahoe
F24	Auditor-Controller of El Dorado County

Responses Required for Recommendations

R1 though R8	City Council of South Lake Tahoe City Manager of South Lake Tahoe
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Addenda to South Lake Tahoe Transient Occupancy Tax (TOT)
#C7-02/03

Applicable Law

Chapter 28 A of the South Lake Tahoe City Code (SLTCC) regulates when TOT is to be collected.

The applicable sub-sections relating to the collection of TOT when vacation rental homes are involved have been paraphrased below:

28 A-2 G . . . many owners of residential buildings and owners of units in condominiums of community apartment buildings are renting to transients
. . . without accounting to the City for tax imposed by SLTCC 28A-13;

Such rentals compete directly with the transient lodging facilities industry, which is a very substantial factor in the economy of the City;

Transients renting such units should pay the same tax as transients renting commercial units; and,

It is necessary to require rental agents to be accountable for the tax as an operator in order to achieve greater collection of the tax from transients renting such units.

28 A-3 “ Rent” means the consideration charged, whether or not received, for the occupancy of space in a transient lodging facility valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefore whatsoever.

“**Transient** ” means any person who exercises occupancy or possession or is entitled to occupancy or possession . . . for a period of 30 consecutive calendar days or less.

“**Transient lodging facility**” means any dwelling, motel, hotel, inn, vacation home rental . . . or other building . . . maintained, advertised or otherwise held out to the public in any manner as a place where sleeping, rooming or any other type of visitor accommodations are furnished to transients.

28 A –13 – Effective December 1, 1988, the taxes to be collected from transients by all transient-lodging facilities within the City . . . shall be as follows:

. . . the amount of 12 percent of rent charged on all newly constructed visitor accommodations within the redevelopment project area and those existing properties within the redevelopment project area which undergo substantial renovation . . . and 10 percent of the rent charged on all other transient lodging facilities within the City.

(Note: In November 2002, the voters passed Measure Z that added an additional TOT of \$1.00 per lodging night on all transient-lodging units. The City Council voted to make collection of the additional dollar effective January 1, 2003.)

Such tax constitutes a debt owed by the transient to the City, which is extinguished only by payment to the operator or the City.

The transient shall pay the tax to the operator of the transient lodging facility at the time the rent is paid.

The unpaid tax shall be due upon the transient's ceasing to occupy space in the transient lodging facility.

28 A-13.1 – Allocation of monies collected under the rates set forth in SLTCC 28A-13 shall be set forth by resolution of the City council.

28 A-14– All lodging operators and/or agents arranging for such lodging shall collect, at the time payment for the accommodations is made, the applicable transient occupancy tax.

28 A-15 – Each transient shall receive a receipt for payment from the operator indicating the room rate and the amount of transient occupancy tax assessed.

No operator of a transient lodging facility shall advertise or state in any manner . . . that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the rent.

28 A-17– Within 30 days after first acting as a rental agent with respect to a unit of a transient lodging facility within the City, each rental agent shall register with the tax collector.

28 A-19– Each rental agent shall, on or before the tenth day of each month, or at the close of any different reporting period which may be established by the finance director, make a return to the finance department on forms provided by that office showing the total rent charged and received, the amount of tax collected, and the number of rooms occupied during the month or any other reporting period immediately proceeding. At the time the return is filed the full amount of the tax collected shall be remitted to the City.

28 A-20 A– Any operator who fails to remit any tax imposed by this article within the time required shall pay a penalty of 10 percent of the amount of the tax, in addition to the amount of the tax.

GOVERNMENT & ADMINISTRATION COMMITTEE

Mobile Homes/Senior Abuse

Citizen Complaint #C12-02/03

Reason for the Report

A citizen's complaint alleged that the El Dorado County District Attorney did not respond in a timely manner to complaints regarding senior abuse in mobile home parks.

Scope of the Investigation

The Grand Jury interviewed the following persons:

- President of the Homeowners Coalition for Mobile Home Parks in El Dorado County and other witnesses;
- District Attorney;
- Chief Assistant District Attorney;
- Deputy District Attorney;
- Investigator with the District Attorney's Office;
- Senior Administrative Analyst, District Attorney's Office.

The Grand Jury also reviewed the following items:

- The citizen's complaint;
- The files of the Homeowners Coalition for Mobile Home Parks, which set forth 26 complaints against El Dorado County mobile home park owners;
- A criminal complaint against a mobile home park owner;
- The District Attorney's office procedures;
- The case management system used by the District Attorney (DAMION);
- All of the minutes of the Mobile Home Task Force meetings;
- Mobile Home Task Force Report to the Board of Supervisors, dated February 2003;
- Relevant California Code sections relating to mobile homes and senior abuse.

Background

On or about April 2001, the complainant delivered twenty-six separate complaints regarding mobile home parks and senior abuse to the District Attorney. The complaints alleged among other things; sewage leakage, abundance of rats, propane overcharges, and unlawful increases in rent.

Fifteen months later a complaint was received by this Grand Jury regarding the excessive delay by the District Attorney in connection with this matter.

The Grand Jury eventually learned the complaints had been languishing on a Deputy District Attorney's office floor during that fifteen-month period.

Thereafter, one of the complaints was assigned to the Chief Assistant District Attorney for prosecution. He successfully prosecuted the case and obtained a written stipulation creating a \$50,000 trust fund for future issues involving seniors in mobile homes.

During his testimony before the Grand Jury, the District Attorney said he did not prosecute the other 25 complaints because of "insufficient evidence" or they were "outside his purview."

The Grand Jury requested that the District Attorney's Office provide a copy of their written "office procedures." We received 17 internal memos dated from 1993 to 2002. The majority of these memos appear to relate to incidences that came up on that particular date. The memos were brief with some being no longer than a paragraph in length. The District Attorney also delivered a State of California "guidelines" manual that offered suggestions in operating a District Attorney's Office. From our review, it is apparent the District Attorney does not have an adequate internal policy and procedures handbook for his office.

The District Attorney, the Chief Assistant District Attorney, and the Deputy District Attorney informed the Grand Jury they are understaffed. According to the information received, attorneys type their own pleadings, file their own paperwork, answer telephones, and perform other clerical duties. Notwithstanding, the District Attorney's Office has 10.5 legal secretaries, 10 investigators, and 18.5 attorneys.

A DAMION case management system was purchased for over \$120,000. In addition, the purchase allowed for further consulting, training, customization, and implementation services from the vendor at an annual cost of \$100,000. The system was installed in June 2001. According to a September 17, 2002 internal memo, the District Attorney and his staff had not yet discussed or determined the elements to be entered into DAMION (convictions, cases dismissed, diversions, acquittals, mistrials, etc.). As of this report staff is still not fully trained on the use of the program.

It should be noted that the Board of Supervisors created a Mobile Home Task Force in May 2002 for a six-month period. Their purpose was to attempt to resolve issues relating to mobile home parks.

Findings

- F1. A complaint languished in the District Attorney's Office for 15 months before being investigated.

GOVERNMENT & ADMINISTRATION COMMITTEE

Conflict of Interest/Employee Evaluations

Citizen Complaint #C21 & #C22-02/03

Reason for the Report

A citizen's complaint alleges a conflict of interest exists because of the relationship between the Interim Chief Administrator Officer and the Director of Human Resources. The complaint also alleges a conflict of interest carried over into evaluations.

Scope of the Investigation

The Grand Jury interviewed the following persons:

- The Director of the Department of Human Resources;
- The Interim Chief Administrative Officer (CAO);
- Members of the Board of Supervisors individually;
- Various El Dorado County employees regarding performance evaluations.

The Grand Jury reviewed the following items:

- El Dorado County Charter (Charter);
- County Policies and Procedures;
- Various Memoranda of Understanding (MOUs).

Background

The Grand Jury agrees that a conflict of interest is possible because the CAO would need to evaluate a very close friend. However, no such evaluation took place. In this regard the Interim CAO treated the Director of Human Resources no differently than any other director in this respect.

Although the Charter states the CAO is responsible for evaluations of all the Department Directors, upon investigation it was found these evaluations were not being performed consistently. Some evaluations were not performed in a timely manner while others had not been done in the past eight years.

In addition, an MOU negotiated for July 1, 1999 to June 30, 2003 which in part stated: “Effective September 1, 1999 and for the trial period of two years, employee performance evaluations are eliminated...”.

It was also determined Human Resources Department does not perform reference checks on any prospective County employee. In addition they do not verify experience or educational requirements. Human Resources, relied on Department Directors to do background checks, and verify experience and education.

Findings

- F1. The Board of Supervisors delegated responsibility for negotiating the MOU to the Director of Human Resources.
- F2. Some El Dorado County personnel have not been evaluated in over eight years.
- F3. The majority of Department Directors do not annually evaluate their personnel.
- F4. Department Directors are not evaluated in a timely manner.
- F5. Human Resources does not perform reference checks on employment applications.
- F6. Human Resources does not require submission of transcripts/diploma nor do they contact former employers to verify accuracy of the experience listed on the application.
- F7. The Department Directors have the responsibility to ensure that reference checks are conducted and that other pertinent background evaluation are performed.

Recommendations

- R1. The CAO should have an experienced contractor negotiate future Memoranda of Understanding (MOUs).
- R2. Director of Human Resources should not be a negotiator for future MOUs, but serve as a technical advisor to these negotiations
- R3. County Counsel should be accountable for reviewing all issues contained in MOUs.
- R4. The Auditor-Controller should be accountable for reviewing financial aspects for all issues that have a major financial impact on the County.
- R5. All Department Directors should be evaluated yearly by the Chief Administrative Officer.
- R6. All Department Directors should be responsible for their employee evaluations and held accountable on their evaluation.

R7. Human Resources should be responsible for obtaining all records required on application transmittals. (Licenses, college transcripts, diploma's, etc)

Responses Required for Findings

F1 through F7	El Dorado County Board of Supervisors
F2 through F7	El Dorado County Chief Administrative Officer Director, Department of Human Resources

Responses Required for Recommendations

R1 through R7	El Dorado County Board of Supervisors
R1, R2 and R7	El Dorado County Chief Administrative Officer
R3	El Dorado County, County Counsel
R4 through R7	Director, Department of Human Resources
R4	El Dorado County Auditor/Controller

GOVERNMENT & ADMINISTRATION COMMITTEE

County Fiscal Issues/Procedures

Citizen Complaint #C23-02/03

Reason for the Report

A citizen's complaint alleges that the Board of Supervisors approved the County 2002-03 budget without adequately preparing for future cost increases and without addressing current deficits.

Scope of the Investigation

The Grand Jury interviewed the following persons:

- The Auditor/Controller, El Dorado County;
- The Account Manager, Department of Social Services;
- The Account Auditor, Auditor/Controller Office;
- The Former Interim Chief Administrative Officer (CAO), El Dorado County;
- The Former Auditor/Controller, El Dorado County;
- The Assistant Auditor/Controller, El Dorado County;
- The entire Board of Supervisors;
- The current Interim CAO.

The Grand Jury also reviewed the following items:

- Trust Fund Reconciled Per Department List for 2001-02;
- Various memos between the Auditor/Controller and the Department of Social Services;
- Various memos between the Auditor/Controller and Board of Supervisors;
- Various memos between the Auditor/Controller and the Interim Chief Administrative Officer;
- Memo's dated April 7, 22, and 23, 2003 from the Auditor/Controller to the Board of Supervisors, CAO, and the Grand Jury.

Background

The complaint alleges that the County has under funded CalPERS. If true this will significantly impact the County's financial condition in the years ahead. After interviewing the entire Board of Supervisors and the new Interim CAO, the committee has concluded that the CalPERS issue is

of major importance as the majority of the CalPERS revenues will be affected by retirements and compounded by the current downturn of the Stock Market. To date the CalPERS funding issue has not been fully resolved by the Chief Administrative Officer or the Board of Supervisors. To continue this course will result in bad news for taxpayers, since it means that the cost of basic government services will soar at the same time the services themselves are slashed.

The second issue addressed in the complaint is the County's trust funds deficit, which have not been resolved for 15 years.

Trust Funds are created for departments to operate particular programs that are often funded by State and Federal sources. In the late 1980s, an outside auditor discovered that the County trust funds were not being balanced and indicated that deposits may have been misplaced. In addition early handwritten ledger entries were incomplete. In the 1990s, an outside auditor noted that trust fund monies were missing. Currently, staff within the Auditor/Controller's Office is assigned to monitor the Trust Fund accounts. Neither staff in the various Departments nor the Auditor/Controller's Office have reconciled all accounts. The Auditor/Controller claims that the reconciliation of a trust fund is primarily the responsibility of the individual Department and the CAO.

The Board of Supervisors reviewed and agreed to transfer allocated monies during 2002/2003 for the deficit trust funds.

The Auditor-Controller's Office has not been consistent in the reporting of trust funds in deficit condition since 1988, and until January 2003 failed to help the departments reconcile these funds. Most County departments have Accounting Officer, but not professional accountants who would understand the technical scope of the work. Often the Departments allow accounting work to be performed by staff in a classification series that does not require extensive accounting background or education.

The Department of Social Services still has eleven deficit trust funds. This caused the Committee to investigate all trust funds in the County.

The Office of Risk Management is presently and appropriately under the direction of the CAO. Risk Management funds, on at least one occasion, have been used to balance the County budget. This appears to be a isolated incident.

Findings

- F1. Required funding for CalPERS has dramatically increase due to legislative formulae.
- F2. The Department of Social Services still has eleven deficit trust funds.
- F3. The Auditor/Controller Office has not been consistent in the reporting of trust funds in deficit condition since 1988.

- F4. Most County departments have Accounting Officers, but not professional accountants who would understand the technical scope of the work.
- F5. The current Auditor/Controller knew of the alleged trust account deficit since 1995; obviously prior to requesting the Board of Supervisors to authorize covering the account deficit from General Fund monies (\$958,000).
- F6. The Board of Supervisors reviewed and agreed to transfer allocated monies during 2002/2003 for the deficit trust funds without a full investigation by the Auditor/Controller
- F7. All but the Department of Social Service have deficit trust funds that are now accounted for and balanced (See attached Addendum provided by the Auditor/Controller Office).
- F8. Funds allocated to Risk Management have on one occasion been utilized to balance the County budget.

Recommendations

- R1. The CAO and the Board of Supervisors should immediately initiate a process to resolve the CalPers funding issue.
- R2. All financial issues, which have potential impact regarding the County's finances, should receive constant and sedulous attention from the Chief Administrative Officer and the Auditor/Controller's Office.
- R3. County Counsel and the Auditor/Controller should communicate on matters impacting the future of the County legally and financially with review and execution by the Chief Administrative Officer and the Board of Supervisors.
- R4. Director of Human Resources, the Auditor/Controller, and the Chief Administrative Officer should study and recommend to the Board of Supervisors a new job classification series that would encourage the recruitment of more qualified accounting personnel in the Departments.
- R5. Risk Management funds should not be used to balance the County budget.

Commendations

The Grand Jury commends the Board of Supervisors' staff, the assistants, and the clerks for their fine cooperation and competence.

Responses Required for Findings

F1 through F8 El Dorado County Board of Supervisors
El Dorado County Chief Administrative Officer

F1 through F7 El Dorado County Auditor/Controller
F2 Director, Department of Social Services

Responses Required for Recommendations

R1 through R5 El Dorado County Board of Supervisors
El Dorado County Chief Administrative Officer

R2 through R4 El Dorado County Auditor/Controller
R3 El Dorado County Counsel
R4 Director, Department of Human Resources

Addendum to County Fiscal Issues
#C3-02/03
Furnished by Auditor/Controller

“Fund #41-550-305. Homemaker Chore \$241,937 Negative Unlocated Difference

In the County’s last two independent audits, our outside auditor has recommended that General Fund Cash be transferred to this Trust Fund to eliminate this negative unlocated difference. As has been reported in the past to the Board of Supervisors, this unlocated difference dates back to before June 30, 1992. Although, a complete set of source documents are not available to support transactions recorded prior to July 1, 1993, we were able to determine that for the quarter ending March 31, 1988, \$47,623 of IHSS expenditures were incurred in excess of the allocation established by the State. A \$47, 623 transfer from the General Fund to this Trust Fund should have been recorded during the year ended June 30, 1988, but was not. Further, \$27,008 of advances in total that were due from the State were not recorded in this Trust Fund during the fiscal years ending June 30, 1985, and 1982. During the year ending June 30, 1992, the State reduced advances to this fund by \$47,055 or County’s portion of provider costs. A \$47,055 transfer from the General fund to this Trust Fund should have been recorded during the year ended June 30, 1992, but was not. These three accounting errors bring the unlocated difference down to \$120,251. It appears that the remaining unlocated difference of \$120,251 is the result of State adjustments to advances made prior to July 1, 1987, but, regardless, a \$241,937 cash infusion is needed to make this Trust Fund whole.

Fund 41-550-302. Welfare Assistance \$758,767 Negative Unlocated Difference

In the County’s latest independent audit, our outside auditor recommended that General Fund Cash be transferred to this Trust Fund to eliminate this negative unlocated difference. This \$758,767 unlocated difference dates back prior to July 1, 1992. Because a complete set of source documents are not available to support transactions recorded prior to July 1, 1993, it is extremely unlikely that this unlocated difference can be identified by either a county employee or an outside accounting firm.

Fund 41-550-308. Food Stamp Advancement \$156,092 Positive Unlocated Difference

In the County’s latest independent audit, our outside auditor recommended that the balance in this Trust Fund, along with a transfer from the General fund be combined to eliminate other negative unlocated differences discussed in this letter. This \$156,092 unlocated difference dates back prior to July 1, 1998. Because a complete set of source documents are not available to support transactions recorded prior to July 1, 1993, it is extremely unlikely that this unlocated difference can be identified by either a county employee or an outside accounting firm.

Fund 41-550-304. MediCal and CMA, \$87, 527 Positive Unlocated Difference

In the County’s latest independent audit, our outside auditor recommended that the balance in this Trust Fund, along with a transfer from the General Fund be combined to eliminate other negative unlocated differences discussed in this letter. This \$87,527 unlocated difference dates back prior to June 30, 1994. Because a complete set of source documents are not available to support transactions recorded prior to June 30, 1994, it is extremely unlikely that this unlocated difference can be identified by either a county employee or an outside accounting firm.

Fund 41-550-303. Welfare Administration, \$200,989 Negative Unlocated Difference

In the County's latest independent audit, our outside auditor recommended that General Fund Cash be transferred to this Trust Fund to eliminate this negative unlocated difference. The vast majority of this \$200,989 unlocated difference dates back prior to July 1, 1998, all of it prior to July 1, 1993. Because a complete set of source documents are not available to support transactions recorded prior to July 1, 1993, it is extremely unlikely that this unlocated difference can be identified by either a county employee or an outside accounting firm."

GOVERNMENT & ADMINISTRATION COMMITTEE

Measure Z

Citizen Complaint #C35-02/03

Reason for the Report

The complaint stated that Measure Z was added to generate additional revenue from the Transient Occupancy Tax (TOT) for the City of South Lake Tahoe. It was voted on by the public on November 5, 2002 to go into effect no later than December 5, 2002. The City Council did not implement this measure until January 1, 2003 thereby losing revenue that the City needed.

Scope of the Investigation

The Grand Jury interviewed the following persons:

- The Complainant;
- County Counsel, El Dorado County;
- City Attorney, City of South Lake Tahoe;
- Supervisor Board Member, District 5, El Dorado County;
- Two current City Council members, City of South Lake Tahoe;
- A former City Council member, City of South Lake Tahoe.

The Grand Jury also reviewed the following items:

- City of South Lake Tahoe Ordinance No. 924 and No. 925;
- November 22, 2002, Measure Z Notice was sent to all motel, hotel and vacation home owners;
- December 3, 2002 Press Release “Measure Z Takes Effect December 5”;
- December 10, 2002 Staff Report to City Council members from the City Attorney re. Implementation of Measure Z;
- December 11, 2002 Measure Z Amended Notice sent to all motel, hotels and vacation home owners ;
- Tapes of City of South Lake Tahoe Council Meetings from the Office of the City Clerk regarding the estimated TOT revenue loss for Measure Z.

Background

The City of South Lake Tahoe voters passed Measure Z on November 5, 2002. The new ordinance would add a \$1 fee to the already existing Transient Occupancy Tax (TOT) that should be collected by all motel, hotel and vacation rentals. The City Manager mailed an

announcement to all owners or managers of motel, hotel, and vacation rentals that the measure would become effective on December 5. At the December 10 meeting of the South Lake Tahoe City Council, council members voted unanimously that these tax monies collected between December 5, 2002 and January 1, 2003 would not be audited. This vote allowed the lodging industry to retain, refund, or pay the tax for the 26 days not being audited.

The ballot measure once voted and approved should have gone into effect within 30 days according to election laws. Due to current budget problem within the State, the City should collect correctly the amounts owed on all TOT measures.

Findings

- F1. The City of South Lake Tahoe voters passed Measure Z on November 5, 2002 to add an additional \$1 dollar tax to the already existing TOT collection
- F2. The City Manager mailed an announcement to all owners or managers of motel, hotel, and vacation rentals that the measure would become effective on December 5, 2002.
- F3. The South Lake Tahoe City Council members unanimously voted on December 10, 2002 that these additional tax monies that were collected between December 5, 2002 and January 1, 2003 would not be audited.
- F4. The Council vote allowed the lodging industry to retain, refund, or pay the tax for the 26 days that were not being audited.
- F5. The City of South Lake Tahoe incurred an estimated loss of approximately \$22,038 as a result of the above action.

Recommendations

- R1 The City Council should follow the “six P’s”: Proper Prior Planning Prevents Poor Performance.
- R2 The ballot measure, once voted and approved, should have gone into effect within 30 days according to election laws.

Responses Required for Findings

F1 through F5
South Lake Tahoe City Council
South Lake Tahoe City Manager
South Lake Tahoe City Attorney

Responses Required for Recommendations

R1 through R2
South Lake Tahoe City Council
South Lake Tahoe City Manager
South Lake Tahoe City Attorney

GOVERNMENT & ADMINISTRATION COMMITTEE

Fallen Leaf Lake Community Services District

Citizen Complaint #C36-02/03

Reason for the Report

The complaint alleges that the Fallen Leaf Lake Community Services District (FLLCSD) awarded a marina/store contract in an unethical and unprofessional manner.

Scope of the Investigation

The Grand Jury interviewed the following:

- Five current residents of Fallen Leaf Lake;
- Chief Assistant District Attorney of El Dorado County;
- Representative of Local Agency Formation Commission (LAFCO) from El Dorado County;
- A Board Member of Fallen Leaf Lake Community Services District (FLLCSD);
- County Counsel of El Dorado County.

The Grand Jury also reviewed the following items:

- By-laws of FLLCSD;
- FLLCSD Charter;
- *A Local Official's Guide to Ethics Laws*, Spring 2002, Institute for Local Self Government;
- Minutes of meetings of the Board of Directors, FLLCSD;
- Inventory of Local Agencies, LAFCO, El Dorado County;
- Numerous e-mail messages among residents regarding Board meetings, Marina/Store Request for Proposal (RFP), and awarding of contract;
- Five RFP for the Fallen Leaf Lake Store and Marina;
- Past Grand Jury complaint & investigation filed on 1992/93 regarding concession policies and practices of the Board of Directors, FLLCSD;
- Marina/Store gross receipts from 1999-2002;
- Various letters from Fallen Leaf Lake community residents.

Background

The Fallen Leaf Lake Community Services District (FLLCSD) meeting of February 17, 2003 was to review responses from applications for a bid to operate the Fallen Leaf Lake concessions (marina, store, and related functions). This meeting was to be an open forum to review the recommendations from a committee of two Board members, which was a short list of three applications. The presentation was to be made to the full Board for action and to allow the public to participate in an open discussion. The complaint alleges that two of the three applicants were not given a full and fair hearing. It also alleges that the meeting was not conducted in a business-like and ethical manner.

The current marina/store operator refused to supply profit and loss data. Therefore, the profit and loss data was not included in the RFP application packet, which might well account for the lack of public response to the RFP.

It should be noted that only four of the five applicants supplied the financial data with their RFPs. The current operator of the marina/store refused to supply this information when he submitted his RFP.

The vote for the RFP was tied two to two and the tie was broken by the Board member whose close relative received the contract. The participation of a Board member, who is related to the successful bidder, while possibly legal, leaves the question regarding ethical standards expected of a public official. In reviewing the minutes, and other testimony offered, the question arises whether or not the bidding process was fair.

It was noted that the FLLCSD Charter does not include the position of a general manager. With the presence of a general manager some of these issues may have been avoided and the continuity of communication and focus of business matters would be enhanced. In addition, the Charter does not contain a Code of Ethics.

This Grand Jury's investigation revealed other issues of concern to community residents. Among those issues were a past action where Fire Department monies were "loaned" for use of parks and recreation development. This occurred approximately ten years ago. To this date these monies have not been completely repaid.

Findings

- F1. A Request For Proposal (RFP) was mailed to 50 applicants. Five responded. Three were interviewed.
- F2. Profit and loss statements of the marina/store from previous years were not made available to FLLCSD Board members or potential contract bidders.

Note: In response to a widely disseminated e-mail critical of this Grand Jury from a FFL Board member to fellow Board members.

This Grand Jury has never publicly impugned the integrity of any witness in any case. We have done and will continue to do our very best in fact gathering from relevant sources from either side on a public issue presented to us. We are not a criminal Grand Jury. Our mission is to assist the public in improving the performance of the several levels of government. To those who feel otherwise, we can only pledge our consistent dedication to our mission.

GOVERNMENT & ADMINISTRATION COMMITTEE

Chief Administrative Officer's Contract

Citizen Complaint #C44-02/03

Reason for the Report

The complainant believes that the County Charter was violated because the Chief Administrative Officers (CAO) contract did not identify a contract administrator, nor were useable fingerprints submitted or a background check performed prior to the starting date of the contract.

Scope of the Investigation

The Grand Jury interviewed the following:

- Complainant;
- County Counsel, El Dorado County ;
- Chief Administrative Officer (CAO);
- Sheriff, El Dorado County;
- All five members of the Board of Supervisors, individually.

The Grand Jury also reviewed the following items:

- Complaint;
- Contract between the Board of Supervisors and the CAO;
- El Dorado County Charter;
- Interoffice memo regarding policies and procedures.

Background:

The complainant alleged that the CAO contract violated the County Charter since the contract did not specify the contract administrator.

The allegation is of questionable merit since much as this issue could have been easily resolved with a short addendum to the contract specifying the Board of Supervisors as the contract administrator.

The complainant further has a difference of opinion with the contract concerning severance pay and hours of leave that were negotiated. The complainant was not a party to the contract and these conditions were agreed upon unanimously by the Board of Supervisors prior to the approval of the contract.

The complainant also specifies several differences of a financial nature concerning salary, leave compensation, and the deferred compensation plan provided in the contract. In addition the

contract makes mention of the PERS contributions which the County agreed to pay. The Board of Supervisors in negotiating the contract had the benefit of an outside firm with general knowledge of emoluments, benefits, and remuneration granted to other public officials in similar positions within the State of California. In interviews with Board members, the Committee accepts that both parties negotiated this contract in good faith. While the committee may differ with the details of any contract, there appears to be no basis to the charge that the Board of Supervisors acted inappropriately. Finally the complainant alleges that fingerprints of the CAO were not received in a timely matter. As a matter of fact, the fingerprints had to be taken four different times, through no fault of the applicant, and the requirement has been satisfied.

Findings

- F1. The contract as it stands does not specify a contract administrator.
- F2. The contract was negotiated for the County by the Chairman of the Board of Supervisors, assisted by County Counsel.
- F3. After also asking at least one other elected officials' opinion and getting his endorsement the contract was endorsed unanimously by the full Board.
- F4. Fingerprints of the applicant were taken and are on file.

Recommendations

- R1. An addendum should be added to the contract to make the Board of Supervisors the contract administrator.
- R2. The Board of Supervisors should continue to find ways to work in the best interest of the County through the establishment of a positive working relationship with the CAO.
- R3. The CAO should be aware of his or her responsibility among other things. Recognize that El Dorado County is in a state of transition. While we cling to our history, we are also confronted with the reality of change.
- R4. The Board of Supervisors shall not authorize payment of money or other compensation for performance of any service or function by a private entity except pursuant to a written contract meeting all applicable requirements of law pertaining to contracts of the County.
 - (a) The Board of Supervisors should not authorize expenditure of County funds for membership dues or assessments in any private organization, unless the Board of Supervisors makes findings of specific public benefits anticipated to accrue to the County as a result of acquiring or renewing the membership. The text of these proposed findings shall be published in the agenda for any meeting at which such an expenditure will be considered.

HEALTH & SOCIAL SERVICES

HEALTH AND SOCIAL SERVICES COMMITTEE

El Dorado County Social Services Programs General Review

Reason for the Report

The Grand Jury chose selected social service programs of El Dorado County for review.

Scope of the Investigation

The members of the Grand Jury interviewed:

- The Director of the CalWorks program;
- The Director of the Department of Social services (DSS);
- The temporary Director of Child Protective Services (CPS);
- The director of the Mental Health program;
- The director and assistant director of Community Services programs (CS);
- The recently appointed half-time directors of Child Protective Service/Child Welfare Service programs (CPS/CWS).

The Grand Jury :

- Reviewed program material from the CalWorks programs;
- Visited the offices of the Community Services programs and were given an extensive review of the Adult Protective Services programs, the Conservatorship programs, and a wide array of services for seniors;
- Reviewed the Grand Jury reports relating to DSS from 2001/2002.

Background

Members of the Grand Jury interviewed the directors and supervisory staff of programs in the Department of Social Services (DSS) and Community Services. The Grand Jury learned that the County had transferred the Adult Protective Services programs from DSS to CS. This program transfer has helped to resolve or reduce some personnel problems, which had been plaguing the DSS for several years. The Grand Jury observed that a new spirit of interdepartmental cooperation is working, allowing for better service to multi-problem populations.

The long-standing problem of lack of supervision in the CPS/CWS programs has been addressed so that program improvements will be forthcoming.

INFORMATION SERVICES

INFORMATION SYSTEMS COMMITTEE

Information Services Billing Methods 360 Fair Lane, Placerville

Reason for the Report

The Grand Jury selected Information Services (IS) Billing Methods as one of its general reviews for 2002/03.

Scope of the Investigation

The members of the Grand Jury:

- Made an announced visit to the Information Services Department on December 4, 2002;
- Collectively interviewed the following IS representatives; Information Services Director, IT Manager/Contracts; IT Manager/ PC; and the Fiscal Administrative Manager ;
- Was briefed on the various operations of the department;
- Reviewed policies on Purchasing Operating Practices;
- Reviewed the El Dorado County Charter and Policies and Procedures Manual.

Background

In 1995, the County voted to implement Policy and Procedures B-8, called the “Intra-County Services Charges Policy.” It established the billing methodology for capturing the cost of applications running on the County’s mainframe computer. The amount IS charges to a particular department is based upon central processing unit (CPU) minutes, as determined by a 3270 Emulation Session by the mainframe. Thus, all costs associated with the operations and maintenance of the mainframe system are allocated to departments by IS, according to their CPU usage. Missing from the equation, however, are cost applied charges for departmental requests of mainframe-generated reports, and hard-drive space.

In 1998, Information Services introduced the “County Wide-Area Network” (WAN) to the County. WAN added Internet capabilities to existing departmental computers through a web browser, and thus improved access to information throughout the County. However, departments soon discovered that using the web server to access the County’s mainframe bypassed cost applied charges from IS. Departments accessing the mainframe through the 3270 Emulation Session are easily identifiable and charged accordingly for their CPU minutes. However, departments accessing the mainframe through a web browser cannot be identified, and accumulated CPU minutes from those sessions are alternatively allocated across the board to all

County departments. Thus, there is an incentive for departments to avoid cost applied charges by accessing the mainframe through their web browser.

Another problem with WAN is that although improving upon data delivery via the mainframe-based system, it's growth and popularity has rendered the billing methodology under County Policy B-8 obsolete. This is the result of the mainframe's inability to track WAN related charges through the 3270 Emulation Session, and by departments, using the web server loopholes previously mentioned. Departments that frequently access the mainframe through the WAN cannot be differentiated among those departments that are infrequent users. In addition, there are the inquiries generated by the public through the Internet. Thus, all accumulated mainframe CPU minutes via the WAN must be allocated in some method. The only available means at the present is through mainframe cost applied charges, which results in a misallocation of costs.

Findings

- F1. With the addition of the County Wide-Area Network (WAN), there is no current billing methodology to accurately capture the costs of mainframe-based CPU minutes, and properly allocate these charges to those accessing the data.
- F2. Departments are only billed for Central Processing Unit (CPU) minutes when accessing the mainframe for data, and are not charged for hard-drive storage, or for requests of printed reports.
- F3. It appears departments are emphasizing the usage of Web browsers to access the mainframe over the cost applied billing methodology that easily identifies the user. This results in less identifiable mainframe CPU minutes through the 3270 Emulation Sessions, and more CPU minutes through the unidentifiable user-based web browser, WAN.
- F4. Public access to the mainframe accrues CPU minutes that are indistinguishable from departmental inquiries using WAN. Since these charges are allocated to departments in accordance with mainframe cost applied charges (Policy B-8), the current billing methodology discourages departments from posting and uploading information for the Public to access.

Recommendations

- R1. The Board of Supervisors should create new Policies and Procedures that provide for a workable billing methodology for the "County Wide-Area Network" (WAN), and should amend Policy and Procedure B-8 to include charges for measurable uses of resources from Information Services (IS).
- R2. New County Policy and Procedures should establish methodologies that account for all the costs associated with WAN, or network related charges, and properly allocate these costs to the users of the system. The Board of Supervisors should work with IS to come up with a solution for this accountability problem.

R3. County Policy and Procedures B-8 should be amended to allow for the collection of revenues by IS, for measurable uses of resources, such as print copy, and the utilization of mainframe hard drive space by certain departments. The Board of Supervisors should work with IS to resolve this accountability problem.

Responses Required for Findings

F1 through F4
El Dorado County Chief Administrative Officer
El Dorado County Board of Supervisors
El Dorado County Director of Information Services
Department

Responses Required for Recommendations

R1 through R3
El Dorado County Chief Administrative Officer
El Dorado County Board of Supervisors
El Dorado County Director of Information Services
Department

INFORMATION SYSTEMS COMMITTEE

Information Services General Review

Reason for the Report

The Grand Jury selected Information Services (IS) as one of its general reviews for 2002/03.

Scope of the Investigation

The members of the Grand Jury:

- Made an announced visit to the IS Department on December 4, 2002;
- Interviewed collectively the following IS representatives; IS Director, Information Technology (IT) Manager/Contracts; IT Manager/ PC; and the Fiscal Administrative Manager;
- Toured the IS facility;
- Was briefed on the various operations of the department;
- Interviewed countywide IT departmental personnel on a random basis;
- Reviewed the District Attorney Management Information Integrated Office Network (DAMION) Contract;
- Reviewed Purchasing Operating Practices;
- Attended the Information Technology Steering Committee (ITSC);
- Attended the Information Technology Standard Sub-Committee (ITSSC).

Background

The Information Services (IS) Department operates and maintains the County's communication systems and its various programs. There are many services IS provides to County departments, such as training, communications, repairs and technical advice. One of the main problems encountered by IS is the lack of use of its services. Varying departmental budgets and the inability or "refusal" of some departments to adopt the current standards for technology protocol cause unnecessary complexities. Segmented purchasing of technology by individual departments has tended to perpetuate a trend toward departmental independence and has reduced the County's ability to leverage its bulk purchasing power. While some departments replace equipment in three-year cycles, others are working with 10-12 year old technology. The high cost of repairs, technical support, and training encourages departments to avoid IS altogether, and therefore creates more incompatibility issues over the long term.

The County standards for operating systems and various database programs are established by the IS department. However, because some departments provide a unique and specialized public service it is not cost efficient for IS to design, create, and service this type of database software. In these cases the utilization of an outside vendor is encouraged. The only other exception to the countywide standard evolves out of a compliance issue with State-run programs. In these circumstances, the State supplies computers and software to departments involved with their

programs. Some departments have many computers from such State-run programs and therefore feel less dependent of IS.

There are two conduits for the exchange of email, one Internet-based (outside the County network) and the other intranet-based (inside the County network). Because email software varies from one department to another, IS must keep abreast of compatibility issues and bridge email software together for the many types in use. In addition, vendors of these email programs release patches, fixes, and updates that create more compatibility issues for IS to resolve. Thus, departmental preference of email, according to manufacturer-type, has created unnecessary complexities associated with maintaining the system.

The IS department is also charged with scheduling and organizing the Information Technology Steering Committee (ITSC). The Committee's function is required as part of the Countywide Strategic Plan and is an integral part of County Policies and Procedures A-10 (2) (b). However, only four of 32 invitees attended the most recent meeting in April. When the Committee cannot properly convene, there is no venue for the review and approval of multi-departmental and new systems development projects exceeding \$10,000. The current dysfunctional status of the Committee creates a flawed process, and invalidates the provision of Policy A-10.

The acquisition of the DAMION Software license and Maintenance Agreement by the District Attorney's Office (DA) further illustrates this problem. The DA received a contract for DAMION from Constellation Justice Systems in late 2000. The department was seeking solutions for case tracking, legal support, scheduling, and victim/witness issues. The contract did not go before the ITSC, but rather was submitted to IS on January 11, 2001. The DA provided IS with only six hours to review the contract, and thus prevented IS from referring the \$138,370 software purchase to the ITSC for proper review. In addition, the contract was signed by the DA on January 9, 2001 (before its submittal to IS or the ITSC) and was scheduled for approval by the Board of Supervisors (BOS) on January 23, 2001. However, within the DA's six hour deadline, IS raised a very important countywide security issue i.e., the contractor was allowed dial-up and Internet access to all computers running the software. Apparently, the DA and/or the BOS did not consider these serious deficiencies, and the contract was subsequently signed on the scheduled date. Thus, recommendations and concerns of IS were ignored, and County Policies and Procedures were not followed.

Findings

- F1. Some departments encourage employees to cross-train into the field of Information Technology (IT) to avoid the costs associated with the Information Services (IS) department's programming, training, and PC support services.
- F2. IT functions are handled independently by departments, so the total cost to the County for IT equipment and staff are unknown.
- F3. Since budgets of departments vary, some departments are able to keep current with technology, while others are incapable of upgrading.

- F4. In some cases, IS cannot produce or replicate industry specific software and the related service and support, so that departments must utilize outside vendors.
- F5. There are no industry-specific requirements found within County departments, which might justify the wide array of email programs in use.
- F6. The Board of Supervisors (BOS), Chief Administrative Officer (CAO), IS, and other departments have no venue to which they may refer purchases of multi-department or new systems development projects exceeding \$10,000.
- F7. The Information Technology Steering Committee (ITSC) is controlled and directed by its members. These members are countywide Departmental Directors, and must abide by County Policies and Procedures A-10 (2) (b) when submitting approval requests for purchases of multi-departmental and new systems development projects exceeding \$10,000. By not attending the ITSC meetings, Departmental Directors invalidate the ITSC, and are thus incapable of enforcing decisions by the ITSC on themselves.
- F8. In January 2001 and again in 2003, the BOS and the District Attorney's Office (DA) together signed both the DAMION Software License and Maintenance Agreement contracts without the endorsement of IS through the ITSC.
- F9. The DAMION contract was signed in 2001 by the BOS and the DA with full knowledge of a potential security breach for the County.
- F10. The DA signed the contract for the DAMION Software License and Maintenance Agreement, and scheduled its submission to the BOS before giving it to IS for their approval.
- F11. IS was given insufficient time (6 hrs) to review the DAMION Contract.

Recommendations

- R1. Since IS is in a position to provide the County with improved promotional decisions of IT workers, and provide ongoing testing and training of current technologies, departmental IT staff throughout the County should be trained and under the jurisdiction of the IS.
- R2. Since the County stands to benefit from bulk purchasing, the technology budget should be consolidated and shifted to IS.
- R3. In the event that the utilization of an outside vendor is required, IS should review hardware, software, and IT-related contracts before the departments go forward with purchases.
- R4. IS should establish a countywide standard for both Internet and intranet email applications, along with standards for database and operating systems.

- R5. The Board of Supervisors should vote to amend Policy A-10 by either dissolving the Information Technology Steering Committee (ITSC) or include language to enforce its duties.
- R6. The District Attorney’s Office and the Board of Supervisors should work with IS to ensure the DAMION system is equipped with the proper security tools for protecting the County’s IT data.
- R7. The Board of Supervisors should take seriously the recommendations made by IS as they relate to contracts or purchasing decisions, and ensure that departments allow IS reasonable time for this review process.

Commendations

The Information Technology Standard Sub-Committee (ITSSC) was well attended by departmental IT personnel and provided a useful format in the sharing of problems or information relevant to other County departments.

Responses Required for Findings

- | | |
|----------------|---|
| F1 through F11 | El Dorado County Chief Administrative Officer
El Dorado County Board of Supervisors
El Dorado County Director of Information Services |
| F6, F7, F8 | El Dorado County Director of General Services |
| F8 through F11 | El Dorado County District Attorney |

Responses Required for Recommendations

- | | |
|-------------------|---|
| R1 through R7 | El Dorado County Chief Administrative Officer
El Dorado County Board of Supervisors
El Dorado County Director of Information Services |
| R2, R3 through R7 | El Dorado County Director of General Services |
| R6 | El Dorado County District Attorney |

PLANNING & ENVIRONMENT

PLANNING AND ENVIRONMENT COMMITTEE

El Dorado County Fleet Maintenance Facility

Reason for the Report

The Grand Jury selected the County Fleet Maintenance facility for one of its sites to review.

Scope of the Investigation

The members of the Grand Jury:

- Visited the facility on February 25, 2003;
- Was briefed on the operations of the fuel dispensers, computerized fueling system (Gas Boy) and the vehicle repair facilities by the Fleet Maintenance Supervisor;
- Interviewed the Special Services Department Head Fleet Maintenance Manager;
- Interviewed the Fleet Maintenance Superintendent;
- Interviewed the Fleet Maintenance Accountant.

Background

The facility is located within the El Dorado County Transportation Department yard. The Grand Jury visited the facility to inspect the area for environmental issues. The Grand Jury saw no environmental violations with the possible exception that gasoline cans were stored on an open shelf in the sign shop without being placed in a metal cabinet. There are several environmental problems currently being added within the County Environmental Department which are associated with Gas Boy, gas pumps and the storage tanks.

The Grand Jury was informed that an accountability problem exists with Gas Boy. The system was out of service and had been for at least seven months. All aspects of Gas Boy including billing, calibration, monitoring usage, and dispensing have been out of order from time to time for two and one half years. The Gas Boy system is obsolete, since hardware and software are difficult to maintain. When Gas Boy is inoperative, fuel is dispensed on the honor system and lacks security. During the times that Gas Boy is down department billing was very difficult due to the fact that the collected fuel data covers only 40 percent of the fuel being dispensed by the County.

The County uses approximately 16,000 gallons of gasoline and 5,000 gallons of diesel fuel per week. The Committee observed that no one at the facility met the tanker truck upon its arrival and during the unloading of fuel. Some County vehicles using the fueling system are neither marked nor numbered making it difficult to identify them from private vehicles. The County maintains 600 plus vehicles including Sheriff's Department vehicles.

The front gates of the Fleet Management facility are open until midnight on weekdays, at which time Department of Transportation staff locks the gates using a combination lock. The gate is to remain closed on weekends. An electric gate is locked at the rear of the facility and is used by the Sheriff's Department after midnight and on weekends. The electric gate may be opened by remote gate control or key. Sheriff vehicles have remote gate openers which are permanently affixed to the visor. This gate is frequently left open by the Sheriff Officers, exposing all DOT equipment and fuel to vandalism and or theft.

Fleet maintenance of the County's 600 plus vehicles is performed in a two-bay garage that was part of DOT when built in the 1950's. Of the two hydraulic lifts, only one can be used on most of the fleet vehicles. The larger in-ground lift was designated for the larger DOT trucks. With only one designated lift, less repair work on fleet vehicles is possible. The second lift that is above ground is rated at only 7,000 pounds.

Currently, repair orders for County vehicle maintenance are manually written, making it time consuming to maintain a comprehensive maintenance record. A software program for computer maintenance records have been purchased and not used at this time.

There has been no personal performance evaluations given and no in-depth job descriptions are available. The new manager is working on personal evaluations and new job descriptions to improve work performance.

Findings

- F1. Gasoline cans are stored on open shelves in the sign shop.
- F2. The fuel dispensing facility has inadequate security, is not always locked and accountability is often based on the honor system.
- F3. The Gas Boy system has been out of order from time to time for two and one-half years.
- F4. The Gas Boy hardware and software are out-dated and difficult to maintain.
- F5. Fleet maintenance staff did not meet with the tanker truck driver to verify fuel meter.
- F6. The fuel dispensers have not been calibrated; therefore the readings are not accurate which makes cross-checking the usage and purchase of fuel impossible.
- F7. Billing for fuel usage by fleet management depends on entries made on the clipboard sheets kept at each fuel dispenser and best guesses by office employees. County departments are charges for fuel they did not use because of inaccurate accountability.

- F8. Not all County vehicles are marked making it difficult to differentiate between County and private vehicles at the pumps.
- F9. The gate nearest the fuel dispensers is not locked until midnight when DOT swing shift leaves at which time a combination lock is used. The combination is known by the Sheriff Deputies past and present.
- F10. An electric gate located in the rear of the yard is used after midnight and on weekends by the Sheriff Deputies. Their vehicles have remote gate openers which are permanently affixed to the visor of the patrol cars. However, to close the gate the drivers must get out of the car and use their key. This gate is frequently left open, including on weekends, exposing all DOT equipment to potential vandalism and theft.
- F11. Fleet maintenance of County vehicles is performed in a two-bay garage, one bay of which is a hydraulic lift that cannot be used for many of the county vehicles, limiting the amount of repair work capable of being performed.
- F12. Repair orders for County vehicle maintenance are manually written making it time-consuming to maintain a comprehensive maintenance record for all 600 plus County maintained vehicles.
- F13. Management of the facility does not always conduct annual performance evaluations of all personnel.

Recommendations

- R1. Gasoline cans should be stored in closed metal cabinets.
- R2. The facility should be secure at all times. Place a video camera in the yard to video-tape the area day and night.
- R3. Replace fuel dispensers and Gas Boy so the monitoring of fuel is computer maintained and can be audited.
- R4. Replace software for Gas Boy and repair order maintenance records with updated computer programs.
- R5. Monitor the amount of fuel placed in the storage tanks during delivery.
- R6. The repair order process should be computerized
- R7. All County vehicles should be marked with clearly visible I.D. numbers, except for those used in undercover law enforcement.

- R8. Recode all currently used remotes and change gate pad locks.
- R9. Replace or modify the electric gate so it will automatically close after it has been opened.
- R10. Replace larger DOT hydraulic lift with the appropriate lift for maintaining the fleet vehicles.
- R11. Annual performance evaluations should be completed.

Responses Required for Findings

F1 through F13 El Dorado County Department of General Services
El Dorado County Board of Supervisors

Responses Required for Recommendations

R1 through R11 El Dorado County Department of General Services
El Dorado County Board of Supervisors

PLANNING AND ENVIRONMENT COMMITTEE

South Lake Tahoe Vacation Home Rentals

Citizen Complaint #C14 - 02/03

Reason for the Report

A complaint alleges that the City of South Lake Tahoe (SLT) allows short-term vacation rental of homes in areas not properly zoned for such business (specifically the Tahoe Keys area) and collects Transit Occupancy Tax (TOT) on these vacation rental homes.

Scope of the Investigation

The members of the Grand Jury:

- Conducted interviews with SLT City Attorney;
- Attended several SLT City Council meetings;
- Conducted an interview with SLT City Manager;
- Reviewed relevant SLT ordinances and codes;
- Reviewed relevant Tahoe Regional Planning Agency (TRAP) ordinances and codes.

Background

The Governors and lawmakers of California and Nevada approved a compact creating a planning agency to oversee development at Lake Tahoe. In 1969, the United States Congress ratified the agreement and created TRPA. The compact, as revised in 1980, gives TRPA authority to adopt environmental quality standards, called thresholds, and to enforce ordinances designed to achieve these thresholds. The Governing Board of TRPA adopted the thresholds in 1982.

The ordinance codes of TRPA, Chapter 18, sets forth allowable uses for the land areas within the Tahoe Region. This chapter defines Tahoe Keys as Area 102 and states that this area should continue to maintain the existing residential and commercial character of the neighborhood. This ordinance does not allow for vacation rentals, tourist accommodations, and transit lodging within the Tahoe Keys area.

SLT City Code (Chapter 32) includes the TRPA's ordinances regarding area plan use in the Tahoe Keys. However a conflict exists between Chapter 32 and Chapter 28A, which regulates the rental of housing. The SLT City Attorney recognizes this conflict in a letter to this Grand Jury, dated September 2, 2002, by stating, "TRPA's Plan Area Statements prohibit renting houses for vacation rentals in a portion of the Tahoe keys area as well as portions of many other areas within the city limits. I will calendar this matter for further communication to the Grand Jury on or before March 31,2003 as this conflict still exists".

PLANNING AND ENVIRONMENT COMMITTEE

El Dorado County Waste Disposal System

Reason for the Report

The Grand Jury selected the waste disposal system of the County for a 2002/2003 general review.

Scope of the Investigation

The members of the Grand Jury:

- Interviewed the El Dorado County Director of Environmental Management;
- Visited the Diamond Springs waste disposal facility on February 18, 2003;
- Was briefed on the process of sorting recyclables;
- Inspected the buildings and grounds of the Diamond Springs facility;
- Reviewed Grand Jury reports for 2000/2001 and 2001/2002 and found no findings or recommendations pertaining to waste management.

Background

The County was mandated by the State of California to reduce, by 50 percent, the amount of waste going to landfills by 2002. An extension was allowed to July 2005, with a good faith review in July 2004. The Grand Jury investigation revealed that the County of El Dorado is not making good progress toward meeting the State mandate. The contractor is recycling about 25 percent of total waste while other waste removal companies are recycling at least 45 percent. A \$10,000 per day fine for violation of the State's mandate is possible after the July 2004 state review.

The County is reviewing the contract with the contractor to determine if the contractor is moving toward compliance with the State mandate. To help meet this mandate, the contractor replaced upper management in November 2002 at the Diamond Springs facility. The new manager has stated they are now recycling at least 25 percent of the waste. New programs such as Blue Bags and Yellow Bags for recycling material are being considered.

Non-recycled trash is trucked to a landfill near Reno, Nevada. Mixed recyclables are sent to the contractor's sorting facility near Lodi, California. Some of cardboard and newspapers are baled at the Diamond Springs facility for resale to recycling companies. All measurements are tracked by incoming and outgoing weights. With County growth on the rise the Diamond Springs facility

PUBLIC BUILDINGS

PUBLIC BUILDINGS AND PROPERTY COMMITTEE

*Community Services / Senior Nutrition Center– Building 470
937 Spring Street
Placerville*

Reason for the Report

The Grand Jury selected the Community Services/Senior Nutrition Center (Senior Center) (Building 470) as one of its general reviews for 2002/2003.

Scope of the Investigation

The members of the Grand Jury:

- Made an unannounced visit to the Senior Center on November 7, 2002;
- Toured the facilities and grounds with the Assistant Director of Community Services;
- Were briefed on the Senior Center operations, including the Senior Nutrition program, Storm-window program, and senior activities;
- Interviewed various members of staff;
- Inspected the building, grounds, and programs;
- Reviewed previous Grand Jury reports for year's 1999/2000, 2000/2001 and 2001/2002 and found no findings or recommendations pertaining to this building.

Background

The building, originally constructed in the 1950's, was converted to the Senior Center in 1980. Meals served to seniors in the cafeteria, as well as meals for "Meals-on-Wheels," are prepared in the center's kitchen. It is also a meeting place for senior activities. The basement is used for storage and has a workshop for the Storm-window Program.

The parking lot is shared with the Senior Day-Care Center, Psychiatric Health Facility, and the Health Department. The poor condition of the parking lot surface poses a safety hazard to users. Parking is limited, directional markings go against traffic flow, and overall surface is in poor condition. This poses a safety hazard to users, especially seniors and disabled individuals.

The kitchen area is exceptionally clean and neat. Meal preparation and meal assembly appears to be well organized.

It should be noted that the electrical system and restrooms, though functional, are antiquated.

Findings

- F1. The building exterior paint is peeling.
- F2. The parking lot surfaces are severely checked and cracked. The parking lot surface poses a danger to users and potential liability to the county.
- F3. The parking lot directional markings contradict the parking lot traffic flow and are severely faded.
- F4. The parking lot is inadequate and limits the full use of the facility.
- F5. Sidewalk to exterior patio is cracked and uneven.
- F6. The exterior patio is visually uninviting.
- F7. The carpeting is stretched with age resulting in long ripples that may be hazardous to users and is a potential liability to the county.
- F8. Several doors have been relocated resulting in incorrect signage.
- F9. Entry/hallway ceiling tiles are sagging and hanging loose.
- F10. The interior paint is showing signs of age and wear.
- F11. The building HVAC vents and registers are dirty with the exception of the kitchen.
- F12. The hall exit sign to the sidewalk leading to the patio is not illuminated.
- F13. The dining room ceiling evidences various stages of leakage which results in a stained saggy condition.
- F14. A fire extinguisher is blocked behind the furniture in the dining room storage area.
- F15. Hair nets/hats are not worn by all food handlers.
- F16. The caulking on the kitchen hand sink is aged, cracked and discolored.
- F17. The stairwell to the basement is dirty.
- F18. The basement space is utilized, but cluttered.

F19. The transit heat shield of the pottery kiln is broken in two, resulting in asbestos fiber exposure.

Recommendations

- R1. The building exterior should be painted.
- R2. The parking lot should be repaired and resurfaced.
- R3. Directional arrows should show proper traffic flow.
- R4. The sidewalk to exterior patio should be repaired.
- R5. The carpeting should be replaced.
- R6. Incorrect signage should be removed.
- R7. Sagging and hanging ceiling tiles in entry/hallway should be replaced.
- R8. The interior should be repainted.
- R9. All HVAC vents should be cleaned.
- R10. The hall exit sign to the sidewalk leading to the patio should be repaired.
- R11. The roof should be inspected for leaks and repaired as needed.
- R12. The dining room ceiling should be replaced.
- R13. The dining room storage area fire extinguisher should be made accessible.
- R14. All kitchen food handlers should wear hair nets/hats.
- R15. The kitchen hand sink should be re-caulked.
- R16. The stairwell to the basement should be cleaned and maintained on a regular basis.
- R17. The basement clutter should be addressed.
- R18. The broken pottery kiln transite heat shield should be replaced.

Commendations

The Grand Jury commends the Senior Center for apparent outstanding job performance under challenging circumstances. The staff was competent, courteous and very open.

PUBLIC BUILDINGS AND PROPERTY COMMITTEE

District Attorney - Building 221

515 Main Street

District Attorney Annex - Building 226

525 Main Street

Victim/Witness Assistance Program - Building

520 Main Street

Placerville

Reason for the Report

The Grand Jury selected the offices of the District Attorney, Placerville, as one of its general reviews for 2002/2003.

Scope of the Investigation

The members of the Grand Jury:

- Made an unannounced visit to the offices of the District Attorney, Placerville, including the District Attorney Annex and Victim/Witness Assistance Program on December 5, 2002;
- Were given an extensive tour of the facilities and grounds by the Chief Assistant District Attorney;
- Were briefed on the District Attorney operations;
- Inspected the buildings and grounds;
- Reviewed previous Grand Jury reports for year's 1999/2000, 2000/2001 and 2001/2002.

Background

Premises for the District Attorney Offices are divided between three locations in close proximity to each other. The premises consist of the Main, Annex, and Victim/Witness Assistance Program Buildings. The premises' interiors appear clean and adequate; however, all three premises have dirty HVAC vents/registers, which pose health concerns.

Several areas of concern were noted for the main building. The first front entry step is too high and has a separation between it and the sidewalk, creating a safety hazard to users and a potential liability to the County. The size of the parking lot is inadequate for use of the building. In addition, the paint on the building exterior is peeling and the paint on the exterior wrought iron fixtures is chipped and rusting.

The main building basement is not fully utilized due to previous flooding. Several concerns were noted for the utilized area. The conference and map rooms are cluttered. In addition, the

conference room ceiling paint is chipping. Two rooms being used for storage appear disorganized and cluttered. One of these rooms is full of older computer equipment waiting disposition by Information Services.

While the Annex has a fire sprinkler system, the other two premises do not. Although procedures are established, fire drills are not periodically conducted. In the Main Building the hallways are utilized for storing files, which may pose a fire exit hazard.

Findings

District Attorney, Placerville – Building 221

- F1. First front entry step is too high and there's a separation between it and sidewalk, creating a potential liability.
- F2. The size of the parking lot is inadequate for the use of the building.
- F3. The building exterior paint is peeling.
- F4. Paint on exterior wrought iron fixtures is chipped and rusting.
- F5. The building HVAC vents/registers are dirty and pose health concerns.
- F6. The conference room and the map room are cluttered.
- F7. The conference room ceiling paint is chipping.
- F8. There is a room full of older computer equipment waiting disposition by Information Services.
- F9. Hallways are utilized for storing files.
- F10. Although there are fire drill procedures, no fire drills have been held.
- F11. The building has no fire sprinkler system.

District Attorney Annex – Building 226

- F12. The exterior walls are cracked.
- F13. There is evidence of previous water leaks on the ceiling.
- F14. The building HVAC vents/registers are dirty and pose health concerns.
- F15. Although there are fire drill procedures, no fire drills have been held.

Victim/Witness Program - Building

- F16. Ceiling tiles are cracked and/or chipped.
- F17. The building HVAC vents/registers are dirty and pose health concerns.
- F18. Although there are fire drill procedures, no fire drills have been held.
- F19. The premises have no fire sprinkler system.

Recommendations

District Attorney, Placerville - Building 221

- R1. First front entry step and sidewalk should be corrected to meet current code requirements.
- R2. The building exterior and wrought iron paint should be properly maintained.
- R3. The building HVAC vents/registers should be periodically cleaned.
- R4. The conference room and map room should be clear of clutter.
- R5. The conference room ceiling paint should be properly maintained.
- R6. The unutilized older computer equipment should be removed from the building.
- R7. Fire drills should be held on a periodic basis.

District Attorney – Annex – Building 226

- R8. The building HVAC vents/registers should be periodically cleaned.
- R9. The exterior walls should be properly maintained.
- R10. Water leakage source should be investigated and repaired as needed.
- R11. Fire drills should be held on a periodic basis.

Victim/Witness Assistance Program – Building

- R12. The building HVAC vents/registers should be periodically cleaned.
- R13. Cracked and chipped ceiling tiles should be replaced.
- R14. Fire drills should be held on a periodic basis.

Responses Required for Findings

F1 through F19

El Dorado County Board of Supervisors
El Dorado County District Attorney
El Dorado County General Services

Responses Required for Recommendations

R1 through R14

El Dorado County Supervisors
El Dorado County District Attorney
El Dorado County General Services

PUBLIC BUILDINGS AND PROPERTY COMMITTEE

*Public Health Department – Building 441
931 Spring Street
Placerville*

Reason for the Report

The Grand Jury selected the Public Health Department (Building 441) as one of its general reviews for 2002/2003.

Scope of the Investigation

The members of the Grand Jury:

- Made an unannounced visit to the Public Health Department on November 7, 2002;
- Toured the facilities and grounds with the Assistant Director and the Nurse Practitioner;
- Were briefed on the Public Health Department services offered;
- Inspected the building and general programs;
- Reviewed previous Grand Jury reports for year's 1999/2000, 2000/2001 and 2001/2002 and found no findings or recommendations pertaining to this building.

Background

The Public Health Department building, which was built in 1952, is currently undergoing renovations to be completed in 2003. The building appears to be in excellent condition and well utilized.

The parking lot of the Public Health Department is shared with the parking lots for the Psychiatric Health Facility, Community Services/Senior Nutrition Center, and the Senior Day-Care Center. Parking lot directional markings go against traffic flow, and the overall surface is in poor condition.

Findings

- F1. The parking lot surface is severely checked and cracked. The parking lot surface poses a hazard to users and is a potential liability to the county.
- F2. The parking lot directional markings contradict the parking lot traffic flow and are severely faded.
- F3. Some hallways are cluttered.

PUBLIC BUILDINGS AND PROPERTY COMMITTEE

*Update of Pat Riley Family Court (Building 180)
Formerly the Logan Building
768 Pleasant Valley Road
Diamond Springs*

Reason for the Report

The Grand Jury selected the Pat Riley Family Court Building (The Building) as one of its general reviews for 2002/2003.

Scope of the Investigation

The members of the Grand Jury:

- Made an announced visit to The Building on April 17, 2003;
- Toured the facility with the Facilities Manager from El Dorado County General Services;
- Interviewed the General Manager of El Dorado County General Services;
- Reviewed various Board of Supervisors meeting minutes, memos and renovation plans;
- Reviewed previous Grand Jury Reports for the year's 1999/2000, 2000/2001 and 2001/2002.

Background

The Building, located in Diamond Springs, was designed and constructed by the contractor for his personal and company use. Due to the death of the contractor, the incomplete building and adjacent parcels were put up for sale in 1997.

Although it was appraised at \$1,675,000 in May 2000, the County purchased The Building and adjacent parcels for \$1,860,679 without having a plan for its use. The acquisition, which resulted in controversy, was investigated by the Grand Juries of 1999/2000 and 2000/2001. Their findings were included in their respective reports.

Seventeen months later, in November 2001, an offer to purchase The Building for \$729,000 was received along with the purchase price analysis. The Board of Supervisors rejected the offer. Instead they approved the following on November 21, 2001:

- (a) Expand and relocate Superior Court Family Law facilities from the Main Street Placerville Courthouse to the main level of The Building, and move the Court Administration Unit from Building C to the upper level of The Building;
- (b) Authorize the General Services Department to engage an architectural firm to work with the Superior Court to refine project space, layout(s) and The Building's retrofit cost estimates. The Building was to accommodate two courtrooms, the Family Law Department, and the Court Administrative Unit;
- (c) Approved the potential funding and designated \$2,557,517 for this undertaking;
- (d) Appoint a Board of Supervisors Court Facilities Committee to monitor the project development and finances in coordination with the Superior Court and General Services Department. In addition, they would pursue the prospect of State reimbursement of the County General Fund expenditures as proposed in the October 2001 Final Report of the State Task Force on Court Facilities.

The Grand Jury members toured The Building, which is located approximately seven miles from the County Government Center to observe the condition and use of the building. The Building has three levels:

- The main level (10,500 square feet) has not been used because of its major renovations/retro-fitting requirements.
- The lower level (3,573 square feet) is occupied by personnel of the Sheriff's Department, after a retro-fitting cost of \$108,000. However, plans for the Family Court Center requires the Sheriff's Department personnel to be relocated.
- The upper level (2,648 square feet) has five office spaces of which only one is used. The remaining four offices are in need of renovations.

During the tour of The Building, it was noted there is no interior access from the main level to the other two levels. There is no elevator. The building does not meet standards for the American with Disabilities Act (ADA).

Findings

- F1. The Building is not conveniently located to the County Government Center.
- F2. The Building needs major renovations to be usable for County purposes.
- F3. Seventy-five percent of The Building has not been used since the purchase in May 2000.
- F4. In November 2001 the Board of Supervisors approved use of The Building for Superior Court Family Law; however, no actual plans have been implemented.

Recommendations

R1. In light of the countywide office space need, the Board of Supervisors should reconsider their options and move forward expeditiously.

Responses required for Findings

F1 through F4

El Dorado County Board of Supervisors
Chief Executive Officer Superior Court

Responses for Recommendations

R1

El Dorado County Board of Supervisors
Chief Executive Officer Superior Court

PUBLIC BUILDINGS AND PROPERTY COMMITTEE

El Dorado County Museum – Building 577 104 Placerville Dr. Placerville

Reason for the Report

The Grand Jury selected the El Dorado County Museum as one of its general reviews for 2002/2003.

Scope of the Investigation

The members of the Grand Jury:

- Made an unannounced visit to the Museum on January 9, 2003;
- Received an extensive facilities and grounds tour by the Museum Administrator-Director;
- Were briefed on the various operations of the facility;
- Inspected the building and grounds;
- Reviewed previous Grand Jury reports for the year's 1999/2000, 2000/2001 and 2001/2002 and found no findings or recommendations pertaining to this building.

Background

The El Dorado County Museum, Building 577, is located on the County Fair Grounds in Placerville. The Museum building, built in 1972, functions as the County's main archival repository. It is comprised of the main museum building, Shay Engine Shop, a barn, maintenance workshop, various storage sheds, and outside displays.

The Main Museum building houses exhibits of early artifacts of local and California interests and functions as the main storage location for genealogical information, marriages, and obituaries. Various organizations and citizens throughout the county access valuable maps, pictures, and property items. Since space is limited and artifacts are numerous, the displays are periodically changed.

The condition of the Main Museum building appears to be adequate. Public restrooms are clean and functional. Some of the floorboards in the attic above the office are substandard. Since the area is accessible by the staff, this poses a safety concern and potential liability to the County. Although fire extinguishers and smoke detectors are visible throughout the structure, the building did not have a fire sprinkler system.

The Shay Engine Shop was built to reflect the time period of the engine. Inside the building, restoration of the engine to operating condition is in progress. Visitors to the shop are able to view the work in progress. The restoration of the engine is being accomplished through

donations and volunteer labor. The restored Shay Engine is a valuable historical asset to the County because it is an antique.

The landscaping is well designed and creatively done. The sheds are old and deteriorating, and many of the outdoor artifacts are exposed to the elements.

Findings

- F1. Some of the floorboards in the attic above the office, which is accessible to the museum staff, are substandard and pose a safety hazard and potential liability to the County.
- F2. Although fire extinguishers and smoke detectors are visible throughout the main building, there is no fire sprinkler system.
- F3. The outside sheds are old and deteriorating.
- F4. The outdoor artifacts are exposed to the elements causing deterioration.

Recommendations

- R1. Floorboards in the attic above the office should be strengthened or replaced.
- R2. Most outside sheds should be replaced.
- R3. All outside artifacts should be under cover and additional space and housing for artifacts are needed.
- R4. A modern zoned sprinkler system is needed to protect valuable artifacts and irreplaceable records.

Commendations

The Administrator-Director is doing an excellent job taking responsibility for maintaining and organizing diverse county records.

Responses Required for Findings

F1 through F4
El Dorado County Museum Administrator
El Dorado County Department of General Services
El Dorado County Board of Supervisors

Responses Required for Recommendations

R1 through R4
El Dorado County Museum Administrator
El Dorado County Department of General Services
El Dorado County Board of Supervisors

PUBLIC BUILDINGS AND PROPERTY COMMITTEE

Library (General Services) Building 160 Placerville

Reason for the Report

The Grand Jury selected the Library (General Services) Building 160 as one of its general reviews for 2002/2003.

Scope of the Investigation

The members of the Grand Jury:

- Made an unannounced visit to the Library and General Services Complex on January 16, 2003;
- Were guided on an extensive tour of the facilities by the Administrative Technician, Store Keeper II, Assistant Coordinator, and Library Director;
- Inspected the facilities for cleanliness, neatness, and compliance to safety regulations;
- Reviewed previous Grand Jury reports for year's 1999/2000, 2000/2001 and 2001/2002 and found no findings or recommendations pertaining to this building.

Background

The Library (General Services) Building appears to be adequately designed. Located in the building are the County Main Library and its Technical Services, General Services Warehouse, Print Shop, Purchasing Department, Mail Room, Archival Record Storage, and General Services Administration. The building is currently adequate, clean, neat, and well utilized.

Overall, the Library appears to be functional, attractive, and adequately lighted. Use of the computers accessed by the public has outpaced availability resulting in increased waiting time. The carpet in the Library is original to the Building (1976) and is showing wear. The carpet has areas of rippling and disintegration that pose a safety hazard to the users and a potential liability to the County. Funds are budgeted this year to replace the carpet, however, no plans for replacement have been made.

The Print Shop appears adequate for usage. It appeared neat, clean and well organized. However, the fire extinguisher was partially blocked and the exit sign was not illuminated.

Findings

- F1. The Library carpet is old, rippling, and disintegrating, thus posing a safety hazard to users and a potential liability to the County.

- F2. The Print Shop exit sign is not illuminated.
- F3. The Print Shop fire extinguisher is partially blocked.
- F4. The wall in the southwest corner of the Archival Record Storage area shows evidence of prior water leakage.

Recommendations

- R1. The carpet should be replaced.
- R2. The exit sign should be repaired.
- R3. The print shop fire extinguisher should be unblocked for easier emergency use.
- R4. The possible leakage in the southwest corner of the Archival Record Storage Area should be monitored.

Responses Required for Findings

F1 through F4
El Dorado County Board of Supervisors
El Dorado County Department of General Services
El Dorado County Library Director

Responses Required for Recommendations

R1 through R4
El Dorado County Board of Supervisors
El Dorado County Department of General Services
El Dorado County Library Director

PUBLIC BUILDINGS AND PROPERTY COMMITTEE

Psychiatric Health Facility – Building 440 935A Spring Street Placerville

Reason for the Report

The Grand Jury selected the Psychiatric Health Facility (Building 440) as one of its general reviews for 2002/2003.

Scope of the Investigation

The members of the Grand Jury:

- Made an unannounced visit to the Psychiatric Health Facility on November 7, 2002;
- Toured the facility with the Nursing Supervisor;
- Were briefed on the Psychiatric Health Facility operations;
- Interviewed Discharge Planner;
- Inspected the building and grounds;
- Reviewed previous Grand Jury reports for year's 1999/2000, 2000/2001 and 2001/2002 and found no findings or recommendations pertaining to this building.

Background

The building, originally constructed in the 1960's, has been used as the Psychiatric Health Facility since the early 1980s. It has the capacity for 15 patients who are admitted on an emergency basis for short-term stays. Twenty-four hour care is provided by the staff of 22 employees that include a psychiatrist, nurses, and a social worker.

The interior of the building appears neat and well maintained; however, the laundry room appears dirty and cluttered. Kitchen facilities are limited, which require meals be provided by the Senior Nutrition Center. The basement is unusable due to asbestos issues. Paint on the exterior of the building is peeling.

The observation area is utilized for observing new patients. The support column in this area has sharp edges/corners, which for safety concerns should be padded. The only furniture in this room is a rubber couch; a rubber table is needed for patient use. The current surveillance system for the lock up rooms should be updated to cover the entire day room area.

The parking lot is shared with the Senior Day-Care Center, Community Services/Senior Nutrition Center, and the Health Department. The poor condition of the parking lot poses a

safety hazard to users, especially seniors and disabled individuals. Parking is limited, directional markings go against traffic flow and overall surface is in poor condition.

Findings

- F1. The building exterior paint is peeling.
- F2. The parking lot surfaces are severely checked and cracked. The parking lot surface poses a danger to users and potential liability to the County.
- F3. The parking lot directional markings go against the parking lot traffic flow and are severely faded.
- F4. The parking lot is inadequate and limits the full use of the facility.
- F5. The laundry room is dirty and cluttered.
- F6. The support column in the observation area has sharp edges/corners.
- F7. The surveillance system for the lock up rooms for the observation area is inadequate.
- F8. The water fountain in hall outside the activity room is inoperative.

Recommendations

- R1. The building exterior should be painted.
- R2. The parking lot should be repaired and resurfaced.
- R3. Directional arrows should show proper traffic flow.
- R4. The support column in the observation area should be padded.
- R5. A rubber table should be provided in the observation area.
- R6. Surveillance system should be replaced with an updated version to cover the entire area of each lock up room.
- R7. The water fountain should be repaired.
- R8. The laundry room should be cleaned and maintained on a regular basis.

Responses Required for Findings

F1 through F8

El Dorado County Board of Supervisors
El Dorado County Department of General Services
El Dorado County Department of Mental Health

Responses Required for Recommendations

R1 through R8

El Dorado County Board of Supervisors
El Dorado County Department of General Services
El Dorado County Department of Mental Health

PUBLIC BUILDINGS AND PROPERTY COMMITTEE

Senior Day-Care – Building 440A 935 Spring Street Placerville

Reason for the Report

The Grand Jury selected the Senior Day-Care (Building 440A) as one of its general reviews for 2002/2003.

Scope of the Investigation

The members of the Grand Jury:

- Made an unannounced visit to the Senior Day-Care on November 7, 2002;
- Toured the facilities and grounds with the Assistant Director of the Senior Day-Care Center;
- Were briefed on the Senior Day-Care operations, including transportation, food and programs;
- Inspected the building and grounds;
- Reviewed previous Grand Jury reports for year's 1999/2000, 2000/2001 and 2001/2002 and found no findings or recommendations pertaining to this building.

Background

The Senior Day-Care Center provides, at a nominal cost, a much-needed day care facility for seniors. Similar to Child Day-Care, this is a place where the seniors who cannot be left without supervision may be placed in supervised care during the day. The seniors participate in activities that provide mental and physical stimulation. Meals served are provided by the Senior Nutrition Center.

The premises are clean, well maintained, and inviting. The premises, which are fully utilized, have an exercise room, social room, and a quiet room furnished with recliners and afghans.

The parking lot for the Senior Day-Care Center is shared with the Psychiatric Health Facility, Community Services/Senior Nutrition Center, and the Public Health Department. The poor condition of the parking lot poses a safety hazard for seniors and disabled individuals. Parking is limited, directional markings go against traffic flow and overall surface is in poor condition.

Findings

- F1. The building exterior paint is peeling.
- F2. The parking lot surface is severely checked and cracked, and poses a potential danger to users and potential liability to the county.
- F3. The parking lot directional markings contradict the parking lot traffic flow and are severely faded.
- F4. The parking lot size is inadequate and limits the full use of the facility.

Recommendations

- R1. The building exterior should be painted.
- R2. The parking lot should be repaired and resurfaced.
- R3. Directional arrows should show proper traffic flow.

Commendations

The Grand Jury commends the Senior Day-Care Staff for apparent outstanding job performance. The staff appears to be competent, courteous and caring to the seniors.

Responses Required for Findings

F1 through F4
El Dorado County Board of Supervisors
El Dorado County Department of General Services
El Dorado County Department of Community Services

Responses Required for Recommendations

R1 through R3
El Dorado County Board of Supervisors
El Dorado County Department of General Services
El Dorado County Department of Community Services

PUBLIC BUILDINGS AND PROPERTY COMMITTEE

*Superior Court – Building 321
3221 Cameron Park Dr.
Cameron Park*

Reason for the Report

The Grand Jury selected the Superior Court - Cameron Park as a general review for 2002/2003.

Scope of the Investigation

The members of the Grand Jury:

- Made unannounced visits to the Superior Court – Cameron Park on December 12, 2002 and March 24, 2003;
- Toured the facilities and grounds with the Clerk and the Bailiff ;
- Was briefed on the various judicial operations of the facility;
- Inspected the building and grounds;
- Spoke informally with various staff members;
- Reviewed previous Grand Jury reports and found no findings or recommendations for year's 1999/2000, 2000/2001 and 2001/2002.

Background

The building was constructed in 1982. The building served as a criminal court until January 2003 when it was converted for use as a civil court. This change was made to consolidate the criminal courts at the main courthouse in Placerville.

The landscaping appears modern and adequately maintained. The overall condition of the building is acceptable, however, there are some outstanding maintenance issues that need to be addressed as listed in the findings.

Findings

- F1. The prisoners' entrance door is rusting.
- F2. The prisoners' entrance wooden door frame is deteriorating.
- F3. The downspouts at rear of the building are not connected to the drainage field pipes.

PUBLIC BUILDINGS AND PROPERTY

*Superior Court – Building 220
495 Main Street
Placerville*

Reason for the Report

The Grand Jury selected the Superior Court Building as one of its general reviews for 2002/2003.

Scope of the Investigation

The members of the Grand Jury:

- Made an unannounced visit to the Superior Court on November 21, 2002;
- Received an extensive facilities and grounds tour by the Court Operations Supervisor;
- Were briefed on the various judicial operations of the facility;
- Inspected the building and grounds;
- Spoke informally with various staff members;
- Reviewed previous Grand Jury reports.

Background

The Superior Court Building was built in 1912. Over the years the building has undergone renovations while still trying to maintain the historic construction of the original building.

The current condition of the building exterior is in need of maintenance and repair. While some exterior wall tiles are damaged, the roofline corbel brackets and tiles are loose, missing or in poor repair. Walls and windows on the shaded side of the building have mold and mildew growing and the window and doorframes are rusting. The metal fire escape structure is rusting and its landings are dirty. The plastered-wall area around basement windows is deteriorating. The awning over the rear door entry is damaged.

Parking is very limited and inadequate. Several parking spaces have been removed from use, due to the danger of falling corbel brackets and tiles which further complicates the parking situation.

The premises' interior appear clean but far from adequate for its usage. The security checkpoint is inadequate for the heavy traffic situations. The lobby areas are too small. They are used as waiting area for the courts, conference area for clients/attorneys, juries, and the public. In addition, office areas are extremely cramped and lack storage space. Air circulation is inconsistent and makeshift throughout the building. The heating and cooling system (HVAC) is inadequate during heavy usage. In addition to the HVAC, window heating/cooling units, personal fans and space heaters are also used throughout the building. These conditions,

combined with asbestos in the walls, result in some employees believing the working environment is unhealthy. However, environmental tests have not substantiated these beliefs. Employees are concerned because they believe the restroom configuration results in vandalism by the public and is an inconvenience for them.

Findings

- F1. The roofline corbel brackets and tiles are loose, missing, and/or in poor repair.
- F2. Valuable parking space has been lost, due to the danger of falling corbel brackets and tiles.
- F3. The parking lot is inadequate.
- F4. Mold and mildew are growing on the shaded exterior side of the building walls and windows.
- F5. The door and window frames on the exterior shaded side of the building are rusting.
- F6. The fire escape metal structure is rusting and the landings are dirty.
- F7. The exterior plaster area around basement windows is deteriorating.
- F8. Some exterior wall tiles are damaged.
- F9. The awning over the rear door entry is damaged.
- F10. The handicap sign on the front wall near the sidewalk is bent outward and is a potential liability.
- F11. The security checkpoint is inadequate room for heavy traffic situations.
- F12. The space in the three lobbies is inadequate for current use.
- F13. The office areas are extremely cramped and lack storage space.
- F14. No fire protection sprinkler systems or smoke detectors exist throughout the building.
- F15. Some fire extinguisher locations are not clearly marked.
- F16. No fire drills are held.
- F17. The light diffusers on some lighting fixtures are sagging and ill fitted. In addition, one diffuser is missing in the CASA children's room.

- F18. Air circulation is inconsistent and makeshift throughout the building.
- F19. Several employees are concerned about the perceived unhealthy working environment in the building.
- F20. Employees are concerned that the restroom configuration results in vandalism by the public and inconvenient for them.

Recommendations

- R1. Roofline corbel brackets and tiles should be replaced or repaired.
- R2. Adequate parking should be provided
- R3. Mold and mildew should be removed from the exterior building walls and windows.
- R4. Rusted exterior door and window frames should be properly repaired and maintained.
- R5. Rusted fire escape metal structures should be properly repaired and maintained.
- R6. The exterior plaster area around windows should be properly repaired.
- R7. Damaged exterior tiles should be replaced.
- R8. The rear door awning should be repaired.
- R9. The bent handicap sign on the front wall near the sidewalk should be replaced.
- R10. Fire extinguisher locations should be clearly marked.
- R 11. Fire drills should be periodically conducted.
- R12. The lighting fixtures diffusers should be properly installed and/or replaced as necessary.
- R13. Air circulation should be reviewed to ensure a healthy working environment.
- R14. When juvenile cares are on calendar, restrooms should be monitored.

Responses Required for Findings

F1 through F20

El Dorado County Board of Supervisors
El Dorado County Department of General Services
Chief Executive Officer for Superior Court

Responses Required for Recommendations

R1 through R14

El Dorado County Board of Supervisors
El Dorado County Department of General Services
Chief Executive Officer for Superior Court

**APPENDIX
(INSTRUCTIONS TO
RESPONDENTS)**

Appendix A

Instructions to Respondents

As specified by the California Penal Code, the Final Report of this Grand Jury contains a series of reports on individual investigations and reviews conducted during the Grand Jury's term of office.

Each report of an individual investigation or review contains Findings and Recommendations made by this Grand Jury and names Respondent(s).

Section 933 (b) and (c) of the Penal Code specifies that each Respondent named in this Final Report must respond to the Presiding Judge of the Superior Court for each Finding and each Recommendation pertaining to matters under the Respondent's control.

Presiding Judge Suzanne M. Kingsbury of the El Dorado County Superior Court has directed this Grand Jury to inform each Respondent to forward a written response as specified in Sections 933 and 933.05 of the Penal Code to:

Hon. Jerald Lasarow
Supervising Grand Jury Judge
El Dorado County Superior Court
1354 Johnson Boulevard
So. Lake Tahoe, CA 96150

The written response of each named Respondent will be reprinted in a publication to the citizens of El Dorado County. Each Respondent must organize the written response as follows:

The [*Respondent's Official Title*] responds to the Final Report of the 2000-2001 El Dorado County Grand Jury as follows:

[List Title of Individual Report]

Finding # [*Retype Text of Finding as written in Final Report*]

Response: [*Review California Penal Code Section 933.05 (a) (1) and (2). Respondent must specify with one of three options - a) Respondent agrees with finding, b) Respondent disagrees wholly with finding, or c) Respondent disagrees partially with finding. If Respondent uses options b or c then the Respondent shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.*]

Recommendation # [Retype Text of Recommendation as written in Final Report]

Response: *[Review California Penal Code Section 933.05 (b) (1) - (4). Respondent must specify with one of four options - a) recommendation has been implemented, b) recommendation has not been implemented but will be implementing noting a timeframe, c) recommendation requires further analysis or study noting a timeframe not to exceed 6 months from date Final Report was issued, d) recommendation will not be implemented because it is not warranted or reasonable, with an explanation therefor.]*

Respondent must use the above formats for each separate finding and recommendation, which the Grand Jury's Final Report identifies to the Respondent.

The California Penal Code provides specific legal requirements on each Respondent named in the Grand Jury's Final Report. Applicable Penal Code Sections for responding are reprinted below for reference.

CALIFORNIA PENAL CODE SECTION 933 (b) and (c)

933 (b) 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 recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the Grand Jury has responsibility pursuant to Section 914.1 shall comment within sixty 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 the 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 the 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 in those offices. One copy shall be placed 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.

(c) As used in this section, "agency" includes a department.

CALIFORNIA PENAL CODE SECTION 933.05 (a), (b), (c)

933.05(a) For purposes of subdivision (b) of Section 933, as to each Grand Jury finding, the responding person or entity shall indicate one of the following:

- (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 reasons therefor.

(b) For purposes of subdivision (b) of Section 933, as to each Grand Jury recommendation, the responding person or entity shall report on the following actions:

- (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 recommendation 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 agency or 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 the publication of the Grand Jury Final Report.
- (4)** The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

(c) However, if a finding or recommendation of the Grand Jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or Department Head and the Board of Supervisors shall respond if requested by the Grand Jury, but the response of the Board of Supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or Department Head shall address all aspects of the findings or recommendations affecting his or her agency or department.

