

GRAND JURY REPORT



2012 - 2013

Plumas County Civil Grand Jury

Thank you for the opportunity

As the 2012/2013 Plumas County Grand Jury finishes out its term, we would like to add a personal note to our formal Grand Jury Report.

Throughout these last 12 months, members of the Grand Jury have made it a priority to keep their personal opinions out of every interview, report and discussion. Jurors, who might have a conflict of interest, or even the appearance of a conflict were recused from participation in those investigations; even to the extent that when those items were discussed by the plenary, those jurors left the room.

As a whole, the Grand Jury interviewed more than 100 Plumas County citizens, perused more than 5,000 document pages, toured many County facilities, and attended various Board meetings from Portola to Chester and many locations in between.

The Grand Jury found that overall Plumas County residents love their County. They want to live and work here. They want to enjoy the beauty and recreation Plumas County as to offer. However, there is an overwhelming concern that the dwindling job market and the loss of tourism dollars will continue to contribute to the downward spiral of Plumas County. The County's lack of planning and infrastructure to lure new businesses and tourism to the area has residents concerned about a poor future.

What can we do as residents of Plumas County to contribute to a better County? Have you thought about being a volunteer at a museum, a school, a senior center, or on the Grand Jury? Maybe you could fill a spot on some Board, or attend Board meetings to learn what is going on in the community and to support and keep accountable those serving on various Boards. Do you encourage your family and friends to visit Plumas County? Money is tight for many of us. Could you afford one meal out a month to support a local restaurant? Could you shop at a local business instead of buying everything in Chico, Susanville or Reno?

Plumas County will be what we make it. We hope our work over this past year will enlighten you as to some County aspects and inspire you to take an active part in a Grand Plumas County.

We thank you for the opportunity to serve you.

The 2012/2013 Plumas County Civil Grand Jury

"All that is necessary for the triumph of evil is that good men do nothing."
(Edmund Burke) 1729–1797

2012 / 2013 Plumas County Grand Jury Final Report

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PLUMAS COUNTY CIVIL GRAND JURY ROSTER 2012/2013

We the members of the 2012/2013 Civil Grand Jury are proud to have served on such a worthy assembly. We hope our work will help improve conditions here in Plumas County and we want to thank all of you for entrusting us with this very important task.

Doyle, Dennis	Foreperson	Self Employed	Graeagle
Byrne, Martin	Foreperson /pro tem	Civil Engineer - Retired	Quincy
McNeill, Kyle	Treasurer	Realtor	Chester
White, Cynthia	Correspondence Secretary	Self-Employed	Quincy
Deini, Rebecca	Parliamentarian	Eastern Plumas Hospital	Portola
Hogg, Cindy	Recording Secretary	Head Start Manager	Quincy
Murray, Mark	Sergeant of Arms	Retired Police Officer	Chester
McMurtry, Rodger	Member	Retired	Taylorville
Martinez, Regina	Member	Eastern Plumas Hospital	Portola
Simpton, Robert	Information Technology	Semi-Retired	Clio
Watson, Jeffrey	Member	Plumas National Forest	Quincy
Strate, LaVerne	Member	Self Employed	Chester
Dougan, Mark	Member	Public Health Employee	Clio
Correira, Caroline	Member	Nursing Student	Quincy
Brownrigg, Deborah	Member	Seneca Hospital District	Chester

"Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it is the only thing that ever has." - Margaret Mead



PLUMAS COUNTY GRAND JURY

PO Box 784
Quincy, CA 95971

Caroline Correira

June 3, 2013

Cindy Hogg

Cynthia White

Debbie Brownrigg

Dennis Doyle

Jeffrey Watson

Kyle McNeill

LaVerne Strate

Mark Dougan

Mark Murray

Martin Byrne

Rebecca Deini

Regina Martinez

Robert Simpton

Rodger McMurtry

The Honorable Ira Kaufman
Presiding Judge
Plumas County Superior Court

Re: 2012/2013 Plumas County Grand Jury Final Report

Dear Judge Kaufman,

On behalf of the 2012/2013 Plumas County Grand Jury, I am pleased to present this final report to you and the citizens of Plumas County.

The primary function of the Grand Jury is the examination of all aspects of county government and special districts, seeing that government agencies are being run efficiently, honestly and fairly. We took our job seriously. Members of the Grand Jury worked tirelessly meeting as a panel and in special committees. We toured several county facilities, including the penal institution located in East Quincy. We reviewed thousands of pages of documents and met with or interviewed over sixty agency and departmental representatives and employees. All together thousands of hours were spent in the preparation of the final report.

Each year, the Grand Jury has to choose what issues to address and where to focus its resources to best serve the public. Our goal was to investigate issues that were important to the community and where we thought the Grand Jury could best contribute. We chose a wide range of topics from the vitally important issue of our schoolchildren's safety to mismanagement of Community Service Districts. Not only did we point out shortcomings, but also we made suggestions on how to improve the system. We also gave praise to those departments that are doing a great job. We hope that our suggestions will be heard and implemented.

I am very proud and fortunate to have served as Foreperson of the 2012/2013 Plumas County Grand Jury. Every member of the Grand Jury has been dedicated, dauntless and honorable. It has been a pleasure and honor to serve with them.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Doyle".

Dennis Doyle
Foreperson - 2012/2013 Plumas County Grand Jury

Plumas County Grand Jury

2012/2013 FINAL REPORT DISTRIBUTION LIST

The Honorable Judge Janet Hilde
The Honorable Judge Ira Kaufman
Plumas County Auditor / Controller
Plumas County Board of Supervisors
Plumas County Treasurer / Tax Collector
Plumas County Clerk
Plumas County Counsel
Plumas County District Attorney
Plumas County Court Executive Officer
Plumas County Jail Commander
Plumas County Libraries
Plumas County Sheriff
Plumas County Special District Association
(For distribution to Special Districts)
Plumas County Superintendent of Schools
Plumas County Grand Jury
California Attorney General's Office
California Grand Jurors Association
California State Archivist
Chester Public Utilities District
Grizzly Lake Community Services District
Local Agency Formation Commission (LAFCo)
Smith & Newell CPA's

A complete report is available on the following web site:
<http://www.countyofplumas.com/index.aspx?nid=216>

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A COUNTY STILL STRUGGLING

Plumas County Audit Report

EXECUTIVE SUMMARY:

Plumas County continues to face significant financial challenges as the economy struggles to recover from the recession. Property tax revenues continued their downward trend declining \$450,000 from the previous year. Sales tax revenue and hotel tax revenues continued to increase, but not enough to offset the property tax decrease.

Total County reserves remain positive, although available cash reserves are problematic. In seven of the last eleven years, Plumas County has depleted its reserve (savings) to make ends meet. The General Fund account balance (the County's checking account used to pay bills) continues to decline. In FY 2011/2012, the County's General fund balance declined by \$687,004 as the County continued to spend more than it received.

The State continues to look to local governments to solve its cash flow and revenue problems. Most significantly was the passage of Assembly Bill 109 (AB-109) in 2011. AB-109, also known as Criminal Justice Realignment Act, transferred the responsibility and the cost of housing low risk inmates to local county jails. Plumas County felons who would normally be transferred to a State prison are now incarcerated in the County Jail. AB-109 has placed a substantial burden on Plumas County and it threatens the County's ability to ensure public safety.

The Board of Supervisors and management have made substantial cuts in spending by eliminating or reducing non-essential services, reducing the number of employees, employee's hours and benefits. Additionally, in a major attempt to prevent further overspending, the County took significant action in August 2012 by passing a structurally balanced budget for FY 2011/2012.

Plumas County received an "unqualified opinion" in the independent auditor's report of fiscal year (FY) 2011/2012, which means that the County's accounting requirements and practices were followed correctly and there were no exceptions noted. That is where the good news ends. Plumas County is spending more than it is taking in, and in so doing, it has depleted its reserves, and is the subject of this report.

BACKGROUND:

Section 925 of the California Penal Code requires that the Grand Jury examine the financial accounts and records of the County on an annual basis.

In addition, California Government Code section 25250 requires the Board of Supervisors to conduct an annual audit of all County accounts. An outside independent auditor conducts this audit. Section 926 of the Penal Code allows the Grand Jury to enter into a joint contract with the Board of Supervisors to employ an audit for both of these purposes. As in previous years, the independent audit firm of Smith and Newell of Yuba City, CA performed the audit.

APPROACH:

The Grand Jury felt it was time to report to the citizenry what is really going on with the County’s finances in a manner that could be understood by every reader, professional and laypersons alike.

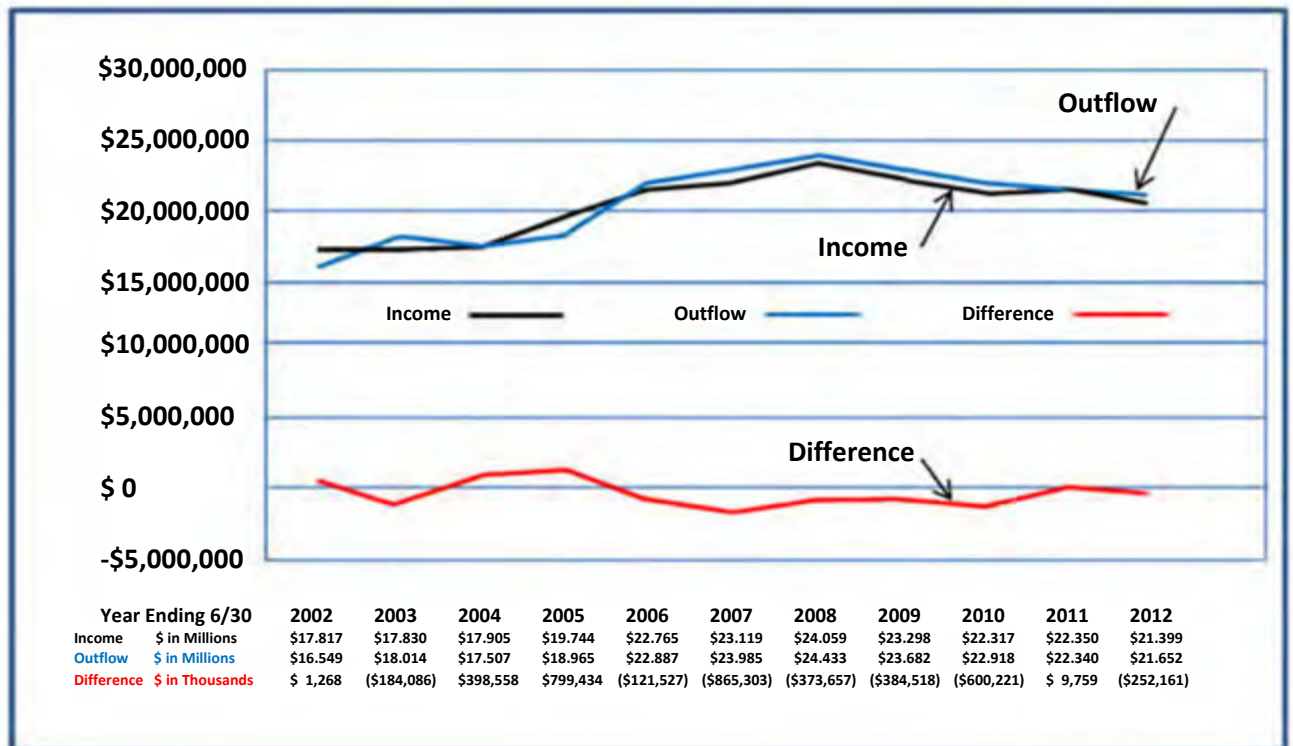
The Grand Jury interviewed and took testimony of the County Auditor, the County’s financial consultant, all members of the County Board of Supervisors (BOS) and a co-owner of the independent audit firm of Smith & Newell.

DISCUSSION:

The **General Fund** is the chief operating fund of the County. It is used in part to pay its bills. During FY 2011/2012, the County’s total General Fund revenues were \$21,399,982 down \$950,503 from the previous year, and yet, expenditures were only down \$688,583 from the previous year. *Herein lies the problem, Plumas County is spending more than it is taking in.* As of June 30, 2012, the General Fund had a remaining balance of \$3,674,622 in the account.

The following chart shows how the County is spending more money than it is taking in.

PLUMAS COUNTY MAIN GENERAL FUND FOR OPERATIONS

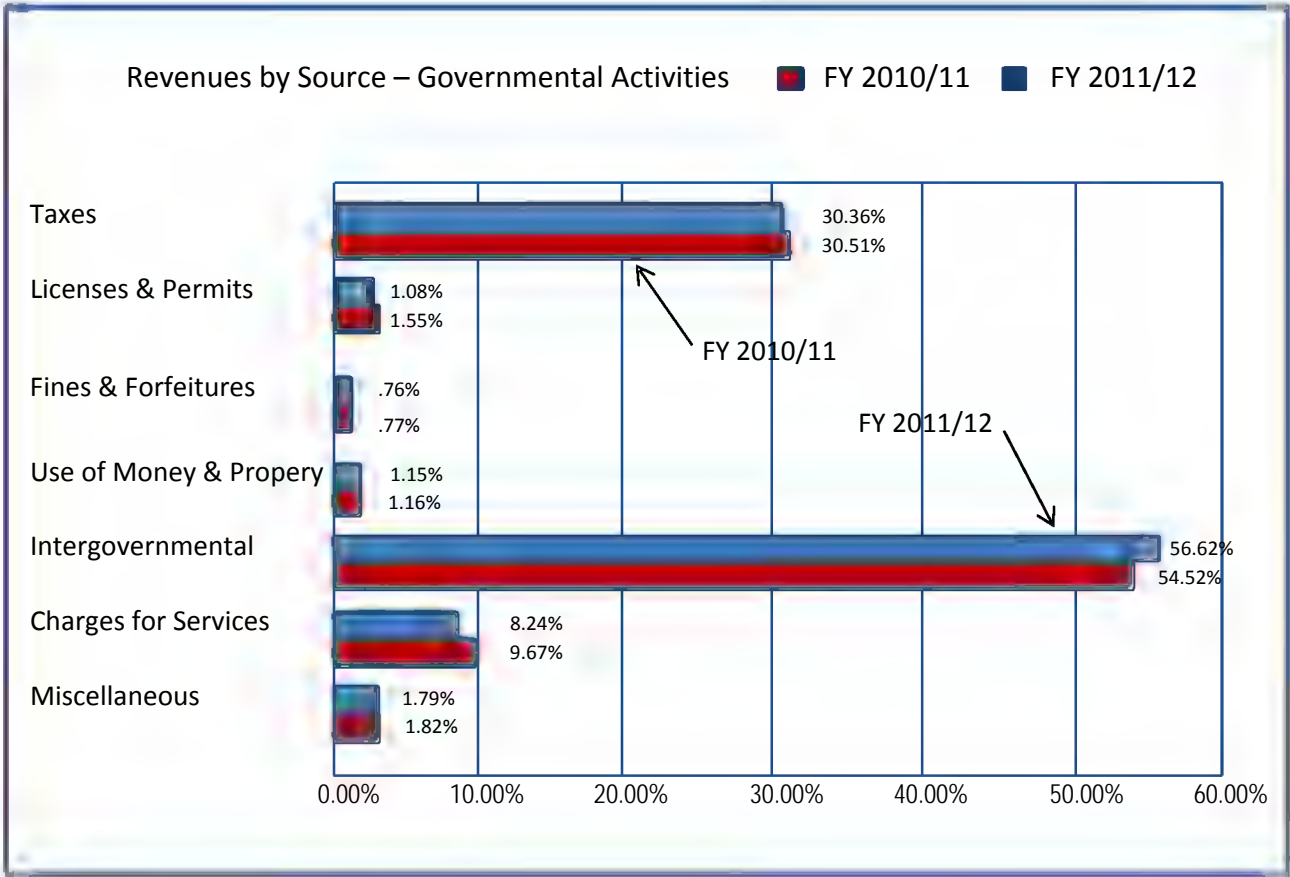


Source: Plumas County Auditor

REVENUES:

Plumas County revenues increased over the previous year by \$436,400 bringing the total income to \$51,927,680. Of that total amount, 54.52% were funds received from State and Federal programs and grants; 30.51% came in from various taxes (Property, Tourist and Sales Taxes, etc.). The remaining 14.97% came in from a wide assortment of charges for licenses, permits, fees and fines. These percentages are the same as the previous year.

The following graph shows an illustrative picture of where the County funds come from.

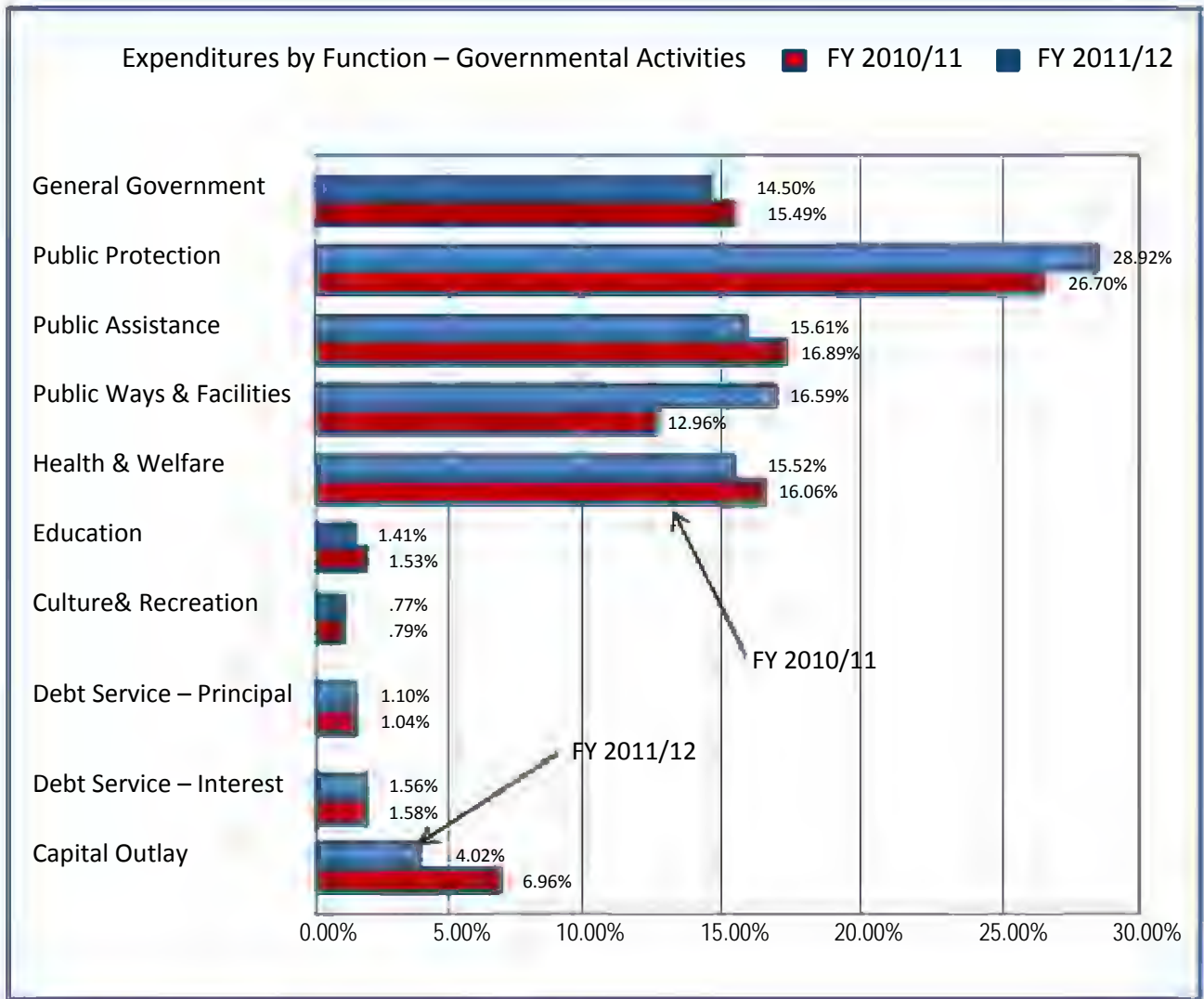


Source: Smith & Newell Audit Report for year ending 6/30/2012

EXPENDITURES:

The County continued to make improvements on the expense side of the ledger spending the largest percentage of its income (28.92%) on Public Safety (Sheriff and Law Enforcement, etc.), an increase of 6.97%. 15.61% went to Public Assistance programs, 15.52% for Health and Welfare services, and 16.59% for Public Works and Facilities. The County spent 14.5% on its own operations, down \$598,823 from last year. The remaining 8.86% was spent on Capital Outlay, Education, Culture & Recreation, and Debt Service, down 3.03% from the previous year.

The following graph shows an illustrative picture of how County funds were spent.



Source: Smith & Newell Audit Report for year ending 6/30/2012

COUNTY ASSETS:

The County's investment in capital assets as of June 30, 2012 amounted to \$51,241,917. This includes a broad range of capital assets including land, infrastructure, (roads and bridges), buildings, tools and equipment.

COUNTY DEBT:

As of June 30, 2012, the County had a total long-term debt outstanding of \$24,414,777 as compared to \$24,773,820 in the prior year. During the year, there was a retirement of debt amounting to \$557,125 and an increase in post-employment benefits of \$198,082.

UNFUNDED LIABILITY:

An unfunded liability is a liability that has no funds put aside to cover its potential expense.

An unfunded liability is what the actuary determines as the cost to cover shortfalls from market losses, demographic changes, overly optimistic investment returns by the pension plan administrator or other benefit improvements that were not covered by the contribution rates collected from the employee or the employer.

The County has a huge unfunded liability in its Retiree Health Benefit program. For years, the program was funded by returns from investments in Stocks, Bonds and other investments. With the poor economy, these investments have not met their normal return and therefore the resulting shortfall is left to the County.

Under current policies, a County employee's sick time is accrued from year to year, and when an employee retires, a percentage of that sick time, depending upon their length of service, is paid to the retiring employee. This is as an additional benefit to their retirement plan, and puts a financial burden on the unfunded liability account.

FINANCIAL HIGHLIGHTS:

- The County's assets exceeded liabilities at the close of FY 2011/2012 by \$72,318,722 (net assets). Of this amount, \$85,520 is unrestricted and may be used to meet ongoing obligations. \$36,829,235 is restricted for specific purposes, and \$35,403,967 is invested in capital assets.
- The County's governmental funds (funds received from State and Federal sources) increased by \$1,168,570 in FY 2011/2012 to a total of \$39,394,275.
- The County's total reserves remain healthy, but the General Fund reserve (savings) is declining. The County in essence eliminated the Unassigned Funds account by decreased its balance to zero.

- The County's investment in capital assets increased by \$815,529. The increase was primarily because of newly added assets within the Sheriff's Department. Total added assets were greater than total depreciation.
- The County's total long-term debt decreased by \$359,043 in comparison with the prior year.

FINDINGS:

F1. The audit found four recurring deficiencies. These are repeats of prior year findings.

- a. Lack of Timely Processing: Disbursements were paid in excess of 30 days past the invoice date of the vendor billing. The Auditor staff was not able to perform this function in a timely manner due to the departments not submitting claims for payment to the Auditor's office in a timely manner.
- b. Sheriff Inmate Welfare Reconciliation: Although the Inmate Trust bank account is being reconciled to the accounting records on a monthly basis, the balance held in the account does not appear to be reconciled to an open listing of balances held for each inmate. The County could not provide a listing of balances held for inmates that reconciled to the bank balance.
- c. Compensated Absences: For the close of FY 2011/2012, the audit exposed a negative balance of \$25,202 in the County's Compensated Absences Account. In simple terms, the County paid out over \$25k to employees for vacation time, leave time, and comp time before the benefits were earned.
- d. Risk Management – Landfill: The County does not have adequate insurance coverage for the landfill.

F2. The audit found two new items requiring correction this year:

- a. Outside Bank Accounts: There is an inadequate review of all outside bank accounts. Various departments of the County hold bank accounts outside the County Treasury for which the purpose of these accounts is to collect credit card payments. There are several accounts that the County Auditor Controller's office has not been obtaining monthly bank statements and reconciliations from the departments and the reconciled balance for one bank account had not been recorded on the general ledger of the County.

Animal Control: There is a lack of controls within the Animal Control department and department employees are not following policies and procedures. Even though the Animal Control department is not authorized to accept cash, the department still accepts cash and an employee writes a personal check to cover the amount of cash received, deposits the personal check with department deposit, and takes the cash. Good internal control requires proper cash handling. The risk of errors or irregularities is increased when department employees are not following proper policies and procedures.

- F3. The General Fund's Unassigned Fund balance is down from \$410,299 in 2011 to zero as of June 30, 2012.
- F4. The County's Reserve Fund has been used to cover temporary shortfalls and to pay bills. GASB 54 (Governmental Accounting Standards Board) calls for a target balance of 8% of the previous year's General Fund revenues, or a minimum of \$2 million to be in the Reserve Fund account. The Reserve Fund balance was \$454,253 as of June 30, 2012.
- F5. Over the last 11 years, the County has spent on average \$397,353 more per year from the General Fund than it is taking in.
- F6. The County Auditor reported that the County has not been funding its Retiree Health Benefit Program. As such, the potential liability to the County as of this writing is approximately \$5.4 million dollars.

RECOMMENDATIONS:

- R1. The Grand Jury recommends that the County immediately correct the deficiencies found during the audit. These are repeats of prior year findings.
- a. Modify procedures to ensure that County departments submit invoices to the Auditor for processing and payment in a timely manner.
 - b. Reconcile the Inmate Trust bank account to an open listing of balances held by each inmate on a monthly basis. The detailed listing of inmate balances should be printed and maintained as an audit trail showing that this procedure was performed.
 - c. Review balances of compensated leave on a regular basis to determine that employees are not being paid for more time than what has accrued.
 - d. Maintain adequate insurance coverage for the landfill to minimize the risk of loss.
 - e. Take steps to re-negotiate its employee retirement and sick leave policies to be more in line with other counties of similar size and population.
- R2. The County needs to correct the deficiencies found during the audit.
- a. Record on the County general ledger all bank accounts in the County's name, reconcile all outside bank accounts, and forward the information to the Auditor Controller monthly.
 - b. All County departments must follow County policies and procedures for cash handling.
 - c. All department employees must follow policies and procedures.

CONCLUSION:**Turning the Ship Around**

For the past several years, Plumas County has shown little interest in tackling the County's financial problems and getting its fiscal house in order. It seemed the attitude that prevailed from the Board of Supervisors all the way down to every department was, "we just have to hang in there for a while, get by with less, and all will be right again." This attitude resulted in the County spending more on public services and its own processes than it was taking in.

During these years, Plumas County has shown a lack of cohesive teamwork with each department competing with other departments for the limited funding. In simple terms, not working together, but fighting together. This conflict was in fact the major reason the previous County Auditor Controller resigned in early 2012.

The Grand Jury is pleased to report that there is a new attitude coming to the fore in Plumas County. It is an attitude of determination and self-responsibility. This is good to see. Perhaps last year's stinging report from the Grand Jury had a positive effect. No one knows for sure, but there is definitely a new attitude in the halls of the County Courthouse these days.

The transition from not taking responsibility to one of shared responsibility was not easy. This is to be expected when any type of positive change occurs. Positive and effective change is always met with resistance, from within and from without. However, to the County's credit, it seems to have come thru this rough period intact, and is now on a new path of teamwork and constructive problem solving. This does not mean that all is well and no problems exist. Plumas County has monumental challenges that must be met in the coming years. The County must be determined to maintain conservative administrative practices regarding the County's financial management in order to avoid further erosion of its economic base.

This report is focused only on the audit report for FY 2011/2012, and does not show the positive changes that are taking place behind the scenes this year. The current fiscal year (FY 2012/2013) is the first year in recent memory in which the County is operating under a balanced budget. In August 2012 with the implementation of several budget workshops and the help of a sharp and strong local budget consultant; a balanced budget was hammered out.

The Grand Jury has no audit report information that confirms this, but according to the Plumas County Auditor, the fiscal bleeding appears to have stopped and one can hope that next year's Grand Jury report will show that the County has got its fiscal house in order.

Although the County is still in poor financial shape, it seems the ship is turning around and heading in the right direction.

REQUEST FOR RESPONSES:

Pursuant to Penal Code section 933.05, the Grand Jury requests responses as follows:
From the following governing bodies:

- The Plumas County Board of Supervisors

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

GLOSSARY of TERMS:

GASB 54

The Governmental Accounting Standards Board (GASB) is an independent, not for profit organization that was organized in 1984. GASB sets standards of financial accounting and reporting for state and local governmental entities. Its standards guide the preparation of external financial reports of those governmental entities.

CONTINGENCY FUND:

Contingency funds are to be used only for unanticipated expenses... big or small. County-level emergencies like an earthquake, tornado, a roof caving in or replacing a damaged vehicle are examples where Contingency Funds can be used. Contingency Funds are also there for on-going, day-to-day cash flow shortages

RESERVE FUND:

Reserve Funds are funds reserved for onetime expenses only.

Reserves are not to be used for on-going, day-to-day expenses.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.
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BETTER SAFE THAN SORRY

Plumas County School Safety Report

EXECUTIVE SUMMARY:

The 2012/2013, Plumas County Grand Jury was impressed with the due-diligence put forth in the area of student safety by personnel at each school within the Plumas Unified School District. The personal responsibility demonstrated by members of the school staff was found to be exemplary. These dedicated men and women entered into the field of education, looking to enrich the minds of our children, and now, in addition to their growing day-to-day responsibilities, they have to carry the heavy burden of the safety of every child and adult at those schools.

In addition to the general guidance provided by the District, school personnel have implemented Comprehensive Safe School Plans (CSSP), which contain systematic procedures, unique to each individual school site. School personnel take lead roles on Safe School Leadership Teams (SSLT) which are now in place to take charge in an emergency, respond effectively, protect the occupants of the facility and reduce the risk of physical injury, property damage and business interruption.

Collaboration between school personnel, law enforcement and other pertinent agencies is occurring. Law enforcement personnel are welcomed and encouraged to visit school sites on a regular basis. Schools are continuing to move in the right direction towards student safety.

BACKGROUND:

The Grand Jury decided to focus on issues concerning the Plumas Unified School District (PUSD) that were not directly in the spot light of the local media and concerned citizens. Although the issues of budget constraints and cuts throughout the District are a concern, the Grand Jury acknowledged the issues were receiving much needed attention by the School Board, Administration, media and the Public. Concerns of the Grand Jury began to form around the safety of the children within our community at our local school sites. Thus, safety of our children at the schools in our communities throughout Plumas County became the focus of the 2012/2013 Plumas County Grand Jury.

APPROACH:

The Grand Jury began its investigation by requesting PUSD's Emergency Action Plan, which indicated it was "Updated: September 2005." Following a review of the plan, the committee interviewed a variety of school personnel regarding the safety procedures at each Elementary and Jr/Sr High School location within the county. The focus was to ensure a system of procedures were in place and followed consistently at each location and modified as needed in order to ensure safety of personnel and students at each unique location.

The Grand Jury asked for and received the Emergency Action Plan from the School District. It was last updated in September 2005, nearly eight years ago. The plan was not site specific and appeared to be more of a guide rather than a plan. With such a vast amount of time since the last update and the plan appearing so general, the Grand Jury felt compelled to review school safety at each Elementary and Jr/Sr High School site.

Additionally, the Grand Jury reviewed the 2010/2011 Grand Jury Report related to School Safety Policy Reform. The report was in response to a situation, which occurred at the Quincy Elementary School. That Grand Jury found School Officials had acted in a responsible manner to correct that situation.

DISCUSSION:

Emergency Action Plan(s)

Members of the Grand Jury were quite surprised by the outdated Emergency Action Plan (EAP) that was received from the District. The date noted on the EAP as an update was September 2005. The plan included out of date Emergency Phone Numbers and radio stations and lack of detailed procedures.

The procedures of most concern included:

- Minimal Emergency Supplies Checklist. The list appears minimal and no suggested quantities are listed.
- Gun/Weapon on Campus procedure lacks substance. The procedure loosely gives directions to send students to the office to report an incident and does not allow for school personnel to lockdown campus without approval from the District.
- Armed Intruder/Shooting procedure lacks substance.
- List of radio stations to provide information to communities is incorrect.

The Grand Jury then received a newer version of the EAP, updated February 2013. Upon review of the newly updated version, the Grand Jury noted the following corrections:

- Emergency Phone Numbers
- Extensive Emergency Supplies Checklist, quantities listed.

Additionally, the Grand Jury was impressed with the revisions made to the:

- Armed Intruder/Shooting procedure revised to include -
 - Evacuate school, if possible, new to procedure.
 - If evacuation not possible, expanded instructions for lock down.
 - Additional instructions for teachers and students regarding safety and security of site.
 - Activate Incident Command instructions.
 - Items listed "In preparation for an Armed Intruder/Shooting incident," including Parents to be informed of -
 - 1) Report-in phone number
 - 2) Student release procedure
 - 3) Location of off-campus evacuation center(s)
 - 4) Law enforcement's protocol to immediately shoot without warning any armed adults on campus (no parent armed rescue attempts.)

- Pandemic procedure added.
- School closure procedure expanded to include direction to school administrators. (As related to weather, road, water and electric conditions.)
- Procedure regarding Alternate Evacuation Site new to Evacuation Procedures.

There was no change made to the Gun/Weapon on Campus procedure.

Comprehensive Safe School Plan

All school sites have a Comprehensive Safe School Plan (CSSP) in place and are submitted to the District annually. The plan indicates its purpose is to provide guidance and direction to Principals, faculty and staff who have Emergency Management Responsibilities (EMR). The Emergency Response Plan along with the School CSSP shall be used during an emergency incident involving a PUSD school facility.

Furthermore, the plan states: The school site Safe School Leadership Team (SSLT) carries out the Field Response level of crisis and emergency management, the District School Safety Team functions at the Local Government level in this system. By organizing our crisis response plans according to Standardized Emergency Management System (SEMS), both school sites and the District are positioned to integrate services when an incident occurs on an area, regional or state level. By standardizing key elements of the emergency management system, SEMS is intended to:

- Facilitate the flow of information within and between levels of the system.
- Facilitate coordination among all responding agencies.

Use of SEMS will improve the mobilization, deployment, utilization, tracking, and demobilization of needed mutual aid resources. Utilization of SEMS will reduce the incident of poor coordination and communications, and reduce resource-ordering duplication on multi-agency and multi-jurisdiction responses. SEMS is designed to be flexible and adaptable to varied disasters that occur in California, and to the needs of all emergency responders.

The Grand Jury Investigation Found the Following at School Sites

All school sites have Safe School Leadership Team (SSLT) flow chart in place, which includes names of staff persons and SSLT position titles. Phone trees are included to ensure communication with all staff personnel, if necessary. Teams of staff members are in place and trained in the areas of First Aid and CPR. Additionally, a team is established to coordinate Student Release, if needed.

The plans specify that the Incident Commander for the SSLT ensure that teachers are trained to carry out responsibilities during disaster and drill procedures and encourage teachers to work in teams through a buddy system. During interviews the Grand Jury found that this requirement was not being implemented at all sites. Personnel were not able to demonstrate and/or articulate that there is training to carry out their responsibilities assigned to them as a member of the SSLT, or that a buddy system was in place.

Although each school site has an Evacuation Plan in place, not all sites have secured an Off-Campus Evacuation Center. Without a location in place, items on the evacuation checklist cannot be completed.

The Grand Jury found the same system for warning signals to be in place at each school site. All staff very clearly articulated the system in place, which utilizes each site's bell system, to warn staff and students to an emergency. Personnel also brought up concerns with the manual bell systems and the amount of strength required sounding the bells. Members of the Grand Jury found this to be a great asset to the plans in place. For students and staff that may move throughout the District, having the same warning signals in place at each site is very valuable to each person's safety.

Events that may occur at school sites are categorized into Codes. Schools have demonstrated that code procedures are in place for different events that may occur, such as fire, chemical spill on campus, earthquake, fallen aircraft, possible explosion, tornado/severe storm, emergency medical care, armed intruder and hostage crisis. Personnel walked Grand Jury members through the procedures for each Code and the number of times drills for each Code were practiced at each school.

Onsite communication radios are provided to each school site. The radios may be used to communicate with the District, which is an asset to the communication system between school sites and the District. Additional radios at each site would enhance the communication throughout the District.

The District will find many of its greatest assets to be within. School personnel expressed many ideas to the Grand Jury to improve school safety unique to their individual school location. Round table discussions are occurring with personnel, law enforcement and pertinent agencies focusing on school safety. Unfortunately, these meetings are not occurring on a regular or frequent basis. However, this is a step in the right direction.

FINDINGS:

- F1. The School Administration does not update the Emergency Action Plan on a regular basis.
- F2. School's Emergency Supplies not inventoried on a regular schedule.
- F3. Members of the Safe School Leadership Team do not review their individual duties, at time of assignment.
- F4. Not all school locations have completed lockdown drills involving student participation.
- F5. Off-campus Evacuation Centers not secured for each school location.
- F6. Lockdown drills, which occur for armed intruder and hostage crisis events, have not occurred at all sites with school personnel and students.

RECOMMENDATIONS:

- R1. Each member of the Safe School Leadership Team is to review the responsibilities for the position they are assigned to ensure they fully understand and accept the responsibility of the position.
- R2. Provide training, if needed, to each member of the Safe School Leadership Team.
- R3. Schools establish regular system to inventory and restock Emergency Supplies.
- R4. Revise Gun/Weapon on Campus procedure to include more detail and ensure student and personnel safety.
- R5. Plan in place to secure funding for automated alert system at each Elementary and Jr/Sr High Schools.
- R6. The District requires a timeline for establishing an Off-campus Evacuation Center.
- R7. The District requires all drills occur, at least once with all school personnel and students, within the first 90 days of the start of school.
- R8. Provide additional onsite communication radios to school sites, particularly to classrooms located on the perimeter of each campus.
- R9. Establish regular schedule to collaborate with school personnel, law enforcement and pertinent agencies regarding school safety.

REQUEST FOR RESPONSES:

Pursuant to Penal code section 933.05, the grand jury requests responses as follows:

From the following governing bodies:

- The Plumas County Grand Jury requests a response, within 90 days from issuance of this report, from **the Board of Education**
- The Plumas County Grand Jury requests a response, within 90 days from issuance of this report, from **the Superintendent of Schools**

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.
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Why the Big Difference?

Plumas County Legal Salary Report

EXECUTIVE SUMMARY:

The District Attorney and County Counsel are two valuable resources to Plumas County. While both departments operate in the legal arena, they are unique in the services they provide the County and its citizens.

County Counsel

The County Counsel is the attorney for the County. County Counsel represents the Board of Supervisors and provides civil legal counsel and advice to the Departments of Plumas County.

District Attorney

The District Attorney is the chief law enforcement officer in the County. While a District Attorney's duties are not limited to criminal prosecution, California law provides that the District Attorney's most essential duty is investigating and prosecuting criminal offenses on behalf of the citizens of the County.

These two important positions, along with the Sheriff's Department are responsible in great part for the security and safety of all County employees and the residents of Plumas County.

Did the Board of Supervisors make decisions regarding salary for these two critical positions after executing a formal project management process? Does the Board of Supervisors place more value on protecting themselves against litigation than it does ensuring the safety and security of the average citizen?

The Grand Jury decided to investigate this issue and report on the disparity between the administrative salaries of these two important Departments and is therefore the subject of this report.

BACKGROUND:

In August of 2010, the Board of Supervisors (BoS) elected to hire a County Counsel and discontinue utilizing contracted counsel. The County had utilized the services of a contract counsel (Cota Duncan & Cole and Jones & Mayer) for approximately eight (8) months, after which attorney James Reichle contracted to perform County Counsel duties until he was appointed County Counsel in August of 2009. Brian Morris, Deputy County Counsel assisted as County Counsel between March of 2010 and August of 2010.

Contract counsel cost the county approximately \$300,000 for the period August 26, 2008 through June 23, 2009. The BoS, in an effort to cut costs and find counsel which would be more accessible, decided to hire a County Counsel hoping to pay much less for the valuable service.

The BoS and the County Administrative Officer (CAO) determined the salary range required to attract quality candidates, hired the recruiting firm Ralph Andersen & Associates and “flew” the position at the \$168,000 top salary range. The BoS did not use benchmarks to determine a salary range but instead used their best guess determining a number which would attract the interest of a potential applicant. Five candidates were interviewed for the position, including the current County Counsel.

The Plumas County job descriptions of March 2010 indicated that the District Attorney was to be compensated at \$95,724 per year and County Counsel was to be compensated at \$82,008 per year. In fact, County Counsel started his service at \$150,000 per year; received a raise of \$10,000 after the first year (\$5,000 after six months and \$5,000 after the first year) and then, subject to a satisfactory performance evaluation, a 5% raise after the second year; bringing his salary up to \$168,000 per year after two years of service. In comparison, the District Attorney has received a standard longevity increase and after nine (9) years of service is currently being compensated \$103,000 per year.

APPROACH:

The Grand Jury compared Plumas County data with data of other counties of similar size in California and additionally, with the four counties in our immediate vicinity. The Grand Jury made some assumptions in order to make salary comparisons. We assumed that in general, county population would be the most significant factor determining the salaries and work loads of the CC and DA in each county. The statistical frequency of DA cases prosecuted would be based upon population and, to some extent upon other demographic factors which we assumed to be similar for most of the counties surveyed. Likewise, the number of county business transactions, employee issues and frequency of litigation cases were assumed to be based upon the size of the county. Of course, the size of the staff in each department (CC and DA) would have an effect on the work load. It is assumed that the population of the county would also generally determine the revenue for the county, and therefore would influence the possible salary range for the CC and DA.

Work load for the District Attorney’s office was determined by the total number of cases prosecuted by the DA’s office divided by the number of prosecutors handling those cases (See Appendix A). Work load for the County Counsel’s office, for lack of specific data to the contrary, is assumed to be the same for each county based upon the CC’s job description.

The Grand Jury looked at job descriptions, budgeting, work load, longevity and salary ranges for both of the Plumas County positions. We compared work load, job description and compensation for the CC and DA to those of the CC and DA in other California counties of similar population and to those counties immediately adjacent to Plumas County.

DISCUSSION:

The pay disparity between Plumas County's County Counsel (CC) and District Attorney (DA) is 163%, and is the greatest among the twelve counties we looked at. No other county in the study pays their DA less than Plumas County and only Mono and Butte counties pay their CC more than Plumas County.

The County Counsel in Plumas County serves as legal counsel for the County, advising the Board of Supervisors and all County Departments as their needs dictate. The CC basically protects the County from needless and excessive litigation costs. Additionally, the County Counsel serves as the Chief Negotiations Officer for the County, negotiating employee labor and salary issues.

The Plumas County District Attorney (DA) is responsible for helping to ensure the safety of all Plumas County residents. This requires prosecuting crime, representing the County in cases against criminals, authorizing search warrants, maintaining the felony calendar, juvenile and drug court calendars and in-custody charging; in essence maintaining public safety.

The District Attorney's salary is \$34,005 *below* the average salary of District Attorneys in the counties we looked at (See Appendix B). The County Counsel's salary is \$22,141 *above* the average salary of County Counsels in the counties we looked at.

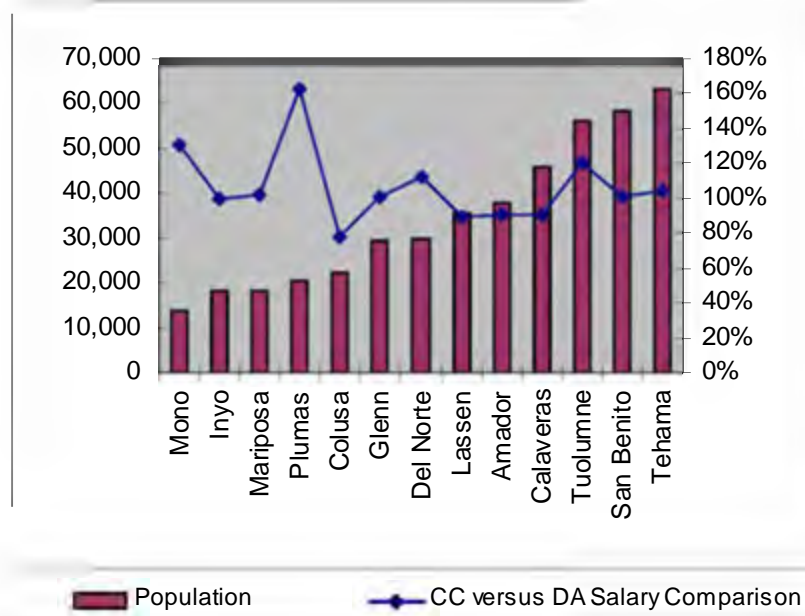
While the Grand Jury does not wish to diminish the role of either of these positions, we are concerned about the pay disparity and the fact that budget cuts were apparently heavy in the DA's office while funds were increased for the CC's office. The budgeted salaries and benefits for the County Counsel's office for the fiscal year 2011 – 2012 were up 30% from the previous year. The salaries and benefits for the District Attorney's office were down 16% from the previous year. The fiscal year 2011 – 2012 budget reduced the DA's office by 0.25 positions while the CC's office was allowed to keep their 3 positions.

This Grand Jury understands that the budgeting process is complex and that utilizing simplified comparisons could appear irresponsible. The simple fact is that the District Attorney's office appears to have been asked to do more with less while the County Counsel's office appears to be receiving more resources.

In 2012 the DA's office handled approximately 800 misdemeanors and 200 felonies, relying on two prosecutors to manage the entire work load; the DA and the Assistant DA. Counties of similar size and workload have more prosecutors handling the case load. Further monetary cuts have left the District Attorney's office with \$5,100 to prosecute cases for the rest of the fiscal year. This \$5,100 must cover all outside expenses such as expert witnesses, outside investigations, etc.

County Population vs. Salary Differences

<u>County</u>	<u>Approximated Population</u>	<u>DA Salary</u>	<u>CC Salary</u>	<u>CC vs DA (%)</u>
Mono	14,000	151,621	177,314	117%
Mariposa	18,000	115,183	117,356	102%
Inyo	19,000	144,392	147,095	102%
Plumas	20,000	103,000	168,000	163%
Colusa	22,000	179,509	154,015	86%
Glenn	28,000	112,158	114,594	102%
Lassen	34,000	112,885	134,732	119%
Calaveras	45,000	115,698	108,915	94%
San Benito	56,000	153,354	160,235	104%
Tehama	64,000	118,207	126,760	107%
Shasta	178,000	143,087	140,875	98%
Butte	220,000	194,963	200,422	103%



Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.

FINDINGS:

- F1. It is apparent to this Grand Jury that there is, indeed, a significant compensation disparity between the Plumas County Counsel and the Plumas County District Attorney.
- F2. Not only is there a significant difference between the salaries of the DA and the CC, the DA salary is woefully below the average for a county of our size and the CC is considerably higher than the average for a county of our size.
- F3. The size of the staff in the District Attorney's Office, specifically the number of prosecutors available to prosecute crime is inadequate.

RECOMMENDATIONS:

- R1. The 2012-2013 Plumas County Civil Grand Jury recommends that the Board of Supervisors collaborate with the DA's office to determine the extent of the need for added staff.
- R2. Understanding that county budget constraints prohibit pay hikes at a time other county employees are taking pay cuts, the 2012-2013 Plumas County Grand Jury recommends that the Board of Supervisors takes every opportunity to adjust the salary of the District Attorney to a level commensurate with that of other counties of our size. As a minimum, the next budget year should allow for a 10% (approximately \$10,300) raise for the District Attorney, which would put him still below the average, but would make a significant step to resolve the disparity.
- R3. The 2012-2013 Plumas County Civil Grand Jury recommends that, before the next contract period, the Board of Supervisors considers adjusting the salary of the County Counsel down 10% (approximately \$16,800), which would continue to put him above the local counties average.

REQUEST FOR RESPONSES:

Pursuant to Penal code section 933.05, the grand jury requests responses as follows:

From the following governing bodies:

- Plumas County Board of Supervisors

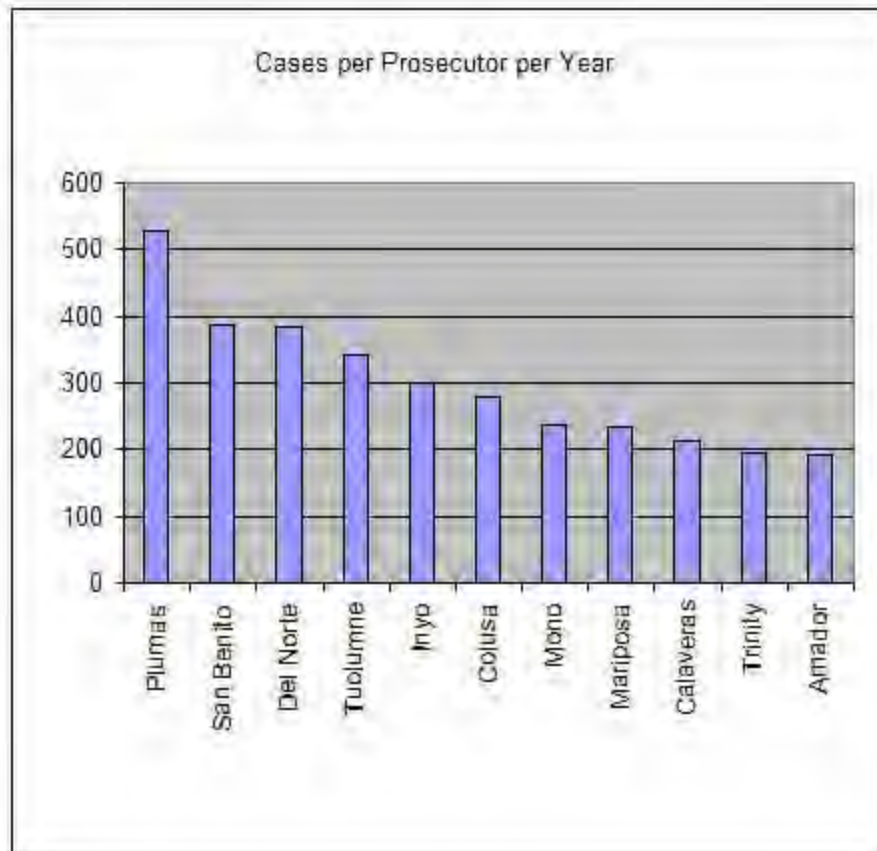
The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

APPENDICES:

Appendix A

District Attorney Cases per Prosecutor per Year

<u>County</u>	<u>Cases per Prosecutor per Year</u>
<i>Plumas</i>	529
San Benito	387
Del Norte	383
Tuolumne	342
Inyo	301
Colusa	280
Mono	236
Mariposa	234
Calaveras	214
Trinity	196
Amador	192

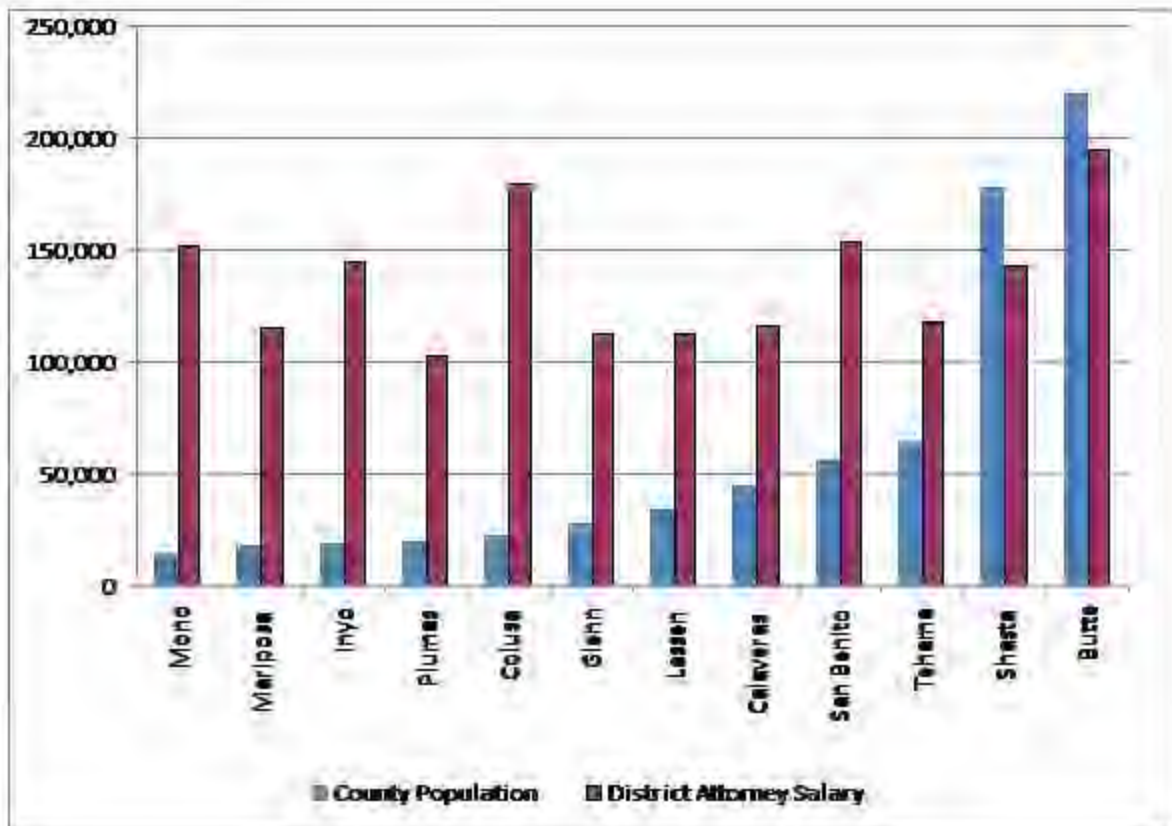


Appendix B

Population and Salary Comparisons

District Attorney vs. County Counsel

<u>County</u>	<u>Approximated Population</u>	<u>DA Salary</u>	<u>CC Salary</u>	<u>CC vs DA (%)</u>
Mono	14,000	151,621	177,314	117%
Mariposa	18,000	115,183	117,356	102%
Inyo	19,000	144,392	147,095	102%
Plumas	20,000	103,000	168,000	163%
Colusa	22,000	179,509	154,015	86%
Glenn	28,000	112,158	114,594	102%
Lassen	34,000	112,885	134,732	119%
Calaveras	45,000	115,698	108,915	94%
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Shasta	178,000	143,087	140,875	98%
Butte	220,000	194,963	200,422	103%



BIBLIOGRAPHY:

<http://quickfacts.census.gov/qfd/states/06/06105.html> (United States Censes Bureau county population estimates from 2011)

http://publicpay.ca.gov/Reports/SearchNew.aspx?search=county+counsel#P3eb193d4bdd44b669e3e2f96a51739a3_4_oHit0 (Government Compensation in California – John Chiang State Controller’s Office) CC salaries in 2011

Fiscal Year 2010 – 2011 Plumas County Budget Worksheet Department Detail

Fiscal Year 2011 – 2012 Plumas County Budget Worksheet Department Detail

<http://www.inyocounty.us/SalarySchedule/Simple.php> County of Inyo, Salary Schedule – August 1, 2012

<http://www.mariposacounty.org/index.aspx?NID=72> Mariposa County Official Website – County Counsel

http://www.countyofglenn.net/govt/departments/county_counsel/ County of Glenn – County Counsel

<http://www.csac.counties.org/job-opportunity/county-counsel-1> County Counsel Colusa County

THE THIN BLUE LINE GETS THINNER

Plumas County Jail Report

EXECUTIVE SUMMARY:

The current Plumas County Jail was built in the early 1970's to house the Sheriff's Administration Office and the County Jail. Over the years it quickly became inadequate and overcrowded. In 1991, the Sheriff's Admin Office moved to a new location down the street to make room for more inmates, and the old administration areas of the jail were then modified to house a growing inmate population.

The building is one of only 3 linear, cinderblock jail structures remaining in the state. This antiquated type of construction is inefficient, costly to maintain and has numerous safety and liability issues. In 1989, Walter Pederson and Cheryl Preston filed a class action law suit in US Federal Court against the County of Plumas citing Injunctive Relief for inmate rights, privileges and immunities arising under the First, Fourth, Eighth and Fourteenth Amendments of the US Constitution. In February 1992, a settlement was reached between the County and the plaintiffs. The decision that was handed down by the Court is known as the "Federal Consent Decree" and has no expiration date. The Consent Decree allows the jail to operate provided specific conditions and rules are followed. The Decree is 17 pages in length and contains a number of issues summarized in this report.

The Recitals of the Decree sets rules for the Correctional Officer's staffing; inmates personal property storage, jail clothing, food prep, indoor and outdoor exercise time, access to dental and medical care, and most importantly a maximum population not to exceed 37 inmates. The Decree also includes establishing policies and procedures regarding mental health, access to a law library, reading material, telephones and television. In addition, female inmates were awarded equal access to programs and work opportunities as was given to male inmates.

At the time of this writing in April 2013, the Consent Decree had recently been lifted allowing the capacity of the jail to increase from 37 to 67. As a result of this action, inmate population will increase while there remains a serious lack of staffing and funding to house, feed and medically provide for the increase, resulting in a decrease of inmate and officer safety.

Assembly Bill 109 (AB-109) was signed into law by Governor Brown on April 5, 2011 and became effective on October 1, 2011. AB-109 (See Attachment AB-109) was enacted to reduce overcrowding in California state prisons. This is accomplished by housing specific high risk offenders in local and county jails instead of State prisons.

In Grand Jury interviews of the Board of Supervisors, it was found that the majority of the Board had not made a Jail tour, ride-along, or communications center tour within the past 12 months. In interviews with the Board of Supervisors, the majority of them did not have Public Safety as number one priority.

BACKGROUND:

California law mandates that the Civil Grand Jury visit correctional facilities within the county each year. This is covered within section 919 of the California Penal Code sub section (b) "The Grand Jury shall inquire into the condition and management of the public prisons within the county."

The Plumas County Sheriff's office is the primary law enforcement agency for the county. In addition to patrol and investigations, the Sheriff's office is also responsible for serving civil papers. The Sheriff's office also has divisions including animal control, search and rescue, coroner's bureau, court security, victim witness, law and fire dispatch and corrections (jail). The Plumas County Jail was designed to house both male and female inmates, some awaiting trial and some convicted and sentenced up to a year of incarceration for misdemeanor and specific felony offenses. With the passage of AB-109 in 2011, persons convicted of specific felonies within Plumas County are now serving multiple year sentences in County Jail rather than State Prison.

APPROACH:

The Plumas County Grand Jury made the first of several jail tours in November of 2012. The Grand Jury was escorted through the facility by the Sheriff and the Jail Commander. Representatives from the County Facilities Department as well as the County's Insurance representative were also present. The Grand Jury interviewed the Jail Commander, the Sheriff and the Assistant Sheriff multiple times during the course of our investigation. The Grand Jury also toured the proposed new jail site, commonly known as the Trilogy Building near the Animal Shelter (Animal Control) in East Quincy.

On a visit to the jail on February 19, 2013, the Grand Jury found the jail to be near its capacity of 37, with 34 inmates. This included 8 sentenced felons (AB-109) and 14 un-sentenced felons, plus one high risk inmate. There were 6 sentenced misdemeanants and 2 un-sentenced inmates. Also included within the inmate populations were 4 females, 3 of which were un-sentenced felons and one was serving time for a misdemeanor.

DISCUSSION:

The Jail facility is over 40 years old. It has been renovated, modified, added to, and patched in an attempt to meet the Federal Consent Decree, the County's changing inmate demographics, and State Law.

Due to the facilities age, heating and air conditioning systems are inefficient and costly to use and maintain. The heating, ventilation and air conditioning system is a "closed" system which could accelerate the spread of air-borne pathogens. Maintenance issues are frequent and difficult resulting in even higher costs as time goes on.

The south exercise yard is in close proximity to a youth sports field; thus causing concern of potential visual and verbal communication between inmates and field users. Public right-of-ways are within five feet of the building's perimeter adding to gross inadequacies with building and perimeter security, details of which cannot be disclosed here.

Portions of the Jail were never designed or built for housing inmates. These areas were former office space when the Sheriff's Administration was located in the building. As a result, the jail lacks segregation between sentenced and un-sentenced inmates, and as the female inmate population has increased, segregation from male inmates is challenging and a growing problem.

The Corrections Standards Authority (CSA) a division of the Board of State and Community Corrections is required by law to inspect and report on the management, operation, and physical plant condition of California's county and city jails.

The CSA report dated July 31, 2012 noted two areas of non-compliance under Title 24 CCR (California Code of Regulations) which require (1) sobering cells to have padded partitions next to the toilet to provide support and (2) the toilet areas shall provide modesty consideration for the inmate.

The CSA report addresses issues of non-compliance under Title 15 CCR, including:

- A lack of sufficient staff to perform numerous routine duties, manage emergencies, conduct life safety checks and maintain a high level of security. *(Details, which may compromise the safety of inmates, correctional officers and the public, were not disclosed to the public)*
- The CSA report states a lack of life safety checks of the sobering cell. This is due to insufficient staff to complete the checks and complete other duties.
- The sobering cell is being used to monitor "medically fragile inmates" which is inappropriate.

The Facility Policies and Procedures Manual are not in place. The CSA report indicates that the facility lacks sufficient administrative staff to perform this critical activity.

Fire Marshal's inspection of May 16, 2012, noted housekeeping items such as illegal storage within 24 inches of ceiling, misuse of extension cords, obstructed access to electrical panels, obstructions in hallways and failure to provide fire extinguisher training to employees.

A fire inspection and suppression system check was scheduled at the time of the CSA inspection but has not been completed.

The Fire Marshal noted the fire sprinkler system may not be functioning properly.

FINDINGS:

Many inadequacies were found to exist in this antiquated facility.

- F1. Electronic security systems in the control center are in partial failure due to previous power surges with no funds to repair or replace.
- F2. At least three floor drains have been plugged with concrete, thereby compromising adequate drainage in food preparation areas.
- F3. The jail lacks a sufficient number of electrical circuits and outlets resulting in over loading of electrical systems.
- F4. Missing filters from the kitchen hood allows grease to accumulate in the flue. The exhaust fan was found to be pushing air into the kitchen rather than exhausting it.
- F5. The last Health Department inspection was completed 3 years ago.
- F6. The Jail's Policy and Operations Manual is still outdated as reported in previous 2010-2011 and the 2011-2012 Grand Jury Reports.

RECOMMENDATIONS:

- R1. The Grand Jury recommends that the Plumas County Board of Supervisors make Public Safety their number one priority for Plumas County. The Grand Jury requests the Board of Supervisors respond to this recommendation.
- R2. The Grand Jury strongly recommends the Board of Supervisors support the Sheriff in the acquisition of a new Correctional Facility and Administration Office, and submit a plan for public comment that will move this much needed project forward. The Grand Jury requests the Board of Supervisors respond to this recommendation.
- R3. The Grand Jury recommends that the Board of Supervisors increase the Sheriff's Jail budget when requested by the Sheriff, specifically targeting staffing and essential inmate needs. The Grand Jury requests the Board of Supervisors respond to this recommendation.
- R4. The Grand Jury recommends that the Board of Supervisors make an annual tour of the Jail Facility when requested by the Sheriff. The Grand Jury requests a response to this recommendation.
- R5. The Grand Jury encourages the Board of Supervisors to do a ride-along with a Deputy when requested by the Sheriff, within three months of this report. This would enable the Board of Supervisors to have a clearer understanding of what Deputies are facing with the implementation of AB-109, the Federal Consent Decree and the effects on Officer Safety, both on the street and within the Jail. The Grand Jury requests the Board of Supervisors respond to this recommendation.
- R6. The Grand Jury recommends that the Sheriff's request from the Board of Supervisors of additional funding for additional staffing to enable the Jail's Policy and Procedure Manual be updated and in place by no later than 31 December 2013. The Grand Jury requests the Sheriff respond to this recommendation.

REQUEST FOR RESPONSES:

Pursuant to Penal Code section 933.05, the Grand Jury requests responses as follows:
From the following governing bodies:

- The Plumas County Board of Supervisors
- The Plumas County Sheriff's Department

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

CONCLUSION:

It is painfully obvious that Plumas County needs a new jail. The Sheriff and staff are working tirelessly to acquire a USDA loan and grant monies to purchase the property formally known as the Trilogy building in East Quincy near the Animal Shelter for a new jail facility. The Trilogy building is large enough to accommodate the Sheriffs' current needs and their projected needs far into the future. This modern facility has additional space to house the Probation Department, the daily reporting center and the Emergency Operations Center (EOC) better serving all parties if located in the same building. The building is in near move-in condition and has a backup generator, and a large modern computer server room that is currently up to date and functional. The 4.5 acre parcel is also large enough to accommodate the construction of a modern modular jail facility. This would meet current Uniform Building Code (UBC) and CSA requirements and thereby likely result in the removal of the Federal Consent Decree for inmate population. This site also provides the opportunity for the installation of photo voltaic energy system (solar energy) to offset the cost of utilities.

Should the acquisition of the Trilogy property fall through, the Board of Supervisors should be prepared to move forward in purchasing property away from parks, ball fields, and schools in an area recommended by the Sheriff. Any monies put forth for the existing jail is putting good money after bad. The current jail would still be in proximity to public roads and the little league field. It is still a linear facility which lacks segregation; is not ADA compliant, and is a threat to public safety.

The Grand Jury again reiterates that continuing to allow the jail to operate in non-compliance and a known unsafe manner leaves the County of Plumas open to litigation and extreme financial risk. Above all the Plumas County Grand Jury is factually concerned that the jail in its failing condition presents a great risk to public safety.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.
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ATTACHMENT AB-109:

California Assembly Bill 109

California Public Safety Realignment – aka AB-109

BACKGROUND:

On January 20, 2011, pursuant to the California Constitution, the California State Legislature declared a fiscal emergency.

In May 2011, the U.S. Supreme Court ordered California to fix its overcrowded prison problem. Citing constitutional protections against cruel and unusual punishment the Supreme Court gave California a two-year deadline to drastically cut inmate population in its 33 prisons to 137.5% of capacity by May 2013.

Seen as a way to address both problems, AB-109 came into existence to address the fiscal emergency and to comply with the Supreme Court order.

Touted to the public as historic legislation to close the “revolving door” of low-level inmates cycling in and out of state prisons, AB-109 was signed into law by Governor Edmond ‘Jerry’ Brown on April 5, 2011 and became effective on October 1, 2011.

AB-109 was enacted against the backdrop of a severely overcrowded California state prison system, but the statute says it was enacted to combat recidivism and not because of overcrowding.

DISCUSSION:

For cost-saving purposes, AB-109 allows non-violent, non-serious, and non-sex offenders to serve their sentence in county jails instead of state prisons. By keeping these low-level offenders out of state prisons, the state claims it can save almost half a billion dollars (10% of its budget) annually. However, it does so at the expense of the 58 counties in California. Transferring the responsibility and expense of managing prisoners from the State to the counties has placed a tremendous financial load on the counties. The state does provide some revenue to the counties to cover costs associated with the implementation of AB-109, but nowhere near the amount needed to house, feed, medicate and rehabilitate these prisoners as directed by the law.

Realignment:

The 600 + page Bill was part of the state budget process in early 2011, and as such, it was not open to the legislature for debate and was passed in a 48 hour frenzy to meet the state budget deadline. AB-109, now being called “prison realignment” is really a cost saving effort by the California legislature as it shifts the responsibility for incarcerating many low-risk inmates from the state to its counties.

Realignment describes the process of significant change in the California criminal justice system. The legislation changed the penal code and sentencing laws to allow new offenders to be sentenced to local jails rather than to state prison.

Realignment makes huge changes in California criminal law, with more than 500 statutes being amended. However, for the most part realignment does not change how things work for serious crimes, violent crimes or sex crimes. People who commit those kinds of offenses will still be eligible for state prison.

Realignment adds nearly 60 additional crimes that are not defined in the Penal Code as serious or violent offenses but at the request of law enforcement were added as offenses that would be served in state prison rather than in local jails.

Realignment means that thousands of less-serious felony offenders now face a jail sentence or out-of-custody supervision (similar to probation), while before they would have been eligible for state prison.

Realignment means that the state will continue to incarcerate offenders who commit serious, violent, or sexual crimes, but the counties will supervise, rehabilitate and manage low-level offenders.

Critics of AB-109:

Critics of AB-109 say it saves money at the expense of public safety. AB-109 allows non-violent, non-serious and non-sexual offenders to serve their sentences in county jails and not in state prisons. However, the law only considers the criminal’s last offense in determining if he/she qualifies as a low risk offender, not the individual's entire criminal history. Thus a gang member or a child molester with a history of assaults and/or robberies could be arrested for possession of a small amount of Methamphetamine “meth” and instead of the court taking his/her ENTIRE criminal record under consideration, this person could magically become a “low risk” offender based on JUST the meth charge. These offenders are deemed as "low risk" to the community despite their proven history of involvement in more serious criminal activity.

Sentencing more serious offenders to jail rather than state prison has forced counties that already have crowded jails to release less serious offenders who are serving time for crimes such as auto theft, burglary, grand theft, forgery, illegal drugs and counterfeiting.

Many of the county jails in California are faced with significant capacity issues. Seventeen counties, including Plumas County, already operate under court orders limiting how many inmates that can be held in their local jails. Ninety-three percent of all county jails were already operating at their full capacity, prior to realignment.

Since AB-109 has been enacted, many non-serious offenders that are being paroled do not report to Parole Officers because they no longer fear "Parole Violations" that would send them back to state prison. If they do receive a parole violation, their sentence is served in a local jail under the jurisdiction of the Probation Department. Serious offenders that are paroled have to commit a serious parole violation to be sent back to state prison. AB-109 transfers responsibility for supervising certain kinds of felony offenders and state prison parolees from state prisons and state parole agents to county jails and probation officers. This is burying the Plumas County Sheriff's Department and the Probation Department in extra work.

APPENDIX:

State Prison Population Reports:

http://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/Population_Reports.html

AB-109 & AB 117 An Overview:

http://www.cdcr.ca.gov/layoffresources/docs/realignment/AB_109-PowerPoint-Overview.pdf

<http://www.ca-public-safety-realignment-act.com/pdf/Realignment-Fact-Sheet-CDCR.pdf>

IN THE CROSSHAIRS

Plumas County Probation Department Report

EXECUTIVE SUMMARY:

The 2012/2013 Plumas County Civil Grand Jury elected to review the operations of the Plumas County Probation Department in response to a letter alleging mismanagement. These allegations were found to be without merit. In light of the impacts resulting from the passage of AB-109 (See Jail Report Attachment AB-109) and the extreme budget cuts in Plumas County, the Grand Jury decided to review the department's operational efficiency to ensure that it is functioning at its highest level under adverse circumstances.

The facts gathered have shown the allegations contained within the letter to be without merit and groundless. In addition, it was determined that there was both a conflict of interest as well as a personality clash on the part of one County Supervisor with the Chief Probation Officer (CPO). After extensive interviews and investigations, the Grand Jury found some County Supervisors to be unprofessional and this put undue turmoil onto the staff and the Department as a whole.

The Probation Department is unique in that the Chief Probation Officer is appointed by the Superior Court and the salary is budgeted through the County of Plumas. The Chief Probation Officer works under the direction of the Judges of the Superior Court and is charged with administrating those policies and procedures as set forth by the County Board of Supervisors.

BACKGROUND:

THE PURPOSE OF THE PROBATION DEPARTMENT:

Formal or supervised probation is a court ordered sanction that allows a person to remain in the community under the supervision of a probation officer, either physically or electronically. The terms and conditions of this supervision vary case by case. Probation could include jail time, fines, restitution, community service, counseling, drug/alcohol programs and restrictions, or other sanctions.

APPROACH:

The Plumas County Grand Jury conducted interviews with individuals and staff from :

- District Attorney's Office
- Sheriff's Office
- Plumas County Probation Department (including Probation Officers and support personnel)
- The Plumas County Board of Supervisors
- Previous Probation Office staff members

DISCUSSION:

The Probation Department promotes public safety, ensures victims' rights and facilitates a positive change in adult and juvenile probationers. The department recommends and enforces court-ordered sanctions for probationers, including the detention of juvenile offenders and the arrest of adult offenders. It supervises and monitors probationers. The department also provides probationers with educational and vocational services, and access to physical and mental health facilities.

Probation is a vital part of the Plumas County Criminal Justice System. It is the duty and responsibility of Plumas County Probation Officers to implement programs of investigation and supervision for adult probationers and provide presentencing services for felony and misdemeanor arrestees.

The Probation Department is under the general direction of the Judge of the Superior Court to administer the adult and juvenile punitive and disciplinary programs of the County. The office of County Probation is established under the Section 1203 of the California Penal Code (PC). The Department is responsible for supervision, case management and correctional treatment of delinquent youth and their families as well as adult felons on probation.

FUNCTION:***The goals of the Probation Department:***

The overarching goal is to reduce recidivism (repeat offenders) and thereby contributes to enhanced safety for the Citizens of Plumas County.

- Preventing crimes and delinquency
- Protecting the community
- Protecting non-delinquent youth
- Rehabilitation of probationers

Responsibilities include:

- Monitoring youth who are placed in out-of-home settings
- Operating the Juvenile Detention Facility (currently transferred to Susanville)
- Investigation and assessment of all juvenile referrals
- Supervision of pretrial defendants in the community
- Supervises Community Corrections programs such as electronic monitoring, work furlough Drug Court.
- Prepares Affidavits of Probation Violations
- Conducts Drug Testing Program
- Conducts Probation search and seizure of persons, property and vehicles
- Completion of pretrial reports and presentence assessments and investigations to assist with judicial decision-making.

FINDINGS:

- F1. The Probation Department prepares presentencing reports, using their best judgment about public safety, and information regarding the offender's background, for the court's use in sentencing. These court mandated reports can take at a minimum 6 to 8 hours to complete and often more. Their case load is not a factor in preparing the presentencing report so they have no control over the total number of cases they are required to handle.
- F2. Interviews with the County Board of Supervisors have found that the majority of the Board does not have public safety as their #1 priority for Plumas County.
- F3. Grand Jury determined there is minimal support from the Board of Supervisors regarding department staffing levels.
- F4. The Probation Department is extremely under budgeted.
- F5. The Probation Department is critically under staffed because of budget cuts and the inability to fill positions.
- F6. The Department Head must depend on grant monies to pay some salary positions.
- F7. The Deputy Probation Officer (DPO) compensation is lower than those counties of similar size and population of Plumas County.
- F8. Plumas County is losing experienced DPO's to other counties, due to better opportunity, advancement possibilities and salary.
- F9. When the Probation Department lost a line supervisor, the Board of Supervisors would not authorize the funding to replace that staff member.
- F10. SB678, enacted in 2009, grant monies took a 94% decrease, and going from \$400,000 to \$24,000 in 2012, further exacerbating the department's funding issues.
- F11. A BoS Member stated that "arming probation officers would place them in a higher cost retirement category, costing the County money". It was suggested probation call a deputy if they got "in trouble." Lack of adequate availability due to Sheriff's Office personnel makes this an officer safety issue. The Plumas County Grand Jury found this comment to typify the County Board of Supervisor's attitude towards both officer and public safety and was found to be short sighted.
- F12. The Board of Supervisors mandated the Probation Department move to the Courthouse Annex, while every staff member interviewed felt the move an ill-conceived and an unwarranted waste of time and resources.
- F13. In spite of the number of high risk offenders, there are no Deputy Probation Officers (DPO) authorized to carry firearms; this is due to the fact that there is no Policy and Procedure in place regarding "Use of Force" as well as the lack of funds for required training.
- F14. Probation Officers have personal safety concerns in dealing with increasing numbers high risk offenders, partially due to AB-109.

- F15. There are varied perceptions by Probation Office Staff of overall Judicial oversight.
- F16. Due to the lack of personnel there is high case/workloads resulting in low morale. Currently there are approximately 275 adult probationers and 30 juvenile probationers.
- F17. There is no Line Probation Supervisor for the Probation Officers.
- F18. There are currently 9 vacant positions out of 21 full time positions.
- F19. Staff members use their own vehicles to come to the Court House from the Probation Department due to few County vehicles being available.
- F20. The Chief Probation Officer (CPO) has nearly 20 years of experience.
- F21. The Probation Department and the Sheriff Department have a cooperative working relationship.
- F22. The District Attorney and the Probation Department have a cordial working relationship.
- F23. Interaction between the Board of Supervisors and the Chief Probation Officer continues to be confrontational, demeaning, and unprofessional toward the CPO.

RECOMMENDATIONS:

- R1. Plumas County Grand Jury recommends that the Board of Supervisors make public safety their unanimous top priority for the protection and the wellbeing of the citizens of Plumas County. The Grand Jury requests the Board of Supervisors respond to this recommendation.
- R2. The Board of Supervisors should place an emphasis on returning the Probation Department's staffing levels to sustainable working levels and attain a better caseload ratio by increasing the budget to authorize the hiring of additional probation officers. The Grand Jury requests the Board of Supervisors respond to this recommendation.
- R3. At the request of the Chief Probation Officer, the Board of Supervisors should increase the budget to authorize hiring additional probation officers so more probationers, who may be a threat to public safety, can be kept in the actively supervised categories. Grand Jury requests the Board of Supervisors respond to this recommendation.
- R4. The Board of Supervisors should support the CPO in the arming of those DPO's that must work with high risk probationers to ensure their personal protection. The Grand Jury requests the Board of Supervisors respond to this recommendation.
- R5. The Grand Jury believes the Board of Supervisors must recognize that the criminal justice dollar is favorably placed in probation efforts. By making a commitment to invest in probation services, Plumas County can increase rehabilitation of offenders, thereby decreasing recidivism and the high cost of re-incarceration. The Grand Jury requests the Board of Supervisors respond to this recommendation.

- R6. The Board of Supervisors should work toward fostering a more constructive working relationship with the CPO based on professionalism and respect for each other’s values and viewpoints. The Grand Jury requests the Board of Supervisors respond to this recommendation.
- R7. The Grand Jury further recommends that should there ever be any kind of potential conflict of interest that could be construed, that County Supervisor must recuse from any decision making in regards to that Department. This action will ensure all efforts are in place to preserve transparency, ethics and prevent possible conflict. The Grand Jury requests the Board of Supervisors respond to this recommendation.

REQUEST FOR RESPONSES:

Pursuant to Penal code section 933.05, the grand jury requests responses as follows:

From the following governing bodies:

- The Plumas County Board of Supervisors
- The Plumas County Sheriff’s Department
- The Plumas County Probation Department

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

CONCLUSION:

Probation had a staff and now they don’t.

This department has suffered a continual reduction of staffing levels that is contributing to fewer Probation Officers overseeing their client base. The current shortage of probation officers, combined with increasing numbers of AB-109 referrals and the ongoing offenders adjudicated for probation means that intensive supervision cannot be assigned to every case that warrants it. As new probationers come into the system, the Probation Department continually reviews and makes reassignment of caseloads, between the levels of supervision, to try to make sure the public is protected from those posing the greatest threat.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.

WHO'S IN CHARGE HERE?

Chester Public Utility District Report

EXECUTIVE SUMMARY:

The Chester Public Utility District (CPUD) is a public agency created to provide reliable, high quality, cost-effective fire protection, emergency service, water, sewer and street lighting to customers in Chester. The CPUD is a governing body established to serve the community.

“Government is a trust, and the officers of government are the trustees; and both the trust and the trustees are created for the benefit of the people,” (Henry Clay, 1829).

The Board of Directors for the CPUD either forgot or never understood that their job is to serve the community and that they are ultimately responsible for the proper conduct and oversight of the District. The Board of Directors of the CPUD has failed miserably in their jobs.

Fortunately, the Director that was selected to manage the District on an interim basis after the Fire Chief/Manager retired had some insight regarding what issues needed immediate attention and jumped in with both feet. This Director demonstrated a keen understanding of his role, identifying where the ‘bleeding’ was coming from and proceeded to stop it. Without pointing fingers, he assessed the situation, identified the financial and employee relations problems and proposed reasonable solutions.

This Grand Jury also observed the staff of the District, both on the water side and the fire side, from the clerical staff to the mid-level and front line employees, to be highly competent and dedicated to their jobs. The behavior of the former Fire Chief/Manager and the Board put the staff in a no-win situation. The former Fire Chief/Manager used intimidation to prevent the staff from blowing the whistle on him and the Board’s stubborn confidence in the Fire Chief/Manager left the staff without recourse. Only when the public demonstrated an interest in the activities of the Fire Chief/Manager did the Board ‘belly up to the bar’ and assume some of their governance responsibilities.

BACKGROUND:

On August 17, 2009, the Plumas Local Agency Formation Commission (LAFCo) approved the consolidation of the Chester Fire Protection District (CFPD) and the Chester Public Utilities District. Per Resolution #2009-02, the resulting district would be called the Chester Public Utility District with a governing board of seven, three from the previous CFPD, three from the previous CPUD and one member chosen at random by the Commission from the remaining Directors wishing to serve.

For a time prior to consolidation, the CPUD did not have anyone in the General Manager position. The incumbent CFPD Fire Chief took over the functions of General Manager of the CPUD by contract. The contract amount was \$72,000 per year to manage the Water District with the provision for cancellation upon thirty days' notice by either party.

LAFCo recruited the services of a consultant who performed a financial feasibility analysis to determine if the consolidation would serve the best interest of the community. The consultant looked at all line item expenditures of the CFPD and the CPUD annual budgets. If the line item costs were not expected to change, they were not addressed in his report. The consultant spoke with the Plumas LAFCo Executive Officer and the CFPD Fire Chief/CPUD General Manager. The consultant reviewed pertinent sections of the California Government Code and the Districts' documents including their annual budgets, annual audits, personnel rules, the California Public Employees Retirement System (CalPERS) Actuarial Valuation Reports and other District documents provided by District staff.

The consultant determined that net public service costs under the consolidation proposal were likely to be less than or substantially similar to the existing cost of public services (see Attachment A). The consultant estimated that the cost reduction for the two Districts would be \$22,630 per year.

At the December 14, 2010 Board meeting, the Board unanimously approved borrowing money from the Sewer District to pay for a new ambulance for the Fire District at 1.5% interest.

The Fire Chief/Manager first announced his retirement during a closed session of the Board at the November 2011 meeting. The Board reported that the action taken during closed session was to reduce the salary of the Fire Chief/Manager with no mention of the Fire Chief/Manager's retirement. CalPERS e-mailed the District on 12/6/2011 notifying the District that the Fire Chief/Manager had retired as of 11/19/2011 and requested verification of his pay rate and special compensation.

At the June 25, 2012 Board meeting, three (3) years post-consolidation, a group of ten (10) citizens submitted to the Board notices of intent to recall all five Board Directors. The identical notices cited improper fiscal management and the Board's lack of independence from the Manager. The Directors were also accused of failing to protect the ratepayers, taxpayers and employees of the District. During the closed session, the Fire Chief/Manager again submitted his intent to retire. His letter of intent noted that he would stay on until a suitable replacement could be found. This was the first Board meeting where the agenda specified rules for public comment. This was also the first meeting in many years which saw notable public attendance.

Public comment at Board meetings from June, 2012 through March, 2013, among other issues, involved questioning the Board about finances and missing equipment from the Fire Department. Specifically, there were direct questions regarding;

- why the Board was not actively investigating public concern about personal use of District equipment seen at the Fire Chief/Manager's Seneca gold mine

- where in the financial statements did it show that the Fire Department was repaying the loan from Sanitation for the ambulance and
- where in the financials was revenue information regarding the “Mendo-Lassen” contract, a contract which provided for the District to manage, schedule and direct firefighters from outside our District during times of high fire activity.

The Board Chairman submitted his letter of resignation at the January 8, 2013 meeting. Another long-standing Director later submitted his letter of resignation effective January 18, 2013. Neither of the Directors listed their reason for resigning. Both Directors’ terms of office were to expire in December of 2015. The Director who assumed the Chair position resigned from the Board at the March, 2013 Board meeting. His term was set to expire in December of 2013.

After an appropriate recruitment, the Board appointed replacements for the two Directors who resigned first. The newly sworn Directors will sit on the Board completing their predecessors’ terms, sitting until December of 2015. As of the writing of this report, there remains one Directorship to fill.

APPROACH:

The Grand Jury decided to look into the CPUD after receiving a letter from citizens concerned about the questionable activities of the Fire Chief/Manager and the lack of oversight by the Board of the CPUD. The letter of complaint contained a myriad of issues, some involving possible illegal and unprofessional activity on the part of the Fire Chief/Manager and some speaking to Board behavior. After reviewing finances and procedures and interviewing employees and contractors of the District, it became apparent that District funds and equipment were possibly being used inappropriately and even illegally. Given this possibility, the Grand Jury chose to focus on the effectiveness of the Board of Directors and subsequently handed off any and all issues relating to possible criminal activities to the Plumas County District Attorney.

The Grand Jury interviewed each of the five Board members (sitting at the time we began our investigation) and others who were either closely involved in the day-to-day operations of the District or who had a support role with the District such as the accountant and Clerk of the Board. We also toured the new facility at 251 Chester Airport Road as well as water wells #4 and #5 in Chester.

Several (between two and six) Grand Jurors attended five Board meetings to observe the Board in action and the interactions between the individual Board members and between the Board and the public in attendance. It should be noted that since Chester is a very small, close-knit community Grand Jury attendance at these meetings was recognized immediately. The Grand Jury evaluated Board and public behavior keeping in mind that people may normally be, without our presence, more animated or possibly less animated. We made every effort to appraise situations based upon the observations and not on the possibilities.

The Grand Jury requested from the District copies of the following documents:

- District By-Laws and Rules
- CPUD Board meeting agenda and minutes for the period from July, 2008 through March, 2013
- District financials for the period from July, 2008 through March, 2013
- District Rules of Order
- Consolidation documents
- Womack Construction contract for Well #5
- Olah Construction contract for Well #5
- Cooperative Fire Protection Agreement with U.S. Forest Service, Lassen National Forest for the term 4/13/2011 through 12/31/2016
- The check/voucher register for the period 1/1/2010 through 1/31/2013
- Fire Chief/Manager payroll statements for the period 1/1/2009 through 1/31/2012
- Financial audit reports for fiscal year ending 2010, 2011 and 2012
- District budgets for fiscal year ending 2011 and 2012
- Copies of communications from/to CalPERS regarding the Fire Chief/Manager's retirement

It should be noted that, of the above requested items, the District provided everything except a copy of By-Laws or Rules and a copy of rules of order.

The Board Clerk noted that all the electronic copies of the Board minutes were somehow '*erased*' after the Fire Chief/Manager was given access to the computer where they were kept. The Clerk was, however, able to provide the Grand Jury with copies of the original minutes as they were submitted for Board approval.

The Grand Jury reviewed the consolidation documents from LAFCo and the consolidation Financial Feasibility Analysis and Report prepared by Sinclair & Associates.

DISCUSSION:

District Consolidation

Time constraints prevented this Grand Jury from analyzing all the components used to determine if the consolidation was beneficial for the residents of the District. We therefore are unable to establish the true benefit of merging the two districts (if a benefit exists). The Grand Jury did determine, however, that on the surface, merging the management roles of Fire Chief and Water District General Manager seemed to be at first a reasonable arrangement, reducing the payroll of the consolidated entity and avoiding the expense of recruiting a replacement for the water side General Manager.

LAFCo took what this Grand Jury believes to be a logical approach to determining if combining two different services would meet the needs of the public. The fact that the CFPD Fire Chief also managed the CPUD at the time LAFCo was researching the project may or may not have been significant. The Grand Jury was unable to spend time confirming the numbers provided by the districts but feel that LAFCo might have presented a better

evaluation of possible benefit to the public if the data used would have come independently from each district, not from one person, the Fire Chief. Given that hindsight is 20/20, the Grand Jury believes that whether or not the public benefited financially from the consolidation, *the public was not well served* by allowing the Fire Chief to manage both the CFPD and the CPUD.

Who's In Charge?

The Board of Directors for the Chester Public Utilities District, as a governing unit, does not fully understand its governance responsibility. Four of the five Directors described their role, strictly defined and simply as “consent and advise,” emphasizing that they do not get involved in the day-to-day operations of the District. The Directors relied completely upon the District Fire Chief/Manager to define their role within the District. Wikipedia defines a Board of Directors as “a body of elected or appointed members who jointly oversee the activities of ...an organization. A board's activities are determined by the powers, duties and responsibilities delegated to it or conferred on it by an authority outside itself.” It became obvious to this Grand Jury that the authority outside itself, namely the Chester public served by the District, expected the Board to use its powers, honor its duty and live up to its responsibility. Those expectations were not realized.

California Government Code Section 54950, the Ralph M. Brown Act states “The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. **The people insist on remaining informed so that they may retain control over the instruments they have created.**” The Board meetings lacked substantive discussion and seldom provided meaningful information to the public. The Grand Jury observed and testimony was given that a quorum of Directors would gather behind closed doors prior to open meetings, giving the perception that District business could have been discussed.

Directors would often debate with community members during the meeting. This behavior was disrespectful on the part of the Board and reinforced the Grand Jury's perception that the Board did not understand that they work for the public.

The CPUD Board was flying by the seat of their pants. None of the Directors were able to produce a copy of the Robert's Rules of Order by which they claim to abide. This Grand Jury observed the Directors generally and somewhat loosely following Robert's Rules of Order. Inasmuch as motions were made and seconded, passed with majority of approval and speakers were usually given the floor by the presiding Director, Robert's Rules were followed. None of the Directors were able to produce a copy of the District By-Laws and/or Rules which they claimed to follow. Two Directors did provide a copy of the CPUD Personnel Procedure Manual and a copy of the CFPD Operations Manual in response to the request for by-laws. This speaks to the fact that the Board has no understanding regarding what by-laws and rules are.

California Government Code, Division 3, the Community Services District Law and Division 7, the Public Utility District Act governs the Fire District and the Water and Sewer District

respectively. Special District Boards are required to adopt rules or by-laws for their proceedings (Division 3, Section 61045(f) and Division 7, Section 16071). By-laws are the rules and regulations enacted by the District to provide a framework for its operation and management. By-laws may specify the qualifications, rights, and liabilities of membership, and the powers, duties, and grounds for the dissolution of the district. The CPUD could provide no evidence that they had any such guidance.

On the job training is not appropriate for this job!

None of the five board members had any orientation to or training on the responsibilities of governance. This is, in the Grand Jury's estimation, one of the significant factors in the failure of the Board to realize their mission. It is a dangerous choice to 'fly by the seat of your pants.' At some point, especially after it became apparent that the behavior of the Fire Chief/Manager might be questionable and after the public began to question the actions and non-actions of the Board, it would have been prudent for the Board to take charge. Because the Directors did not know that they were ultimately responsible and accountable to the public and that the Fire Chief/Manager was ultimately responsible and accountable to the Board, the financial health of the District declined.

Secrets, secrets and more secrets.

Four of the five Board members claimed that they felt betrayed by the Fire Chief/Manager. We believe that the Board set themselves up to be betrayed by allowing the Fire Chief/Manager to assume the governance power that they should have assumed.

The Fire Chief/Manager, a salaried employee, submitted his own pay vouchers directly to the District's CPA who then cut his payroll checks. The pay vouchers were created by the Fire Chief/Manager and required no review or approval. The CPA, for lack of guidance to the contrary, was obligated to pay the Fire Chief/Manager per the voucher he alone submitted. The Grand Jury reviewed the pay register for the Fire Chief/Manager for the period 1/8/2010 through 9/28/2012. Seventy-two (72) pay vouchers submitted by the Fire Chief/Manager for his pay were paid out and two (2) checks made out to the Fire Chief/Manager were paid out. None of the pay vouchers and neither of the paychecks (one check for \$11,353.27 and one check for \$6,004.70) indicated specifically what the pay was for. That is, there was no explanation of how many regular hours he worked, how many vacation hours were paid out or how many sick hours were paid out. No other exceptions were identified. There was one voucher in the amount of \$31,549.01 which simply stated "other pay".

The District required two signatures on vendor checks drawn from District funds. The Grand Jury reviewed at random thirty-four (34) vendor checks each over \$5,000 from January of 2010 through January of 2011, a period where two signatures were required for checks over \$5,000. Of those thirty-four checks requiring two signatures, we found one check (#2500) in the amount of \$9492.44 signed by the Fire Chief/Manager only and one (#2855) in the amount of \$5,603.00 signed by the Fire Chief/Manager only. Whereas we found in a year's period only two instances where the rules were not followed, this Grand Jury believes this demonstrates, nonetheless the Board's lack of fiduciary responsibility and the Fire Chief/Manager's lack of accountability.

Beginning on August 7, 2008, the former Fire Chief/Manager would routinely develop the Board agenda, sign the agenda as “Assistant Secretary,” post the agenda and would even determine whether or not a Board meeting needed to be postponed or canceled based solely upon his availability. The Fire Chief/Manager changed draft minutes of Board meetings, removing items to be reviewed at the next meeting. There is evidence that the Fire Chief/Manager removed from the Clerk’s Board binder the original, signed agenda and minutes to the January 12, 2010 meeting and requested access to the electronic copy held by the Board Clerk. The Fire Chief/Manager also requested the original, hand-written minutes and the Closed Session folder. He was given access to the electronic files and may have been the one who amended the agenda by adding the sentence “Because of the consolidation new salary schedule for the Fire Chief/General Manager is attached.” He also may have amended the minutes to the 1/12/10 Board meeting by including an attachment titled “Fire Chiefs Salary Schedule,” indicating at the bottom of the document “Approved by BOD on January 12, 2010.” The Board Clerk was unable to provide this Grand Jury with copies of the original, signed agenda or the original, signed minutes which had been in the Board binder before the Fire Chief/Manager accessed the book. The Board Clerk did, however, provide copies of the agenda and minutes which the Clerk had presented to the Board for approval. Neither of those copies had the added items mentioned above.

The Grand Jury has determined that the Fire Chief/Manager announced his intent to retire at the November, 2011 Board meeting closed session and that the Board and the Fire Chief/Manager kept that fact from the staff of the District. The report on closed session from that meeting indicated only that the Fire Chief/Manager was taking a cut in pay. The Grand Jury was told that the Fire Chief/Manager took a cut in pay as a way to help relieve the financial burden the District was experiencing at that time, inferring that the Fire Chief/Manager was continuing to fill his role as a full time employee of the District. Although documents from CalPERS infer that the Fire Chief/Manager was collecting a pension, the Grand Jury was not able to confirm that. Based upon the information on the pay vouchers the Fire Chief/Manager submitted for the fiscal year 2011/2012, he worked a minimum of 2,015 regular hours in that fiscal year. Given the fact that the Fire Chief/Manager was not required to complete a time sheet, the Grand Jury must assume he worked a standard work day. If he did, indeed continue to work for the District while he was collecting his PERS pension, his employment at the District was contrary to California Government Code 21224 which stipulates that “A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by this system upon appointment by the public agency (CPUD) employer either during an emergency to prevent stoppage of public business or because the retired person has specialized skills needed in performing work of limited duration. Their appointments shall not exceed a combined total of 960 hours for each fiscal year.” The Fire Chief/Manager was paid for more than twice the 960 hour limit in that fiscal year.

Board meetings are intended to be public venues at which the Board receives updates from management and where the Board makes decisions. It is not the Fire Chief/Manager’s meeting and there is no regulatory requirement for the Fire Chief/Manager to even be at the meeting. Since there are no by-laws dictating that the Fire Chief/Manager must attend the

Board meeting, it was inappropriate for the Board to allow cancellation of the meeting. In colloquial terms, it is the Board's party.

Possible Brown Act Violations

The Grand Jury reviewed agendas, minutes and financial reports for the period July of 2008 through March of 2013. The agendas, at best were barely informative. This Grand Jury found that the agenda items marginally follow the requirements of the Brown Act which defines the manner in which public entities meet and make decisions. The Brown Act requires that "a brief general description" is identified for each agenda item. Financial reports were only reviewed in public if a Director had a question about any item in the report or if a member of the attending public asked for any information.

The Grand Jury did not observe any substantive discussion about the financials which leads us to believe that either the Directors seldom questioned the information because it was usually straightforward or that there was usually complete understanding of the report's contents. The Grand Jury observed more than two Board members gathering in an office prior to Board meetings. Whereas we are, of course unable to determine that they discussed District business contrary to the Brown Act, the perception is that they had the opportunity to do such. The questions asked by the public at the meetings the Grand Jury attended indicate that the financials might not have been so straightforward, giving credence to the possibility that District business, even the financials, was discussed in the Fire Chief/Manager's office prior to the meeting.

Chester Public Utility District belongs to the Public

The Grand Jury finds the Board's practice to receive only a written financial report to be contrary to the requirements of the Brown Act. It is certainly appropriate, even required that management gives a summary of the financials at each meeting, allowing the information to be shared with the attending public. It is even appropriate for the public to receive copies of draft summary financials with their agenda. It is also appropriate for the public to receive copies of draft minutes from the previous meeting. It was the Grand Jury's experience that the public received only the sparse agenda unless someone in the attending audience asked for a copy of the minutes or financial report.

Prior to the June 2012 meeting, there was no restriction identified in the agenda for public comment. From June 2012 through December, 2012, the agenda noted that the public was "limited to three (3) minutes per speaker per meeting, five (5) speakers per single issue per meeting, no more than fifteen (15) minutes per issue or agenda item and not more than 45 minutes total per meeting, assuming a sufficient number of speakers is present to use the time." California Government Code Section 54954.3(b) allows reasonable restrictions on the time the public may have for comment, but does not set a restriction on the number of speakers, assuming the other restrictions are met. The February, 2013 CPUD Board meeting agenda stated a more lenient public comment restriction, noting that, per CPUD Resolution #105, "public comment is restricted to three (3) minutes per speaker per meeting per each agenda item and per each non-agenda item, kindly requesting five (5) speakers per single issue per meeting" and "respectfully" requesting the "community members to keep to the suggested time frames."

State and Federal Issues

The Grand Jury is fairly confident that the CPUD Board was, for the majority of its tenure, intentionally kept in the dark regarding issues the Fire Chief/Manager wanted to keep close to his chest. On July 20, 2010, the California Public Employees Retirement System (CalPERS) notified management (the Fire Chief/Manager) that an audit of the Chester Fire Protection District found that the District had not reported appropriately to CalPERS. CalPERS offered to assist the District in resolving the findings in their report, requesting a written response within thirty (30) days of the letter indicating the progress in resolving the noted risks.

CalPERS identified at least two issues where the District may not have accurately reported compensation to CalPERS and one issue where the District may not have accurately reported payroll information to CalPERS. The three items were:

- A) Under the risk category of reports of compensation:
 - 1) The value of uniforms was not reported
 - 2) Holiday pay was not reported

- B) Under the risk category of payroll reports:
 - 3) Special compensation per the Fair Labor Standards Act (FLSA) was included in regular earnings

None of the five Directors interviewed had any knowledge of this audit or its findings. The Fire Chief/Manager received the audit notification and request for response and was obligated to report this to the Board.

In 2012, the District did not receive payment from Medicare for ambulance service in the amount of approximately \$180,000. The only staff member who had access to the Medicare account and who could ensure that all information was updated, as needed to receive Medicare reimbursement, was the Fire Chief/Manager. It is doubtful that the Board would ever have known about this until the Fire Chief/Manager was no longer in charge. The Director who was sitting as the acting Manager after the Fire Chief/Manager retired discovered that Medicare had not reimbursed the District because the District had not billed Medicare. Medicare had, at the time the CPUD and CFPD consolidated, requested a new provider identification number. The Fire Chief/Manager had not provided the requested information so Medicare could not be billed. The District's CPA had notified the Fire Chief/Manager in writing that at least ten (10) or eleven (11) months of Medicare payments had not been collected and asked for an explanation. The CPA never received a response from the District. The Grand Jury concluded that the Board was never advised about the Medicare billing issue. This, too, is the kind of information the Fire Chief/Manager was obligated to share with the Board and the public.

Contrary to Government Code Title 6, Division 3, Section 61045(f) and Section 61045(g) the District could not provide a copy of the By-laws or rules for its proceedings, and they do not have administrative, fiscal, and purchasing policies or procedures for the operation of the District.

Ignoring good advice

The audit firm of Haws, Theobald and Auman audited the District finances annually. The Grand Jury reviewed the last three audits performed (fiscal years 2010, 2011 and 2012). Each audit found the same material weaknesses as follows:

- Lack of segregation of duties – (allowing for the possibility of financial statement misstatement and fraud) caused by the number of personnel assigned to duties that involve access to the general ledger and other accounting records and who also have custody of and responsibility for handling cash and other assets.
- Financial reporting – the District does not have policies and procedures in place to ensure that complete and accurate financial statements, footnote disclosures and management’s discussion and analysis are prepared in accordance with GAAP (Generally Accepted Accounting Practices) prior to the annual audit.

At the time of this report, the District had not yet approved the fiscal year 2012 financial audit, as required by law. The District must consider the audit findings as ‘draft’ findings until the auditor has received a signed confirmation that the data which was submitted by the District to the auditor is correct and true. The auditor then submits their findings for Board approval. The draft 2012 audit contains the same two material weaknesses noted in previous years as well as an additional three (3) material weakness findings as follows:

- 1) Financial Mismanagement – there were five situations where the financial affairs of the District were not handled properly:
 - The District, for an extended period of time, did not bill properly and completely for its ambulance services.
 - The District allowed very large payables for workers compensation insurance (\$92,046) and for PERS retirement (\$138,000) to accrue during the year.
 - The District fell behind in its billing of fire contracts during the year, thereby potentially losing funding.
 - The District did not adequately safe-guard medical supplies (greater than \$12,000) and equipment which were donated in the year, and these items have subsequently gone missing.
 - The Fire fund has not made payments on its loan to the Sewer fund.
- 2) Unauthorized Transactions – Several cash disbursements were made of District funds which were not properly authorized or appropriate:
 - Inappropriate credit card transactions of approximately \$1,700 were incurred and not reimbursed to the District.
 - Approximately \$50,000 accrued pay, that was not authorized by the appropriate personnel, was paid out during the year.
- 3) Leadership Breakdown – there is a lack of oversight by the Board and the General Manager during the year. Additionally, there has been inadequate control over the documentation of the formal actions of the Board. This was noted when it appeared that board minutes had been modified from those originally approved by the Board.

District response to the finding that there was a lack of segregation of duties was that “due to the number of employees of the District, it was not possible for the District to cost-effectively mitigate this finding.” The District did note that “being aware of this weakness will ensure that existing employees and Board members will maintain diligence to potential risks of not having an adequate segregation of duties”.

District response to the finding that there were no policies and procedures in place to ensure that financial statements, and analysis were prepared per GAAP standards was that the costs of correcting this control weakness outweigh the benefits to be received.

This Grand Jury believes that this is another situation where, if the Board truly understood their role and respected the advice of the auditors, they would have employed some imagination or at least researched financial best practices for special districts. The Board allowed the finances of the District to decay by simple inaction.

Boards can be effective only when each Director and management work collaboratively to develop a model for the organization, maintain a unity of purpose, resolve problems, set behavior standards and develop a cohesive governing team to guide the District to success. The CPUD demonstrated virtually none of this collaboration, certainly not between the Manager and the Board and not even between the individual Directors.

Who’s the boss?

The Fire Chief/Manager operated completely independently and without supervision. The Board did not know his hours and did not require notification of vacation or sick time. The Board did not approve the Fire Chief/Manager’s time sheet, sign off on his payroll check and did not routinely evaluate his performance.

The District’s CPA, on several occasions made suggestions as to ways to improve the financial reports, making them more readable and useful. The Fire Chief/Manager routinely held up forwarding data to the CPA, preventing the CPA from producing financial reports in a timely manner. When the Grand Jury asked the Directors what their response was when the financials were not ready for approval, they noted that they contacted the CPA asking what the holdup was. They were told that the CPA was waiting for information requested of the Fire Chief/Manager. The Grand Jury then inquired what action the Board took to speed the process along. It was the Directors’ position that it was the CPA’s responsibility to get the information from the Fire Chief/Manager.

The Board did not demonstrate any significant knowledge regarding the laws and regulations which are applicable to their positions as public servants. The Board would, during Board meetings, defer to staff members for answers to questions from the public regarding District requests for proposal, inventory processes and regulations affecting the finances of the District and Brown Act requirements. A reporter with Feather Publishing, attending the February 12, 2013 Board meeting inquired, “What is the impact of Assembly Bill 97 on the District?” Assembly Bill 97 proposed to implement a 10% rate reduction to **Medi-Cal** providers, specifically affecting emergency and non-emergency medical transportation providers. The bill was enacted on January 1, 2011 but implementation continues to be held up in court. One of the Directors responded that “Medicare” (not Medi-Cal) changes fee

schedules regularly, that they are not required to pay on a regular schedule and that when all is said and done, it probably will not have any impact on the District at all. The Grand Jury determined that California Assembly Bill 97 would, indeed impose a 10% reduction in the reimbursement rate the District could claim for ambulance service, regardless of any payment schedule or timeframe.

Bottom Line

The CPUD Directors who were sitting at the time the Plumas County Civil Grand Jury began investigating the CPUD came to their position with adamant faith in the Manager of the District, namely the Fire Chief. This mulish confidence prevented the Board from recognizing the Fire Chief/Manager's behavior as improper, possibly illegal. This Grand Jury is not offering an excuse for the Board rather we offer this 'take away' for them: since the Board is ultimately responsible for the District, they are obligated to become familiar with all aspects of governance and should hold tight the ideal of fiduciary accountability. The employees of the District are accountable to the Manager of the District, the Manager is accountable to the Board and the Board is accountable to the public which they serve. The Grand Jury believes that if the Board wraps their heads around that concept, they will ultimately be successful.

FINDINGS:

- F1. The CPUD Board of Directors, due to the lack of training and/or orientation, does not understand its governance role.
- F2. The CPUD Board of Directors does not demonstrate effective oversight of management.
- F3. The CPUD Board exhibits a meticulous lack of transparency contrary to regulation.
- F4. The CPUD Board engages in verbal battles with the public during Board meetings.
- F5. There are no District By-Laws or rules which direct the functions of the CPUD Board.
- F6. The CPUD Board is neither aware of nor familiar with regulations which apply to the District, specifically regulations regarding Board responsibility.

RECOMMENDATIONS:

- R1. The 2012 /2013 Plumas County Civil Grand Jury recommends, above all else, that the CPUD arranges for governance and Brown Act training for all of the current Directors of the District and for the Clerk of the Board, and that the District creates an in-depth orientation program for every new Director coming on board.
- R2. The Grand Jury recommends that the CPUD Board of Directors reviews all District financial processes in order to create and implement, to the extent possible, appropriate fiscal procedures per Generally Accepted Accounting Principles.
- R3. To help ensure transparency, the Grand Jury recommends the following:
- The Board requires a brief financial summary to be presented by the District Manager aloud at each public board meeting.
 - The CPUD posts meeting agenda, at a minimum at the Chester Post Office as well as at the District office.
 - The District develops a District website and that it includes upcoming and past meeting agenda, minutes, and any information which would be useful to the public. The website should include contact information for each member of the Board Directors and District management.
 - The Board publishes board packets including agenda, draft minutes and the draft financial report for the public to be handed out at the beginning of each meeting.
- R4. The Grand Jury recommends that the Board Chairperson and any other Director or staff member responding to questions from the public ensures that they remain respectful in their manner of response. It is certainly appropriate for the Chairman of the Board to refrain from debating with someone during the public comment period, to simply thank the speaker for their input and, if the Board is unable to give a brief, accurate response, commit to responding in writing before the next scheduled Board meeting.
- R5. The Grand Jury recommends that the Board establish By-laws which among other things, define the role of management and the role of the Board as well as those requirements of the California Government Code (Ralph M. Brown Act), §54954. This can appropriately be accomplished by investigating best practices for Special Districts.
- R6. The Grand Jury recommends that the Board routinely networks with other districts to share best practices regarding appropriate by-laws, policies, procedures and issues affecting production and distribution of water, sewer and street lighting services and the provision of fire protection.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.

CONCLUSION:

The 2012/2013 Plumas County Civil Grand Jury (Grand Jury) recognizes the sometimes overwhelming burden of governance and sincerely appreciates the CPUD Directors who volunteer their time and energy to help make a difference in their community. Each and every one of the five Directors of the CPUD volunteered for the position as a way to make a contribution and to make a difference in the community. This commitment often requires Directors to make the District a priority over work, recreation and even over family. The citizens of the District also assume some responsibility for the success of the District and should embrace that responsibility equally with dedication and energy.

The Board of Directors of the CPUD ignored their fiduciary responsibility by placing unwavering trust in the Fire Chief/Manager of the District, allowing him to operate completely independently and totally unsupervised. The Fire Chief/Manager was allowed to pay himself his own wages and was not expected to track or even report his time off. The Fire Chief/Manager and the Board did not report to the staff or the public when the Fire Chief/Manager first 'retired' yet continued to work for the District.

The Fire Chief/Manager wrote and signed vendor checks for amounts above the \$5,000 limit allowed for one signer with no apparent consequences. The Grand Jury determined that the Board did not even routinely inspect the finances to ensure that the public's money was being spent appropriately.

Governance is not just a "fire watch." It is not enough to rely on information from the Fire Chief/Manager alone regarding the operations of the District. It is not enough to address only issues defined singularly by the Fire Chief/Manager. The Board not only has the power to govern, it has the responsibility to govern. The CPUD Board should have held the Fire Chief/Manager accountable to the Board and themselves accountable to the public. The CPUD Board of Directors needs to reevaluate their mission, and focus on educating themselves about what their roles should be and what it means to lead a special district to success. This will involve a more 'hands on' approach, especially with regard the finances of the District.

REQUEST FOR RESPONSES:

Pursuant to Penal code section 933.05, the grand jury requests responses as follows:

From the following governing bodies:

- The Chester Public Utility District Board of Directors

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

BIBLIOGRAPHY:

www.CALPERS.ca.gov Updates to Retiree Hiring Laws

Sinclair & Associates, Local Government Consulting Services, *Chester Fire Protection District/Chester Public Utility District – District Consolidation Financial Feasibility Analysis and Report*, December 26, 2008

www.sacbee.com/2012/07/06/v-wireless/4612822/citizens-seek-recall-of-chester.html Bee State News *Citizens seek recall of Chester Public Utility District members*

[http://ballotpedia.org/widi/index.php/Chester_Public_Utility_District_recall,_California_\(2012\)&oldid=1491844](http://ballotpedia.org/widi/index.php/Chester_Public_Utility_District_recall,_California_(2012)&oldid=1491844) *Chester Public Utility District recall, California (2012)*

<http://sgf.senate.ca.gov/thefireprotectiondistrictlawof1987> *The Fire Protection District Law of 1987*

California Government Code, Division 3 Community Services Districts
www.sen.ca.gov/locgov *Integrity & Accountability: Exploring Special Districts' Governance*, 11/24/2003

California Government Code, Division 7 Public Utility Law

www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0051-0100/ab_97_cfa_20110316_20470... AB 97 *Assembly Bill – Bill Analysis*

www.yourparliamentarian.com/Summary.htm *Rules-of-Order Summary*

www.robertsrules.org/indexprint.html *RobertsRules.org/Robert's Rules of Order - Summary Version*

The State of California, The Little Hoover Commission, May 3, 2000, *Special Districts: Relics of the Past or Resources for the Future?*

http://en.wikipedia.org/wiki/Board_of_directors *Board of Directors from Wikipedia*

Senate Bill No. 135, Chapter 249, Kehoe, 9/22/2005, *Community Services District Law*

http://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml Title 6, Division 3, Community Services Districts, Part 2 Internal Organization, Chapter 3, Board of Directors

California Government Code Section 54950 – 54963, the Ralph M. Brown Act

www.leginfo.ca.gov/cgi-bin/displaycode?section=pcc&groupo=20001-21000&file=2...
Public Contract Code Section 20100-20103.7

<http://codes.lp.findlaw.com/cacode/GOV/1/5/d3/1/2/s56044> California Government Code Section 56044 “Independent Special District”

<http://codes.lp.findlaw.com/cacode/PCC/1/d2/3/1.5/104/s21391> California Government Code Section 21391 “Special District Contracting”

www.csda.net California Special Districts Association, *Fact Sheet: Public Records Act*

www.csda.net California Special Districts Association, *Fact Sheet: The “Right” Number of Special Districts*

www.csda.net California Special Districts Association, *Fact Sheet: Local Government Reorganizations*

www.csda.net California Special Districts Association, *Comprehensive Overview of Types of Special Districts*

www.csda.net California Special Districts Association, *Special District Board Member/Trustee HANDBOOK*

www.csda.net California Special Districts Association, *Special District: Compensation for Directors and Trustees*

www.csda.net California Special Districts Association, *CSDA’s Guide to Special District Laws and Related Codes*

www.csda.net California Special Districts Association, *WHAT’S SO SPECIAL ABOUT SPECIAL DISTRICTS? A Citizen’s Guide to Special Districts in California*, fourth edition, October, 2010

www.csda.net *Special District Reserve Guidelines*, 9/24/2007

<http://senweb03.senate.ca.gov/committee/standing/GOVERNANCE/SPECIALDISTRICTINFORMATION/SOURCES> Special District Information Sources, General Information

California Debt & Investment Advisory Commission, *Local Agency Investment Guidelines, 2011*

California Research Bureau, California State Library, CRB-98-002, *Local Government Ethics Ordinances in California, March, 1998*

Special District Leadership Foundation, *Guidelines for Conduct: A Primer for Special District Officials*

www.sen.ca.gov/locgov *The Quick List, An Annotated Glossary of Local Government Statutes*, Second Edition, February, 2009

<http://law.onecle.com/california/government/21221.html> *Retiree hiring laws*

ATTACHMENT A

CFPD/CPUD CONSOLIDATION ANALYSIS

DECEMBER 26, 2008

	SEPARATE DISTRICTS			CONSOLIDATED DISTRICTS			COST INCREASE (DECREASE)		
	CFPD	CPUD	TOTAL	CFPD	CPUD	TOTAL	CFPD	CPUD	TOTAL
PERSONNEL COSTS:									
Consolidate Fire Chief/ PUD Manager Positions	\$119,285	\$110,558	\$229,843	\$71,507	\$71,507	\$143,014	(\$47,778)	(\$39,051)	(\$86,829)
Reduced Clerical Staff (20 hrs/week)	\$20,298	\$44,640	\$64,938	\$10,833	\$35,174	\$46,007	(\$9,466)	(\$9,466)	(\$18,931)
Equalize Clerical Hourly Rate	\$20,298	\$44,640	\$64,938	\$20,298	\$48,542	\$68,841	-	\$3,902	\$3,902
Modify CalPERS Benefit Formula	\$38,000	\$42,000	\$80,000	\$97,805	\$42,000	\$139,805	\$59,805	-	\$59,805
Equalize Employee Medical Benefits	\$40,000	\$60,000	\$100,000	\$83,368	\$60,000	\$143,368	\$43,368	-	\$43,368
Worker's Compensation Insurance	\$40,000	\$11,000	\$51,000	\$40,000	\$5,755	\$45,755	-	(\$5,245)	(\$5,245)
NON-PERSONNEL COSTS:									
Rent	\$ -	\$5,600	\$5,600	-	-	-	-	\$5,600	\$5,600
Custodial and Maintenance	\$20,000	\$1,600	\$21,600	\$19,200	\$800	\$20,000	(\$800)	(\$800)	(\$1,600)
Telephone Service	\$5,000	\$4,400	\$9,400	\$3,400	\$2,800	\$6,200	(\$1,600)	(\$1,600)	(\$3,200)
Utilities	\$10,000	\$3,800	\$13,800	\$8,100	\$1,900	\$10,000	(\$1,900)	(\$1,900)	(\$3,800)
Elections	\$2,500	\$2,500	\$5,000	\$1,250	\$1,250	\$2,500	(\$1,250)	(\$1,250)	(\$2,500)
Audit	\$6,500	\$5,600	\$12,100	\$5,500	\$4,600	\$10,100	(\$1,000)	(\$1,000)	(\$2,000)
Total Cost Increase (Decrease)							\$39,379	(\$62,009)	(\$22,630)

A Small Town with Big Problems

Grizzly Lake CSD Report

EXECUTIVE SUMMARY:

In July of 2012, the Plumas County Grand Jury received a complaint alleging a possible conflict of interest between a Grizzly Lake Community Service District employee and a local equipment supplier. The complaint alleged that the employee was steering business to this local supplier because the business was owned and operated by the employee's spouse. The complainant also filed a complaint with the California Fair Political Practices Commission, which was subsequently settled in February of 2013 by applying a substantial fine to the employee.

Although the complaint had been resolved, the Grand Jury decided to publish the results of its seven-month investigation in an abbreviated format, and is the subject of this report.

BACKGROUND:

Delleker – a brief history

Delleker is a delightful small town with a population of a little over 700 nestled in the hills that form Humbug Creek just two miles west of Portola. Delleker has its roots deep in the timber industry. From the Gold Rush days on into the first half of the 20th Century, the demand for wood products was unprecedented. Lumber mills popped up all over Northern California to fill the demand and Plumas County was no exception.

Feather River Lumber Company filed Articles of Incorporation with California on January 25, 1905 and quickly bought three existing lumber mills in the local area. Their first mill was located at Willow Creek, near present day Maybe, CA; the second was at Clairville, an extinct town located above Clio, and a third was located along Humbug Creek in Delleker.

Small towns grew quickly in the proximity of the lumber mills in those days primarily to house the mill's employees. Other supporting business took hold too like grocery stores, livery stables, saloons, and Post Offices. Delleker grew to be a bustling town of nearly 400 residents with over 200 men working in the mill. The Company Store provided most of the essentials at that time and Portola was an easy commute for other goods and services.

Delleker was named after William H. Delleker, one of the three directors and a shareholder in the Feather River Lumber Company, which owned the mill. The lumber company's millpond still exists to this day, located just north of Hwy 70 off Delleker Road. One can still see the concrete embankment on the northeast side of the pond where small gauge railroad cars would unload their cargo of freshly cut timber into the pond. The mill was located where J's Feather River Rental building is today.



Feather River Lumber Mill – Delleker, CA Circa 1910

The Feather River Lumber Company constructed Delleker's sewer and water system in the early 1900's. In 1975, the system was incorporated as a private utility with the name Grizzly Lake Resort Improvement District. In 2011, it was restructured as a Community Service District. The Grizzly Lake Community Service District (GLCSD) provides water and sewer service to sixty-eight customers in the Crocker Mountain area and three hundred thirty two in Delleker.

APPROACH:

The Grand Jury interviewed members of the GLCSD Board, several former Board members, current and previous GLCSD employees, and a number of its customers. The Grand Jury requested and received documents from the California Division of the Federal Occupational Safety and Health Administration (Cal OSHA) and the California State Water Resources Control Board. The Grand Jury also reviewed purchase orders dating back to 2008 plus four years of financial reports.

DISCUSSION:

Present day Delleker has a water supply system comprised of two wells located at the edge of Humbug Creek and Hwy 70, and a large 310 thousand gallon steel storage tank located at the end of Colina Ct., high above the town. The wells pump clean untreated fresh water uphill to the storage tank where it is then distributed with ample pressure to the residents of Delleker. Although the two water wells are within 50 feet of each other, one has a uranium concentration above the State's acceptable safety standards of 20 ppb (parts per billion), and the other well is within the State's acceptable standards. By combining water from these two wells, the GLCSD is able to provide clean and safe water to its customers within the States acceptable safety standards.

In addition, Delleker has its own sewage treatment system consisting of five holding ponds, a pumping station and a small treatment plant, all located on the south side of Hwy 70 just east of Longfellow's Lumber. The system is in good working condition and currently meets all State sewage treatment standards.

Due to the age of the sewer and water system, much the infrastructure was not mapped or recorded, and when failures occur, they are both difficult and costly to locate and repair. The sewer and water systems are maintained by two experienced and knowledgeable technicians, who with their resourceful ingenuity have kept the systems operating on an exceedingly limited budget with a minimum of interruptions.

The GLCSD Board of Directors is comprised of five elected members who receive no compensation. The GLCSD employs two State certified maintenance technicians, a part time bookkeeper and a part time office worker. The GLCSD does not have a General Manager as of this report.

THE CONFLICT OF INTEREST:

The conflict of interest charge arose when the GLCSD staff would rent needed equipment and tools from a local rental company, which is owned by the spouse of an employee. The fact that the rental company was the only equipment rental agency in a 50-mile radius capable of supplying these tools and at a reasonable cost did not mitigate the impression that the GLCSD was giving business to, or getting favored treatment from the rental company. Even though this procedure was the most cost effective and prudent method, it constituted a "conflict of interest" as defined by the California Fair Political Practices Commission. The proper procedures for these types of transactions are not spelled out in the GLCSD operations manual and are only referenced in a consequential letter written dated February 2011.

In February of 2013, the California Fair Political Practices Commission settled the Conflict of Interest charge with a \$4,000 fine levied against the GLCSD employee.

MAJOR ISSUES:

Mismanagement has resulted in fines from the Internal Revenue Service, California Occupational Safety and Health Agency, California Fair Political Practices Commission and an unnecessary lawsuit.

- Since 2009, the GLCSD has been fined \$39,000 by the State Water Resources Control Board for a number of violations at the Delleker sewage treatment facility. The GLCSD opted to use “compliance projects” to mitigate the fines. The State Water Resources Board allows Community Service Districts (CSD) to submit a plan to update facilities and spend the amount of the fine to make the necessary improvements rather than pay the fine to the State.
- In 2012, the IRS seized \$9,000 from the GLCSD bank account to cover the lack of payment of employee withholding taxes from 2009 to 2012. The total needed to bring the account current exceeded \$30,000. The current management has negotiated a payment program for the remainder of the funds.
- A 2012 lawsuit with a local sewage service company was settled out of court at a cost to the GLCSD of \$20,000 in attorney’s fees.
- Approximately 10% of current GLCSD customers are delinquent and have had liens placed on their property amounting to \$33,496 as of this report.
- Improper safety procedures in 2012 resulted in a \$6,005 fine by OSHA for the following violations:
 - a. On July 18 2012, OSHA found that GLCSD did not have a required written Code of Safe Practices manual and management was not aware of any written safety rules or written code of safe practices.
 - b. It was also observed on that date that the GLCSD project lacked a safe access and egress from an excavation greater than 4’ deep and employees were not wearing proper safety gear.
 - c. The GLCSD was cited for not providing effective training for heat illness prevention and awareness.
 - d. The excavation project did not have adequate protection from cave-ins.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.

FINDINGS:

- F1. The GLCSD does not have sufficient management to properly run the District.
- F2. The GLCSD Operations Manual is not a current and complete document.
- F3. The current purchasing procedure lends itself to another conflict of interest charge.
- F4. The misfeasance of past management resulted in an unnecessary financial burden on the GLCSD adversely affecting the viability of the District.

RECOMMENDATIONS:

- R1. The Grand Jury recommends the GLCSD fill the vacant General Managers position immediately as required in California Government Code 61050-61053l.
- R2. Until the General Manager is hired, the Grand Jury recommends that a member of the GLCSD Board fill in as General Manager, removing any further conflict of interest concerns.
- R3. The Grand Jury recommends a complete and thorough Operations Manual rewrite to be completed within 180 days.
- R4. The Grand Jury recommends all employees and future employees are trained in the content and use of the Operations Manual.

CONCLUSION:

On the surface, it seems like Delleker's big problem is simply financial, but if you dig down to the underlying source of the problem you will find gross mismanagement.

Maintaining an antiquated sewer and water system is a big expense and a legitimate reason for the District's lack of funds; but upon investigation, many of their financial problems are self-induced. Mismanagement has cost the District thousands of dollars that could have been used for more productive endeavors like system repairs and improvements.

Bungling management has resulted in fines from the Internal Revenue Service (IRS) Cal Occupational Safety and Health Agency (OSHA), California Fair Political Practices Commission (FPPC) and a lawsuit by a local sanitation business.

Proper management is the key: Proper management will reduce delinquent customer payments. Proper management will put money aside for taxes or other obligations and will not allow dipping into those funds to pay for everyday expenses. Proper management will see to it that no rules or regulations are broken saving the District thousands of dollars in fines or unnecessary fees being imposed on the District.

The Grand Jury was pleased to see that most of the Districts management problems have been or are being corrected and the results are positive. The income from delinquent customers is up and expenditures for unnecessary fines and fees are down.

Although the GLCSD is facing a major challenge in supporting itself, the Grand Jury feels the District, barring any major catastrophe, is now on the right path to financial solvency.

REQUEST FOR RESPONSES:

Pursuant to Penal code section 933.05, the Grand Jury requests responses as follows:
From the following governing bodies:

- Delleker GLCSD Board of Directors

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

GLOSSARY OR TERMS:

GLCSD: Grizzly Lake Community Service District
FPPC: Fair Political Practices Commission
OSHA: Occupational Safety and Health Agency

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