



2019



2020



**County of Plumas
Civil Grand Jury Report**



2019 – 2020 Plumas County Civil Grand Jury

August 6, 2020

The Honorable Douglas M. Prouty
Presiding Judge of the Grand Jury
Plumas County Superior Court
Quincy, CA 95971

Re: 2019-2020 Plumas County Civil Grand Jury Consolidated Report

Dear Judge Prouty,

The 2019-2020 Plumas County Civil Grand Jury (“Civil Grand Jury”) is pleased to present the attached consolidated final report, representing the results of our efforts for the 2019-2020 jury year. This report includes separate reports pertaining to the Plumas County Weights and Measures Programs, Plumas County Sheriff-Coroner: Death Investigations and Autopsies, and Plumas County Unfunded Pension Liability. Also included is a Continuity Report. It should be noted that the Civil Grand Jury conducted other inquiries and investigations during 2019-20, but ultimately determined not to proceed to investigation, or to complete investigations, as to those matters. The Civil Grand Jury also toured the Plumas County Jail facility in August 2019.

The Civil Grand Jury started the year with 19 jurors and ended the year with 14 jurors. During the course of the year, we had 7 jurors resign for various reasons and one of our members--Brian Marcus--passed away in September of 2019. He was a good neighbor, good friend, and a hard-working juror who was greatly missed by all.

The members of the Civil Grand Jury spent considerable time and effort conducting research, interviews, and site visits to assess the issues presented in our consolidated final report. The members of this Civil Grand Jury extend their appreciation to the Sheriff’s Department, and the other Plumas County Departments that were a subject of the reports for their cooperation and prompt responses to all Civil Grand Jury requests. The responses to the Findings and the implementation of the Civil Grand Jury’s Recommendations are now the responsibility of the various County offices and officials, as noted in the reports.

It has been a privilege and honor to serve on the 2019-2020 Plumas County Civil Grand Jury. I thank the jury members for their many hours of work and dedication in making these reports possible.

Respectfully,

Howard Johnson

Howard Johnson
2019-2020 Plumas County Civil Grand Jury Foreperson

2019 – 2020 PLUMAS COUNTY CIVIL GRAND JURY FINAL REPORT
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2019 – 2020 Plumas County Civil Grand Jury Members

| | | |
|-----------------|----------------|------------|
| Kathleen Bloom | Chilcoot | District 1 |
| Joyce Holt | Portola | District 1 |
| Mark Roberts | Portola | District 1 |
| Rodger Thompson | Portola | District 1 |
| Joshua Nielsen | Crescent Mills | District 2 |
| Karen Magnuson | Greenville | District 2 |
| John Blackburn | Westwood | District 3 |
| Shannon Lawson | Quincy | District 4 |
| Sandra Palmer | Quincy | District 4 |
| Linda Leff | Quincy | District 4 |
| Sharon Ferguson | Quincy | District 4 |
| Howard Johnson | Blairsdon | District 5 |
| William Harvey | Graeagle | District 5 |
| David Shelton | Graeagle | District 5 |

In Memoriam

Brian Marcus

September 3, 1963- September 15, 2019

Member, 2018-19 and 2019-20 Plumas

County Civil Grand Juries

Final Report Distribution List

The Honorable Judge Douglas M. Prouty
The Honorable Judge Janet Hilde
Plumas County Board of Supervisors
Plumas County Administrator
Plumas County Auditor/Controller
Plumas County Treasurer/Tax Collector
Plumas County Clerk/Recorder
Plumas County Counsel
Plumas County District Attorney
Plumas County Court Executive Officer
Plumas County Jail Commander
Plumas County Sheriff
Plumas County Special Districts Association
Plumas County Superintendent of Schools
Plumas County Department of Social Services
Plumas County Civil Grand Jury (2020—2021)
California Grand Jurors Association
California State Archivist
Smith & Newel CPA's

Introduction to the Plumas County Civil Grand Jury

Overview

Functioning as an integral part of the judicial branch of government, the Plumas County Grand Jury (Grand Jury) is one of 58 county grand juries operating in the State of California. The Grand Jury consists of 19 county residents who serve Plumas County on a part-time basis for a 12-month period. The primary function of the Grand Jury is to act as a citizen “watchdog” over county, city and special district departments and officials, helping ensure that local government agencies and officers are accountable and working in the best interests of the public and communities that they serve. For more information about the function of California grand juries generally, see the website of the California Grand Jurors’ Association (CGJA).

Powers and Jurisdiction

The Grand Jury has broad investigative powers, which permit it to select the topics and offices to investigate and report on each year. Among other things, those powers allow it to:

- Determine whether public funds are being spent appropriately and for intended purposes.
- Investigate whether local government agencies and officers are conducting their affairs in a transparent and open manner, in accordance with applicable laws and procedures.
- Conduct inquiries and investigations into the condition of jails, detention facilities and hospitals.
- Serve as an ombudsman for residents of the county, receiving and pursuing where deemed appropriate complaints made by county residents concerning the actions and performance of public officials or agencies.
- Investigate credible allegations of willful misconduct by public officials or employees while in office.

The Grand Jury’s jurisdiction is limited to matters involving local government and local government officials. It is not authorized to investigate state or federal functions or offices. Its customary focus is one of conducting civil investigations; it does not ordinarily sit as a criminal grand jury.

Grand jurors are sworn to secrecy and grand jury meetings are conducted in closed session. All testimony given to the Grand Jury, and its deliberations, must remain forever confidential.

Grand Jury Reports

Each year, the Grand Jury issues one or more written reports, setting forth the results of its completed investigations, with findings and recommendations. These reports are published in the

local newspaper and on the County's website. Under California statute, relevant elected officials and governing bodies (such as the Board of Supervisors) must formally respond to each such report.

The more recent Grand Jury reports are here: <https://plumascounty.us/archive.aspx?amid=37>.

The responses are here: <https://plumascounty.us/archive.aspx?amid=38>.

Appointment and Service

Members of the Grand Jury are appointed by the Superior Court Judge to serve their term, starting in or about July 1 of each year. Grand jurors from a prior year may opt to be considered to serve a second term.

Serving on the Grand Jury is an excellent way both to learn more about your County, and local government, and to be of service to your County. You will work closely with your fellow jurors over the course of a year on interesting and important local topics that can help improve the workings of local government, for the benefit of all County residents. It requires impartiality, diligence, and responsibility. Interested persons are encouraged to apply to serve. To qualify, potential jurors must have been resident of Plumas County for at least one year prior to service.

If you are interested in serving as a member of the Plumas County Grand Jury, please apply by calling 530-283-6297 and leaving your name and phone number.

Citizen Complaints

If you wish to file a complaint with the Grand Jury, please submit a completed [citizen complaint form](http://plumascounty.us/documentcenter/view/1696/citizen_complaint_form?didid=): http://plumascounty.us/documentcenter/view/1696/citizen_complaint_form?didid= to the Grand Jury at:

Plumas County Grand Jury
PO Box 784
Quincy, CA 95971

PLUMAS COUNTY WEIGHTS AND MEASURES PROGRAMS: Are You Getting What You Pay For?

SUMMARY

Whenever a consumer purchases something for sale, that consumer has the right to know that they are receiving the product they have chosen, no less than the amount they paid for, at the price that was advertised to them. To this end, the California Department of Agriculture (CDA) requires regular testing to be conducted on weighing and measuring devices used in connection with consumer sales. This testing is conducted by each of California's county departments of agriculture. For Plumas County (and Sierra County), that department is the Plumas-Sierra County Department of Agriculture (PSCDA). The PSCDA has responsibility to oversee a broad array of weighing and measuring devices, including commodity scales found in grocery stores, hardware store scales, propane meters and regulators, and gas and diesel pumps. With regard to gas and diesel pumps, county officials are required to regularly go into fuel stations to check that such devices are accurate and to ensure products are correctly advertised as to volume and price.

The 2019-2020 Plumas County Civil Grand Jury (Grand Jury) conducted an investigation of the PSCDA, focusing on its weights and measures function, in particular its oversight of motor fuel pumps, to ensure that consumer rights are being protected. Plumas-Sierra County's Agricultural Commissioner/Sealer of Weights and Measures (sealer) and the Division of Measurement Standards (DMS), which are part of the PSCDA, are responsible for local enforcement of California's weights and measures laws and regulations. This report will focus on aspects of concern to Plumas County, with the understanding that the department serves both counties.

The Grand Jury found the PSCDA is not currently in compliance with state mandates pertaining to device inspection frequency. The department can become compliant in one of three ways: (i) checking all retail motor fuel devices annually; (ii), developing a plan to ensure accuracy while checking devices on a non-annual basis, or (iii), arranging through the state Secretary of Agriculture to have inspections done, a service for which Plumas County would be billed.

BACKGROUND

In all counties in California, the county Agricultural Commissioner is the head of the county Department of Agriculture and has the additional role of being the sealer. This official is not elected, but is appointed by the county board of supervisors (California Business and Professions

Code (BP Code) §12200). The sealer is responsible for ensuring the accuracy of all commercial measuring devices in the county. The sealer may, upon approval of the board of supervisors, deputize staff members to be responsible for conducting inspections and certifying devices related to weights and measurements (BP Code §12200).

Regular inspection of commercially used weighing and measuring devices is required by California State law and regulations adopted by the state Secretary of Agriculture pursuant to that law. In particular:

- BP Code Section 12212(b) requires that the sealer of each county “perform such inspections as may be required by the [Secretary of Agriculture],” and BP Code §12212(a) instructs the Secretary of Agriculture to adopt “necessary regulations governing the inspection frequency of all commercially used weights, measures, and weighing and measuring apparatus in the state”;
- California Code of Regulations Title 4 (CCR) Section 4070 (CCR §4070) specifies the minimum inspection frequency for all regulated weights and measures devices, including retail gas pump meters; and
- BP Code Section 12240(d) provides that retail gasoline pump meters that are assessed annual registration fees “shall be inspected as frequently as required by regulation, but not less than once every two years”.

It is the responsibility of each county sealer to perform such inspections as may be required by the Secretary (BP Code §12212(b)). Under CCR §4070 certain measuring devices, including commercial gas pumps, must be inspected for accuracy on an annual basis (CCR §4070, BP Code §12027, §12212).

The sealer is obligated both to regularly check devices and visibly certify devices to ensure the public knows that devices are accurate. BP Code §12505 provides that whenever a sealer examines any weight or measure or weighing, measuring, or counting instrument used for commercial purposes, and finds it to be correct, he or she shall seal or mark the weight, measure, or instrument with an appropriate device approved by the department, placed so as to provide optimum visibility to the customer, showing that the weight, measure, or instrument was inspected and indicating the date of the inspection.



Figure 1 - 2019 seal affixed in a visible location, indicating device accuracy.

If an inspection shows that a device is incorrect beyond specified tolerances, regulations require that it no longer be available to consumers. BP Code §12500.10 (a) requires the sealer to remove from commercial usage any weighing, measuring, or counting instrument or device that is out of tolerance. The instrument or device may be either seized or marked with a tag or other suitable device with the words “unapproved device.” This then prompts the business or individual who owns and operates that device to get it repaired within 30 days of the tagging, at which point the sealer, or a deputy would re-test the device. Devices that have been tagged may not be used commercially until a new inspection yields an accurate measurement. If, after a new inspection the device is found accurate, the tag is removed, and the device may be commercially operated again (BP Code §12500.10 (b)). If the device is not repaired or corrected within 30 days of the tagging, either by the refusal or neglect of the owner/user, the sealer or a deputy can seize the device (BP Code §12507).

If a sealer does not, or cannot, conduct inspections annually, but is still able to ensure accuracy of devices through a history of previous inspections or statistical sampling, the sealer may develop a written alternative plan to describe how device inspections will be carried out within the county (CCR §4071, §4072, §4073). The regulation instructs sealers that such plans “...provide that all commercial devices (be) tested either on a regular frequency, a variable

frequency, or on the basis of a statistical sampling procedure.” (CCR §4074(a)). Such plans, once developed, are submitted to the Secretary of Agriculture for approval. BP Code §12212(d) provides that if the county sealer, because of the lack of equipment, is unable or fails to perform the required tests, the state secretary may execute a contract with the county board of supervisors to perform the inspections.

In addition to being accountable to the board of supervisors, a county sealer is also accountable to the citizens that rely on the accuracy of devices in any given county. BP Code §12503 requires that, “Upon a written request of any resident of a county there appearing reasonable ground therefor, the sealer shall test or cause to be tested, as soon thereafter as is practicable, the weights, measures, or weighing or measuring instruments used for the commercial purposes by the person designated in that request.” In other words, if someone using a device reasonably believes that the device is inaccurate, and makes a written complaint to the sealer, the sealer or a deputy must inspect that device, and must make it a high priority to do so.

METHODOLOGY

Beginning September 2019, the Grand Jury conducted a six-month investigation on this topic. The investigation included interviews with PSCDA personnel, and reviews of division documentation, including financial statements and inspections records; research of California State law, including applicable provisions in the California Business and Professions Code and California Code of Regulations and independent field observations of fuel-dispensing devices located throughout Plumas County.

DISCUSSION

The Plumas-Sierra County Department of Agriculture

In conducting its investigation, the Grand Jury began with a review of the duties of the Plumas County Sealer of Weights and Measures (Sealer), according to the Plumas County website. Under the administration and direction of the Sealer, the PSCDA is responsible for local enforcement of State and Federal laws and regulations related to agricultural products. The Sealer generally makes reports to the Plumas County Board of Supervisors (BOS) twice annually, regarding updates and changes in regulations, licensing, and the status of various programs overseen by the PSCDA.

The entire department, serving both Plumas and Sierra Counties, is made up of four people, including the Sealer. Occasionally, they employ seasonal part-time employees, as needed and as funding permits. The weights and measures aspect of PSCDA is only one component of the work that the department is responsible for. Other components include, but are not limited to, noxious

and invasive weeds control, pesticide enforcement, poultry nursery inspections, certifying organic and farmers' market products, and regulation of industrial hemp.

The addition of new programs, as well as increasing regulations, have added to the PSCDA's list of tasks to be accomplished. Often, new programs are accompanied by grant money or other funding mechanisms. The staffing level, however, has not increased with the added responsibility, which has led to reduced ability of staff to perform other tasks. Lower levels of financial reimbursement for DMS programs compared to other programs has effectively led to de-prioritization of DMS work, including device inspection.

Weights and Measures

Within the PSCDA, the DMS conducts various programs, including:

- Weighing and Measuring Device Inspection: ensuring accuracy of commercial weighing and measuring devices such as supermarket checkout scales, gasoline pumps, propane meters, and large capacity vehicle scales.
- Quantity Control: verifying quantities of bulk and pre-packaged commodities. The division enforces laws and regulations relative to the California Fair Packaging and Labelling Act to help avoid deceptive labeling. This includes price verification of commercial retail product scanners and responding to complaints on the purchase of commodities such as bulk firewood.
- Weighmaster: assuring that commercial transactions based upon quantities certified are accurate. Weighmasters are individuals or firms who weigh, measure or count bulk commodities and proceed to issue certified weighmaster certificates.
- Petroleum Products: enforcing minimum quality standards for most automotive products such as gasoline, diesel fuel, motor oil, and antifreeze. The program regulates the advertising, sale, and labeling of these products to reinforce consumer confidence.

Device Inspections

All weighing and measuring devices used commercially in Plumas County must be verified to be accurate by the PSCDA. These include: electric submeters, fabric, cordage, and wire measuring devices, liquid propane gas meters, retail motor fuel pumps, vapor submeters, wholesale meters, computing scales, counter scales, dormant scales, hanging scales, livestock and animal scales, meat scales, prescription and jewelers scales, and vehicle scales. Of the 1,656 devices under PSCDA jurisdiction, 576 are required to be checked on an annual basis.

Many factors affect when device inspections are performed including other, often time-sensitive, responsibilities of the department. PSCDA staff often self-determine inspection schedules,

conferring informally at the start of the workday with the supervisor (Sealer). Inspection priorities are determined by staff availability, weather conditions, device location, device type, and public complaints.

Plumas County is quite large, geographically speaking, with communities (and thus, measuring devices) spread across a wide area. At times, Plumas County gets weather significant enough to make roads impassable, which can force plans to change. Understanding this is important to see why certain devices may not be inspected at certain times of the year. DMS employees prioritize inspecting devices indoors (such as food scales at grocery stores) during the winter season, when cross-county travel is more likely to be hampered by inclement weather. Similarly, inspections of large outdoor livestock scales, fuel tanks, pumps and the like, are more likely to be conducted during the summer months.

Other factors impacting the timing of an inspection can include the types of devices being inspected. Certain devices require specific inspection equipment which is shared between multiple counties. For example, a 100 gallon 'Prover,' necessary to measure high-speed fuel pumps, is only available to PSCDA four weeks out of each year. Therefore, if for any reason an inspection is not able to take place while PSCDA has possession of the equipment, the device will remain untested. Low staffing levels in the PSCDA and lack of cross-certification can lead to delays in inspections, since not everyone in the department is trained and certified to conduct inspections, and sometimes more than one person is required to safely complete an inspection.

As required in BP Code §12212(b), it is the responsibility of the county sealer to ensure that inspections are being done and that devices are accurate. Inspections include all aspects of the measuring devices to ensure consumer confidence, including overall condition of the device. If a device fails the inspection, DMS staff 'red-tags' the device, and the device is immediately shut down and not available for consumer use until repaired and re-inspected. If an owner/operator is found allowing a red-tagged device to be used, he or she is subject to a fine.

It is the practice of PSCDA to only red-tag devices that are found out-of-tolerance in a way which is unfavorable to the consumer. For example, in the case of fuel dispensers, if a device is found to be out-of-tolerance by pumping more fuel than should be pumped for the price a consumer pays, the PSCDA DMS will not necessarily require the owner/operator to suspend operation of that device. The owner/operator is given the option to repair the device to bring it back into tolerance without red-tagging or have the sealer or deputy red-tag the device in order to provide incentive to fix the issue.

Only a fraction of the required fuel pump inspections within Plumas County is being completed annually in accordance with CCR §4070. Based on internal logs provided by the PSCDA, 239 of 324 commercial fuel pumps within Plumas County (73.8%) had not been inspected within the

previous year. The logs also indicated that 7% of Plumas County fuel pumps had not been inspected within three years.

To verify the above statistics as applied to Plumas County only, the Grand Jury conducted field observations of random gasoline and diesel pumps located throughout the county. Over the course of one week 187 motor fuel pumps were observed and recorded for compliance. *Table 1* below outlines the results of those observations.

| | |
|--|-------------|
| Total number of Observations | 187 |
| Number (%) inspected within 1 year (Compliant) | 46 (24.6%) |
| Number (%) inspected within 2 years | 86 (46%) |
| Number (%) inspected within 3 years | 120 (64.2%) |
| Number (%) inspected within 5 years | 126 (67.4%) |
| No tag on pump | 61 (32.6%) |

The corresponding percentages between the Grand Jury observations and the statistics provided, although not identical, reflect similar percentage trends. Based on those observations, only 24.6% of the fuel pumps had been checked within the time period required by the law. 32.6% of all pumps showed no indication that they had ever been inspected, and the remainder (42.8%) had been inspected between two and five years prior.

As noted, the Grand Jury observed fuel stations where the pumps did not have any yearly sticker attached. Department personnel indicated that stickers could peel off the device due to weather or vandalism. While this may be the case, this seems less likely to persist where pumps are inspected annually. The Grand Jury also believes that consumer confidence may decline under

these circumstances, as some consumers could conclude the fuel pumps had not been inspected (see figure 2).



Figure 2 - Four fuel pumps (diesel and 3 grades of gasoline) with no yearly inspection sticker attached.

The Grand Jury was informed and subsequently verified that sites with above ground fuel storage tank and fuel dispensing systems serving the county's lake resorts were 6 years out of compliance. Staff numbers and time limitations were cited as major factors as to why these facilities were 6 years out of compliance, as inspections would require more than one person to

complete safely; additionally, certain pumps may not be operating when inspection equipment is available to PSCDA.



Figure 3 - Fuel pump last inspected in 2015 which is 4 years out of inspection compliance.

Alternative Options

There are provisions in the California law and regulation specifying the options available to a sealer if they are unable to perform annual device inspections. Given the fact that these inspections are not completed annually by PSCDA on all devices as required, the Grand Jury believes that it would be in the best interest of both consumers and the PSCDA for the Sealer to consider these options and explore implementation.

One option available to a sealer is to develop a written plan to outline how the department will ensure that devices are accurate without checking them annually (CCR §4071, CCR §4074). An example approach that some counties take is using a statistical sampling method, testing and certifying a percentage of the devices annually without checking each one. Once written, a sealer submits the plan to the CDA Secretary to formally approve.

Since particular equipment is not always available to PSCDA, another option would be for the Board of Supervisors to enter into a contract directly with the Secretary of the CDA to provide device-inspection services (BPC§12212(d)). For this service, Plumas County would be obliged to pay the inspection and associated costs.

Financial Gap

The Grand Jury found that, according to the fiscal year 2018 - 2019 DMS Financial Report, the PSCDA's DMS expenditures were \$117,559 compared with revenue of only \$30,793. The revenue figure represents monies received from various county vendors who register their measuring devices with PSCDA and limited reimbursement from the CDA. Reviewing these figures, a sizeable disparity between the amount of money the PSCDA spends on weights and measures work and what they take-in by way of fees is highlighted. In the past, additional revenue came from the CDA to aid in this revenue shortfall. Since the economic downturn of 2008, CDA funding has all but been eliminated by the state. In order to improve this situation, the PSCDA, through BOS approval, could revise the device inspection fee schedule to reduce this revenue shortfall.

Consumer Complaints

As mentioned earlier, the California Business and Professions Code requires a sealer to address valid consumer complaints in a timely manner (BP Code §12503). According to PSCDA, consumer complaints are rarely received, and prompt only one or two device tests per year. Currently, complaints can be submitted verbally, either in person or by phone to the PSCDA office. There is no written procedure in place regarding complaints. Typically, a staff member who receives a complaint passes it on to a superior, but no complaint log is maintained by PSCDA.

The Grand Jury examined websites of 14 county agriculture departments in California, as well as the CDA websites and links. It was noted that, in comparison to multiple other counties, the Plumas County Department of Agriculture website lacked certain useful information and links. Specifically, there is no online complaint form available for consumers and little explanation of what the department is responsible for.

FINDINGS

F-1. The PSCDA is not in compliance with BP Code § 12212(b) and CCR §4070, in that approximately three-quarters of the county's fuel pumps have not been inspected within the mandated timeframe.

F-2. The PSCDA may become compliant with State law and regulation as to required fuel pump device inspections in one of three ways - (1) inspecting each device annually, (2) creating a written plan to inspect fewer than all devices annually, or (3) having the BOS enter into a contract with the State Secretary of Agriculture under which the Secretary will arrange for the conduct of the inspections.

F-3. The PSCDA device fee schedule is currently insufficient to cover the costs of device inspection and should be reviewed and upgraded by the PSCDA and submitted to the BOS.

F-4. The PSCDA lacks a functional consumer complaint intake, monitoring and logging process. The County Agricultural Commissioner website is incomplete, lacking an online consumer complaint process which would facilitate consumer needs, as well as a comprehensive description of what the department is responsible for.

F-5. Increased obligations on PSCDA staff not related to DMS work have significantly limited the amount of time that staff is able to spend on inspecting devices.

F-6. Decreased financial and technical support from CDA may have restricted the ability of PSCDA staff to perform and complete required device inspections.

RECOMMENDATIONS

Based on the foregoing, the Grand Jury recommends:

R-1. By no later than January 1, 2021, the PSCDA comply with CCR §4071- §4074 by either (i) completing all required device inspections within the appropriate timeframe, (ii) developing a written plan which addresses how the DMS will inspect devices non-annually and submitting said plan to the CDA Secretary for approval; or (iii) requesting the BOS to enter into an agreement with the CDA to facilitate inspections on behalf of Plumas County.

R-2. The PSCDA submit to the BOS an updated device fee schedule for all measuring devices inspected by the DMS to cover a higher portion of the cost of device inspections, by January 1, 2021.

R-3. By March 1, 2021, the PSCDA update the department's website to include brief descriptions of the main responsibilities of the PSCDA, including DMS aspects of the department, and that the PSDCA implement a consumer complaint process, including a complaints intake policy, complaints log and incorporating a link to an online complaint form.

REQUIRED RESPONSES

Pursuant to Penal Code section 933.05, the following responses are required:
From the following Plumas County officials (within 90 days):

- Plumas County Board of Supervisors: **F-1 through F-6 and R-1 through R-3**

INVITED RESPONSES

The Grand Jury invites the following response from (within 60 days):

- Agricultural Commissioner/Sealer: **F-1 through F-6 and R-1 through R-3**

PLUMAS COUNTY SHERIFF-CORONER: Death Investigations and Autopsies

[Cautionary note to readers: This report addresses coroner functions and necessarily includes certain graphic details concerning death circumstances. Some readers may find portions of the content objectionable or disconcerting.]

SUMMARY

In Plumas County, as in many counties in California, the sheriff and sheriff's department also serve as the coroner and coroner's department. Under California law, the coroner is responsible for investigating and determining the cause, manner and circumstances of deaths in which the decedent was not under a doctor's care within 20 days prior to death, or where the death was unattended, suspicious, or unnatural. (California Government Code (GC) §27491). Included are violent, sudden, unattended or unusual deaths that can result from drownings, suicides, exposure, homicides, and accidents, as well as certain medical conditions, to list but a few.

Death investigations in such instances often include, or often should include, forensic autopsies, but California law does not dictate the circumstances in which autopsies must be obtained, leaving the matter to the exercise of informed professional judgment by the coroner or medical examiner. There are, however, two situations in which California law does require that an autopsy be conducted: (1) in the case of certain infant deaths, and (2) where requested by appropriate next of kin. Professional standards issued by the National Association of Medical Examiners (NAME) specify additional instances when forensic autopsies should occur, in order to help ensure competent investigations and to better protect the public interest. Lacking a medical examiner, Plumas County contracts with the Washoe County (NV) Medical Examiner's office to perform autopsies and related services in connection with deaths occurring in Plumas County.

Prompted by a citizen's complaint regarding a death that was investigated by the Plumas County Sheriff's Department (Sheriff's Department), and the apparent decision not to obtain a forensic autopsy, the Plumas County Civil Grand Jury (Grand Jury) began an investigation of the coroner function in the Sheriff's Department in September 2019. It focused on (i) compliance by the Sheriff's Department with GC §27520(a) (which requires the coroner to perform or facilitate an autopsy when requested to do so by certain next-of-kin) in the complainant's case, (ii) the coverage of the Sheriff's Department policies and procedures governing death investigations and coroner functions (Coroner P&Ps), including in respect of their attention to autopsies, and (iii) overall compliance by Sheriff's Department personnel with the Coroner P&Ps and certain Government Code provisions in connection with a sample of coroner death investigation reports reviewed by the Grand Jury.

The Grand Jury found that the Sheriff's Department did not adhere to GC §27520 in the instance involving the complainant in that it did not facilitate or procure an autopsy where one had been requested by the decedent's next of kin. With regard to the Coroner P&Ps, the Grand Jury found multiple omissions and deficiencies that, if not corrected, may lead to failure to adhere to legal requirements or best practice standards in the future. The Grand Jury also found instances in which the Sheriff's Department had failed to adhere to its Coroner P&Ps and certain provisions of the Government Code. It also found that the Coroner's investigation reports lacked sufficient clarity and detail as to cause, manner and circumstances of death, and that they were not updated upon receipt of autopsy or toxicological exam results. The Grand Jury therefore recommends that appropriate changes be made to the Coroner P&Ps and their maintenance, and to report generation practices.

BACKGROUND

Coroner Functions

Unlike some states, California has a county-based death investigation system, focused on the county coroner or medical examiner. In about two-thirds of California's counties, including Plumas County, the county board of supervisors has consolidated the duties of sheriff and coroner, under GC §24304.1. Thus, in Plumas County, the Sheriff also assumes the role and duties of the coroner.

The coroner's duties encompass three functional areas:

- Investigative – Conducting investigations to determine cause of death and/or to establish identity of the deceased; conducting inquests.
- Medical - Procuring autopsies to determine cause of death; transporting and removing bodies; verifying cause of death and signing death certificates; appearing at all unattended deaths unless the deceased has been seen by a physician within 20 days prior to death.
- Administrative - Maintaining all records; responding to inquiries by law enforcement agencies, doctors, and others with potential cases; providing proper custody and security of valuables; arranging sale of unclaimed property (which may also be done by the public guardian-public administrator); and locating families when necessary.

Under California law, coroners are responsible for determining three things in connection with investigations of certain unattended, sudden or violent deaths—the cause, the manner, and the circumstances of death (GC §24791). The *cause* of death is the specific injury or disease that led to the death. The *manner* of death indicates how the injury or disease led to the death. Typically, there are five manners of death—accident, suicide, homicide, natural and undetermined. Finally, the *circumstances* of death describe the way the death came about—that is, through what series of events or circumstances.

Autopsies are often a part of a death investigation. An autopsy is an external and internal (surgical) examination of a deceased person performed to document injuries, diseases and even normal conditions of a body. It often provides valuable information as to the cause and manner of death and may be followed by laboratory tests such as toxicology.

Autopsies are surgical procedures that must be performed by trained medical personnel, such as a medical examiner. Plumas County does not have a medical examiner and as a result it contracts with the Washoe County (NV) Medical Examiner's Office (WCME Office) to perform autopsies and related services requiring such expertise in connection with deaths occurring in Plumas County. Thus, a decision to have an autopsy performed involves a payment to be made by Plumas County to the WCME Office, as opposed to the regular payment of salary as would be the case if Plumas County had medical examiners on staff. However, the determination as to whether and when to have an autopsy conducted is exercised by the Plumas County Sheriff-Coroner (Coroner) or his designee.

When a death is reported to the Sheriff's Department, a deputy is dispatched to the scene and makes an initial assessment. Then, depending on the circumstances, the case is either investigated fully by the Sheriff's Department (referred to as a "Coroner's Case") or handled as a "Coroner's Referral," where the decedent's physician signs the death certificate. A Coroner's Case involves much more investigation and information gathering by the Sheriff's Department. Following the completion of the Coroner's Case investigation, the death record containing the cause and manner of death is entered by a member of the Sheriff's Department into the state-run Electronic Death Reporting System (EDRS), reviewed by the Plumas County Health Department and then forwarded to the County Registrar and the State of California Public Health Department. There may be occasions when the cause and manner of death is not initially apparent, in which case the initial death certificate is created, but the cause of death is listed as 'pending'. Once the investigation, blood test results, or autopsy results are completed, and the cause and manner of death are determined, the death certificate record is amended by the Coroner.

Legal and Professional Standards Governing Death Investigations

The California Government Code regulates some aspects of the coroner's duty to investigate certain deaths. Most importantly for purposes of this report (full text of these code provisions are reprinted in the Appendix to this report):

- **GC Section 24791** states that it is the duty of the coroner to "inquire into and determine the circumstances, manner and cause of all violent, sudden or unusual deaths", as well as certain unattended deaths. Section 24791 specifically lists a number of types of deaths falling within these categories, including "deaths due to drowning, fire, hanging, gunshot, stabbing, cutting, exposure, starvation, drug addiction, strangulation" and many others.
- **GC Section 27463** specifies appropriate coroner documentation regarding death investigations. It provides that the "cause of death, when known, with reference or

direction to the detailed medical reports upon which the decision as to the cause of death has been based” shall be entered into the report or register of the investigation.

- **GC Section 27520** provides that the coroner “shall cause to be performed an autopsy” where one is not otherwise being performed, if requested by a surviving spouse, or if none, by a surviving child or parent. The cost of such a requested autopsy shall be borne by the person so requesting.

The California legislature, unlike many other states, has not seen fit to regulate when autopsies must be conducted as a matter of law, leaving it to the informed professional judgment of the coroner or medical examiner. However, there are two exceptions to this general rule. GC §27491.41 requires that the coroner cause an autopsy to be performed in any case where “an infant has died suddenly and unexpectedly.” The other exception is GC §27520, described above.

However, beyond legal requirements there are professional standards, including those applicable to persons conducting autopsies, such as medical examiners. The WCME Office website references the standards promulgated by the National Association of Medical Examiners (NAME). NAME is a national, professional organization that, among other things, promotes best practice standards for medical examiners and other stakeholders in death investigations. NAME’s publicly available *Forensic Autopsy Performance Standards* (NAME Standards) set forth circumstances in which an autopsy must be conducted in order to ensure “the best opportunity for competent investigation”. Those circumstances include (among others, such as death by criminal violence and deaths associated with police action) cases when:

- the death is caused by apparent electrocution
- the death is by apparent intoxication by alcohol, drugs or poison
- the death is caused by unwitnessed or suspected drowning
- the body is unidentified, or skeletonized, or charred
- the forensic pathologist deems an autopsy necessary to determine cause or manner of death or to collect evidence

In each of these cases, NAME views the public interest as so compelling that “one must always assume that questions will arise that require information obtainable only by forensic autopsy.”

Although the Coroner is not a medical examiner, medical examiners cannot perform their function in accordance with the NAME Standards unless the referring coroners adopt similar procedures in deciding whether to submit a body to them for autopsy.

Another group that provides best practice standards for coroners and medical examiners is the Centers for Disease Control, which publishes handbooks, reference material and statistics with regard to death investigations and the medical examiner and coroner’s roles and duties. The *Medical Examiners’ and Coroners’ Handbook on Death Registration and Fetal Death Reporting*

(CDC Handbook) addresses the Coroner's duties in collecting and accurately reporting information on death certificates. Among other things, it stresses the importance, in describing the cause of death, of presenting a cause and effect explanation of the "order, type and association of events resulting in death" and that the description be sufficiently specific that there is "no doubt as to why it developed." (CDC Handbook, p. 12) It also requires updating 'pending' causes and manner of death in a report immediately once the results of autopsies or other tests are completed. (CDC Handbook, pp. 6, 14) It also notes that one of the most difficult tasks of the medical examiner or coroner is to determine whether a death is an accident or the result of an intent to end life. It counsels that the coroner "must use all information available to make a determination about the death", including autopsy, toxicological, investigatory, and psychological evidence. (CDC Handbook, p. 21).

METHODOLOGY

The Grand Jury conducted a six-month investigation into this matter, prompted by a citizen's complaint submitted to the Grand Jury, presented below. The investigation included several elements:

- Review of complaint and interview with Complainant
- Review of the death investigation referenced in the complaint, as well as 25 other death investigation cases randomly selected from those that had been investigated by the Sheriff's Department over the past five years
- Interviews with employees of the Sheriff's Department
- Interviews with employees of the Plumas County Public Health Department
- Review of Sheriff's Department Policy Manual, specifically the Coroner P&Ps
- Online research of NAME, Centers for Disease Control and Prevention, California government codes, police officer training, coroner duties with regard to death investigations, and related matters
- Online research of the EDRS and review of the EDRS operating manual

DISCUSSION

Coroner Policies and Procedures

The Sheriff's Department performs its coroner functions under the death investigation and departmental coroner's manual policies and procedures (together, Coroner P&Ps), which are embedded in its Operations Policy Manual (Policy Manual), available online. The Policy Manual indicates that it was adopted June 30, 2013, although the Coroner P&Ps state that they were revised as of January 2007. The stated purpose of the Coroner P&Ps is to provide information to responding Deputy Coroners as to death investigations within the County, including providing "Deputy Coroners with applicable laws regarding Death Investigations" and "information regarding their duties at a Death Investigation" (Policy Manual, Section 360.3.1-

2). Section 360.1 of the Coroner P&Ps states, “[t]he thoroughness of death investigations cannot be emphasized enough.”

The Coroner P&Ps restate most or all of GC §27491, which requires coroner investigations in connection with certain deaths, as described above, but they do not mention GC §27520, which requires that the coroner facilitate an autopsy when so requested by next-of-kin to the decedent. The Coroner P&Ps also do not provide detailed guidance as to when an autopsy should be arranged in connection with death investigations under GC §27491, nor does it reference professional standards documents, such as the NAME Standards or the CDC Manual. Apart from references to autopsies performed in connection with unidentified bodies (and subject to GC §27521), the sum and substance of the guidance provided by the Coroner P&Ps as to when an autopsy should be obtained is contained in subsection 360.3.6, listing the duties associated with Coroner’s Cases:

“18. Contact Washoe County Coroner’s Office to schedule autopsy if appropriate and the forensic evidence gained would assist in the determination of cause of death. Fax report to Washoe County Coroner’s Office.” (Policy Manual, Section 360.3.6(18))

The Coroner P&P’s do not indicate when it would be deemed “appropriate” to obtain an autopsy, and only specify obtaining one when it “would assist in the determination of the *cause* of death”, without providing further guidance or elaboration. (emphasis added) However, as recognized in the NAME Standards, an autopsy might also be informative as to the *manner* of death. In some cases, it may also help clarify the *circumstances* of death. Under GC §27491, the coroner is responsible for determining all three factors in connection with certain deaths—cause, manner, and circumstances.

Several years ago, the Sheriff’s Department acquired its Policy Manual (including the Coroner P&Ps) by subscribing to the services of a vendor company that develops and updates similar policy manuals for various counties and other jurisdictions. However, the Sheriff’s Department continued subscribing to this service for only a short time after the initial set up of the manual. Maintaining and updating the Policy Manual is therefore now left to Sheriff’s Department personnel having subject matter expertise. However, at least as to the Coroner P&Ps, this does not appear to have occurred on a regular basis; there is no set yearly review or other ongoing supervisory monitoring to ensure that the Coroner P&Ps continue to reflect changing legal requirements, professional standards, or best practices.

Citizen’s Complaint; Non-Compliance with GC §27520

As noted, this investigation was prompted by a citizen’s complaint to the Grand Jury relating to a death of a relative, which was of a type listed in GC §24791. The Grand Jury determined that the Sheriff’s Department commenced an investigation into the cause, manner and circumstances of death, as required by GC §27491, but although the death was unwitnessed and occurred under uncertain circumstances, no autopsy was ordered. The complainant requested in writing that the

Sheriff's Department arrange for an autopsy, but that request was refused. The complainant was compelled to procure a private autopsy in another county, some hours' drive away. The autopsy results were shared with the Sheriff's Department, but did not factor into the investigation report, which had already been completed.

In this case, the Sheriff's Department did not comply with GC §27520. Although a written request for an autopsy was provided by an appropriate next-of-kin, the Sheriff's Department failed to cause an autopsy to be performed as is required by that section, even though the complainant was obligated to pay for the autopsy under GC §27520.

The Grand Jury believes that one reason for this failure was the lack of any mention of GC §27520 in the Coroner P&Ps. While the Coroner P&Ps are intended to present the legal requirements associated with death investigations, they omitted any reference to this important section of the Government Code. This likely occurred because Section 27520 was originally enacted into law in 2008, while it appears that the Coroner P&Ps were last revised in 2007. In any event, this key policy omission was not caught and corrected by Sheriff's Department personnel, who assumed responsibility for the document by discontinuing the subscription with the manual's vendor.

Review of Selected Coroner Cases

The Grand Jury decided to undertake a review of a random sampling of Coroner Cases that appeared to fall within the scope of GC §27491, to gain a better understanding as to when autopsies have been obtained by the Coroner and to assess compliance by the Sheriff's Department with its own Coroner P&Ps. To do this, the Grand Jury first requested all death records from Plumas County Health Department (Public Health) for the time period of January 1, 2015 through December 31, 2019, looking specifically for cases handled by the Sheriff's Department. Public Health provided a list of all deaths in the County during that time, redacting personal information, but retaining the gender and ages of the decedents. This list also included cause of death and any complications, diseases or injuries leading to the cause of death as identified by the Coroner.

From January 1, 2015 through December 31, 2019, 359 death cases were handled by the Sheriff's Department. To arrive at a list focused on GC §27491, the Grand Jury set aside all obvious natural deaths. Of the 127 possible cases for review, after consultation with the Sheriff's Department as to feasibility of producing investigation reports for a given size of sample, the Grand Jury decided to use 26 cases as its sample group, all of which appeared to fall within GC §27491. It selected 25 cases, in addition to the complainant's case. Six cases were at that time shown as "pending" in the EDRS and there was no indication as to cause or manner of death; 19 were cases where the cause of death initially appeared unnatural (including suicides, exposures, drownings, and drug or alcohol related). The Grand Jury intended that a sample of this size would provide a sufficient indicator of Coroner performance in similar instances over the past five years.

The Sheriff's Department provided copies of the Coroner's investigation reports for the 26 cases with personal information redacted. The report copies included all the narrative and supplement information, but did not include medical records, death certificates, evidence, or photos. None of the cases reviewed were vehicle accidents or homicides, and no cases involving juveniles were reviewed. By agreement with the Sheriff's Department, none of the cases provided were ongoing investigations.

Of the 26 cases reviewed, one was determined to have been handled as a Coroner's Referral, as the decedent had been under a doctor's care, had a recently documented medical history, and the doctor signed the death certificate. This case was dropped from the sample, leaving 25 cases for the Grand Jury to review.

After reviewing each of the investigation reports for the selected cases and following up with the Sheriff's Department, the final causes of death were categorized against manner of death as follows:

| Cause of Death | Accident | Natural | Suicide |
|---------------------------|-----------------|----------------|----------------|
| Alcohol Abuse | | 5 | |
| Carbon Monoxide Poisoning | 1 | | |
| Cut Self | | | 1 |
| Drowning | 3 | | |
| Exposure | 3 | | |
| Gunshot wound | | | 2 |
| Hanging | | | 1 |
| Heart Disease | | 5 | |
| Overdose | 2 | | 1 |
| Thermal Injuries | 1 | | |

Based on the investigation reports, in all of the 25 cases deputies were dispatched to the scene and investigations were undertaken as Coroner's Cases.

The Grand Jury reviewed the 25 investigation reports for compliance with the Coroner P&Ps and GC §27463, including verifying whether the responding deputy completed a narrative summary and indicated how the cause of death was determined using medical records and other source materials. It was also noted whether an autopsy was procured. Among other things, it was confirmed whether the report indicated that the responding deputy obtained relevant medical records or reviewed the case with last known physician (as required by item 17 of subsection 360.3.6 of the Coroner P&Ps) and, if no autopsy was deemed necessary, whether a blood sample was obtained and forwarded to the Evidence Clerk (as required by item 20).

The table (Summary of Sampled Cases and Case Reports), which is in the Appendix to this report (Summary Table), provides a breakdown of the reviewed cases. It shows (i) the stated cause and manner of death, as shown in the final death certificate, (ii) whether the investigation

report provided a clear narrative as to the circumstances of the death, as determined by the Sheriff's Department, (iii) whether the Sheriff's Department requested medical records, (iv) whether an autopsy was conducted, (v) if no autopsy was conducted, whether a blood sample was taken, and (vi) the number of days that elapsed from the date of commencement of the Coroner's investigation until the final recording of the death certificate.

Observations from Case Reviews

The Grand Jury's review of the investigation reports for the sample cases yielded a number of interesting observations. In every case, the reports did evidence that a death investigation was commenced and conducted by the deputies, as required by both law and policy. However, additional findings were made difficult by a lack of detail and conclusiveness in many of the reports. For example, none of the reports expressly identified the cause and manner of death, and (as shown in the Summary Table) in about half of the cases they failed to provide a clear statement of the circumstances of the death. Instead, the reports often simply described the scene at which the decedent's body was discovered. While this is no doubt part of the assessment that GC §27491 contemplates in requiring that the coroner "inquire into and determine the circumstances... [of death]", clearly it is not all that is contemplated by the Government Code. It is unclear whether these omissions were a result of lack of certainty on the part of the Coroner as to the actual circumstances of death, or merely poor preparation of the reports by the reporting officer. If the former, then a question may arise as to whether an autopsy should have been ordered. See CDC Handbook, p. 13.

The Sheriff's Department did not adhere to GC §27463(e) in preparing its reports insofar as it failed to indicate in the reports both the cause of death and a reference to the medical reports upon which the cause of death is based. Pursuant to GC §27463(e), a member of the Sheriff's Department enters the cause of death with reference or direction to the detailed medical reports upon which the decision as to cause of death has been based. Where autopsies, toxicological reports or the like are being obtained, the CDC recommends in its coroner's handbook that a supplemental report be filed as soon as the investigation is complete (CDC Handbook, pp. 10, 22). The Grand Jury reviewed all 25 cases for compliance with GC §27463(e) and found there was no supplemental narrative statement supporting how the cause and manner of death was determined.

In addition, the sample reports failed to observe the CDC Handbook best practice standard noted above, in not clearly presenting the cause of death.

The Grand Jury was therefore unable to assess fully the process by which the Sheriff's Department arrived at its determinations as to cause, manner and circumstances of death, and the extent to which they made use of autopsy, toxicological and other technical data in reaching their conclusions.

Based on the reports reviewed, autopsies were obtained in 20% of the sample cases (5 of 25, not including the partial autopsy in Case 8). Autopsies were not obtained in connection with certain deaths where NAME Standards best practices suggest they ordinarily should be obtained—including death by fire, involving thermal injuries (Case 5), death by drowning (Case 24) and death resulting from alcohol or drug abuse (Cases 7, 14, 18, 21, 23, 26). Moreover, in only one of the suicides was an autopsy performed. Similarly, no autopsy was obtained in certain cases deemed “accidents” that were not observed—Cases 5, 17, 24. The reports do not indicate why it was felt there was no need for an autopsy in any of these instances.

It is the view of the Sheriff’s Department that the decision to obtain an autopsy is simply discretionary, and that this discretion is exercised by appropriate members of the Sheriff’s Department. The Grand Jury does not dispute that the decision to undertake an autopsy in California is (with the two exceptions noted above) one for professional judgment under the circumstances, but such discretion does not mean there is a complete absence of standards to be applied, or that the decision can be made arbitrarily or for inappropriate reasons, such as saving costs. Accordingly, it is appropriate for third parties such as the Grand Jury to try to assess the Sheriff’s Department performance in this area.

Under the terms of the Coroner P&Ps, if an autopsy is not ordered, investigating deputies must obtain a blood sample. Based on the review of the reports, there were seven instances where, although an autopsy was not ordered, no blood sample was taken. These cases included all three exposure cases as well as one suicide and the death during a structure fire. In the majority of these cases, the decedent hadn’t been seen for a while prior to death and the narratives usually only set forth how the victim was found. In about a third of the sample cases, the reports did not indicate whether medical records had been requested. The Coroner P&Ps provide that medical records should be obtained in all Coroner Cases.

Particularly in cases lacking an autopsy, blood sample results, and review of medical records (as in Cases 5, 13, 16), it is difficult to tell from the investigation report how the Sheriff’s Department determined with confidence the manner and cause of death.

Case Closures and Updating Pending Death Certificates

As noted above, near the beginning of the investigation, there were six cases in the sample listed as “Pending” in the EDRS. Follow up with the Sheriff’s Department revealed that these cases were considered “closed”. The EDRS system was not updated and it was determined that the Sheriff’s Department relied on the copies of medical records, toxicology or autopsy results as attachments to the report instead of referencing the findings in the report.

Based on the data provided by Public Health, on the dates the cases were recorded with the final determined cause and manner of death, there were multiple cases that took an extended amount of time to update. While cases that included an autopsy could expect to be delayed depending on how quickly the autopsy is completed, it would be reasonable to expect to wait no longer than

three months for results. Six of the 25 cases took longer than three months to update; one took nearly five years before it was updated, two took nearly two years to update and the other three were updated within a year from the date of death. Only one of these cases had an autopsy performed and one other case had a blood sample taken. There were no other circumstances documented in the reports to indicate why there were such lengthy delays. The CDC Handbook states that the cause of death should be updated “immediately” when known.

By the end of the Grand Jury’s investigation, it made a repeat inquiry and learned that five of the six cases originally classified as ‘pending’ in EDRS had been updated since January 2020. It may or may not be a coincidence that the Grand Jury had at that point been conducting interviews on this topic for some months.

A Final Note

The Grand Jury wishes to make abundantly clear that it is not averring that the Sheriff’s Department reached the determinations it apparently did in the 25 sample cases without reason, or that its death investigations were conducted negligently or inappropriately. Such a determination would require the input of experts in the relevant disciplines, which the Grand Jury did not seek or obtain as part of this particular investigation. Instead, the conclusion reached by the Grand Jury is that the coroner investigation reports that it reviewed did not contain sufficient detail or explanation to allow an outside observer to verify what conclusions the Sheriff’s Department arrived at as to cause, manner and circumstance of death, how it arrived at those conclusions, and where it seemingly did not comply with best practices or its own policies and procedures, what reasons it may have had for so doing. These information gaps are, in the view of the Grand Jury, significant and substantive, given the function and importance of coroner investigation reports. These reports, which are public documents, are the principal means members of the public have to assess the adequacy and care taken by the Sheriff’s Department in investigating the deaths of loved ones, and gauging whether there was uncertainty as to any of the determinations made. If these reports do not contain clearly articulated conclusions as to the cause, manner and circumstances of death, backed up by clear and persuasive reasoning and sources, the eventual result could well be loss of confidence by the public in the Coroner’s functions and processes. This would be in no one’s interest.

FINDINGS

F-1. The Sheriff’s Department failed to comply with GC §27520 when it did not facilitate an autopsy when one was requested in writing by an appropriate next-of-kin to the decedent. A major contributing factor to this failure was the lack of any mention of GC §27520 in the Sheriff’s Department Coroner P&Ps.

F-2. The Sheriff's Department Coroner P&Ps are lacking in that they do not provide concrete guidance as to when the Coroner's discretion should be exercised to obtain autopsies in connection with death investigations under GC §27491, nor do they reference best practices.

F-3. The sampled Coroner investigation reports lack necessary detail as to the determination of cause, manner and circumstances of death, and the basis for such determination, and did not shed light on the decision to forego autopsies in several instances in which best practices standards anticipate that autopsies would be obtained (including certain deaths involving fire, drowning, suicide, or alcohol or drug abuse).

F-4. The Sheriff's Department did not fully comply with GC §27463(e) in the sample case reports insofar as they did not show cause of death or document how the cause of death was determined.

F-5. The Sheriff's Department Coroner P&Ps risk becoming materially out of date in that they are not routinely reviewed and updated to ensure compliance with changing legal requirements.

F-6. The Sheriff's Department failed to update the cause of death in the EDRS in six reviewed cases within a reasonable amount of time after receiving necessary information.

RECOMMENDATIONS

Based on the foregoing, the Grand Jury recommends:

R-1. The Sheriff's Department amend its Coroner P&Ps to provide better and more concrete guidance, consistent with best practices, as to the circumstances that govern when the discretion of the Coroner should be exercised to obtain an autopsy, particularly in connection with deaths subject to GC §27491.

R-2. The Sheriff's Department amend its Coroner P&Ps to point out the Department's legal obligation under GC §27520, and to advise inclusion in a written communication to surviving next of kin of an advisory that an autopsy, if not otherwise obtained, will be conducted at their request and their expense.

R-3. The Sheriff's Department amend its Coroner P&Ps to add a directive to include in death investigation reports the determination as to cause, manner and circumstances of death for all deaths falling within GC §27491, and the reasons supporting such conclusions, as arrived at by the Coroner.

R-4. The Sheriff's Department amend its Coroner P&Ps to include a provision requiring annual reviews and updates of the Coroner P&Ps as needed to reflect changes in law and best practices.

R-5. The Sheriff's Department amend its Coroner P&Ps to include a policy ensuring that death records in a pending status are updated as soon as additional data is available to do so, and that investigation reports are supplemented promptly after receiving results of autopsies, toxicology reports and other procedures.

R-6. The Sheriff's Department institute yearly review of its Coroner P&Ps, to ensure compliance with updated legal requirements and best practices.

REQUIRED RESPONSES

Pursuant to Penal Code §933.05, the following responses are required:

From the following Plumas County official (within 60 days):

- Plumas County Sheriff-Coroner (**F-1 through F-6; R-1 through R-6**)

INVITED RESPONSES

The Grand Jury invites the following responses:

From the following Plumas County governing bodies and agency heads (requested within 90 days and 60 days, respectively):

- Plumas County Board of Supervisors (**F-1 through F-6; R-1 through R-6**)
- Director, Plumas County Department of Public Health (**F-1 through F-6**)

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Centers for Disease Control: <https://www.cdc.gov/> and https://www.cdc.gov/nchs/data/misc/hb_me.pdf

National Association of Medical Examiners: <https://name.memberclick.net/>

Commission on Peace Officer Standards and Training: <https://post.ca.gov/basic-training-academies>

California State Association of Counties: <https://www.counties.org/county-office/sheriff-coroner>

U.C. Davis, School of Medicine: https://health.ucdavis.edu/informatics/seminar_series/pdfs/EDRS-UCD_01_08_20064.2%20hogarth%20final.pdf

APPENDIX

Summary of Sampled Cases and Case Reports

| Case ID | Stated Cause of Death (Death Certificate) | Stated Manner of Death (Death Certificate) | Circumstances of Death Identified in Report? | Medical Records Requested? | Autopsy Done? | If no Autopsy done, blood sample taken? | Days to final Recording of Death Certificate |
|---------|--|--|--|----------------------------|--------------------------|---|--|
| 1 | Arteriosclerotic and Hypertensive Cardiovascular disease | Natural | No | Yes | No | Yes | 25 |
| 2 | Drowning | Accident | No | Yes | Yes | [Autopsy] | 98 |
| 3 | Decedent cut self with a sharp instrument | Suicide | Yes | Yes | No | No | 38 |
| 4 | Chronic Obstructive Pulmonary Disease | Natural [Coroner's Referral] | n/a | n/a | n/a | n/a | n/a |
| 5 | Smoke inhalation and thermal injuries | Accident | No | Yes | No | No | 238 |
| 6 | Hypertensive, atherosclerosis, vascular disease | Natural | No | Yes | No | Yes | 45 |
| 7 | Overdose of prescription medication | Accident | Yes | Yes | No | Yes | 34 |
| 8 | Carbon Monoxide poisoning | Accident | No | Yes | Partial-lung sample only | No | 1784 |
| 9 | Asphyxiation by Hanging | Suicide | Yes | No | No | Yes | 21 |
| 10 | Cardiopulmonary arrest/dementia | Natural | No | Yes | No | No | 71 |
| 11 | Complications of chronic alcohol use | Natural | No | Yes | Yes | [Autopsy] | 62 |
| 12 | Drowning | Accident | No | Yes | Yes | [Autopsy] | 127 |
| 13 | Exposure | Accident | No | Yes | No | No | 26 |
| 14 | Long Term Ethanol Abuse | Natural | No | No | No | Yes | 23 |
| 15 | Cardiomegaly (enlarged heart) | Natural | No | Yes | Yes | [Autopsy] | 119 |
| 16 | Exposure | Accident | Yes | No | No | No | 72 |
| 17 | Exposure | Accident | No | Yes | No | No | 9 |
| 18 | Overdose of prescription medication | Accident | Yes | Yes | No | Yes | 277 |
| 19 | Hypertensive, atherosclerosis, vascular disease | Natural | Yes | Yes | No | Yes | 82 |

| Case ID | Stated Cause of Death (Death Certificate) | Stated Manner of Death (Death Certificate) | Circumstances of Death Determined in Report? | Medical Records Requested? | Autopsy Done? | If no Autopsy done, blood sample taken? | Days to final Recording of Death Certificate |
|---------|--|--|--|----------------------------|---------------|---|--|
| 20 | Overdose | Suicide | Yes | No | Yes | Yes | 80 |
| 21 | Esophageal tear due to long term Ethanol abuse | Natural | Yes | Yes | No | Yes | 13 |
| 22 | Self-inflicted gunshot wound | Suicide | Yes | Yes | No | Yes | 6 |
| 23 | Long term ethanol abuse | Natural | No | Yes | No | Yes | 6 |
| 24 | Drowning | Accident | Yes | No | No | Yes | 5 |
| 25 | Self-inflicted gunshot wound | Suicide | Yes | No | No | Yes | 5 |
| 26 | History of chronic ethanol abuse | Natural | Yes | Yes | No | Yes | 34 |

Selected Government Code Sections

24304.1. Notwithstanding the provisions of Section 24300, in counties of the 11th class, the board of supervisors by ordinance may consolidate the duties of certain of the county offices, in one or both of these combinations:

- (a) County clerk, assessor, and recorder.
- (b) Sheriff, coroner, and public administrator.

27463. The coroner shall keep an official register, labeled "Coroner's Register," with pages numbered, indexed and bound, in which he shall enter:

- (a) The name and any aliases of the deceased, when known, including such description as may be sufficient for identification and which may, in his discretion, include fingerprint records.
- (b) A narrative summary of the circumstances leading to and surrounding the death, together with names and addresses of any witnesses to such events.
- (c) The property taken from the person or premises of the deceased by the coroner or by any other law enforcement agency or officer.
- (d) The disposition of any property or moneys so taken.
- (e) The cause of death, when known, with reference or direction to the detailed medical reports upon which decision as to cause of death has been based.
- (f) Information as to disposition of the remains.

(g) Persons notified of the death, together with a notation of any unsuccessful attempts at notification.

27491. It shall be the duty of the coroner to inquire into and determine the circumstances, manner, and cause of all violent, sudden, or unusual deaths; unattended deaths; deaths where the deceased has not been attended by either a physician or a registered nurse, who is a member of a hospice care interdisciplinary team, as defined by subdivision (g) of Section 1746 of the Health and Safety Code in the 20 days before death; deaths related to or following known or suspected self-induced or criminal abortion; known or suspected homicide, suicide, or accidental poisoning; deaths known or suspected as resulting in whole or in part from or related to accident or injury either old or recent; deaths due to drowning, fire, hanging, gunshot, stabbing, cutting, exposure, starvation, acute alcoholism, drug addiction, strangulation, aspiration, or where the suspected cause of death is sudden infant death syndrome; death in whole or in part occasioned by criminal means; deaths associated with a known or alleged rape or crime against nature; deaths in prison or while under sentence; deaths known or suspected as due to contagious disease and constituting a public hazard; deaths from occupational diseases or occupational hazards; deaths of patients in state mental hospitals serving the mentally disabled and operated by the State Department of State Hospitals; deaths of patients in state hospitals serving the developmentally disabled and operated by the State Department of Developmental Services; deaths under such circumstances as to afford a reasonable ground to suspect that the death was caused by the criminal act of another; and any deaths reported by physicians or other persons having knowledge of death for inquiry by coroner. Inquiry pursuant to this section does not include those investigative functions usually performed by other law enforcement agencies.

(a) In any case in which the coroner conducts an inquiry pursuant to this section, the coroner or a deputy shall personally sign the certificate of death. If the death occurred in a state hospital, the coroner shall forward a copy of his or her report to the state agency responsible for the state hospital.

(b) The coroner shall have discretion to determine the extent of inquiry to be made into any death occurring under natural circumstances and falling within the provisions of this section, and if inquiry determines that the physician of record has sufficient knowledge to reasonably state the cause of a death occurring under natural circumstances, the coroner may authorize that physician to sign the certificate of death.

(c) For the purpose of inquiry, the coroner shall have the right to exhume the body of a deceased person when necessary to discharge the responsibilities set forth in this section.

(d) Any funeral director, physician, or other person who has charge of a deceased person's body, when death occurred as a result of any of the causes or circumstances described in this section, shall immediately notify the coroner. Any person who does not notify the coroner as required by this section is guilty of a misdemeanor.

27491.41. (a) For purposes of this section, "sudden infant death syndrome" means the sudden death of any infant that is unexpected by the history of the infant and where a thorough postmortem examination fails to demonstrate an adequate cause of death.

(b) The Legislature finds and declares that sudden infant death syndrome, also referred to as SIDS, is the leading cause of death for children under age one, striking one out of every 500 children. The Legislature finds and declares that sudden infant death syndrome is a serious problem within the State of California, and that the public interest is served by research and study of sudden infant death syndrome and its potential causes and indications.

(c) (1) To facilitate these purposes, the coroner shall, within 24 hours or as soon thereafter as feasible, cause an autopsy to be performed in any case where an infant has died suddenly and unexpectedly.

(2) However, if the attending licensed physician and surgeon desires to certify that the cause of death is sudden infant death syndrome, an autopsy may be performed at the discretion of the coroner. If the coroner causes an autopsy to be performed pursuant to this section, he or she shall also certify the cause of death.

(d) The autopsy shall be conducted pursuant to a standardized protocol developed by the State Department of Public Health. The protocol is exempt from the procedural requirements pertaining to the adoption of administrative rules and regulations pursuant to Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code.

(e) The protocol shall be followed by all coroners throughout the state when conducting an evaluation as part of an autopsy required by this section. The coroner shall state on the certificate of death that sudden infant death syndrome was the cause of death when the coroner's findings are consistent with the definition of sudden infant death syndrome specified in the standardized autopsy protocol. The protocol may include requirements and standards for scene investigations, requirements for specific data, criteria for ascertaining cause of death based on the autopsy, and criteria for any specific tissue sampling, and any other requirements. The protocol may also require that specific tissue samples shall be provided to a central tissue repository designated by the State Department of Public Health.

(f) The State Department of Public Health shall establish procedures and protocols for access by researchers to any tissues, or other materials or data authorized by this section. Research may be conducted by any individual with a valid scientific interest and prior approval from the State Committee for the Protection of Human Subjects. The tissue samples, the materials, and all data shall be subject to the confidentiality requirements of Section 103850 of the Health and Safety Code.

(g) The coroner may take tissue samples for research purposes from infants who have died suddenly and unexpectedly without consent of the responsible adult if the tissue removal is not likely to result in any visible disfigurement.

(h) A coroner or licensed physician and surgeon shall not be liable for damages in a civil action for any act or omission done in compliance with this section.

(i) Consent of any person is not required before undertaking the autopsy required by this section.

27520. (a) The coroner shall cause to be performed an autopsy on a decedent, for which an autopsy has not already been performed, if the surviving spouse requests him or her to do so in writing. If there is no surviving spouse, the coroner shall cause an autopsy to be performed if

requested to do so in writing by a surviving child or parent, or if there is no surviving child or parent, by the next of kin of the deceased.

(b) The coroner may cause to be performed an autopsy on a decedent, for which an autopsy has already been performed, if the surviving spouse requests him or her to do so in writing. If there is no surviving spouse, the coroner may cause an autopsy to be performed if requested to do so in writing by a surviving child or parent, or if there is no surviving child or parent, by the next of kin of the deceased.

(c) The cost of an autopsy requested pursuant to either subdivision (a) or (b) shall be borne by the person requesting that it be performed.

PLUMAS COUNTY AND UNFUNDED PENSION LIABILITY: Deer in the Headlights?

SUMMARY

Plumas County's unfunded employee pension liability and pension costs have been rising for most of the past eight years and now represent a significant, and still growing, expense component in the annual budget. "Unfunded pension liability" is the amount by which pension benefits promised to current and future retirees exceed pension plan assets. It represents a liability of Plumas County, as employer.

Funding public employee pensions is not a challenge unique to Plumas County, of course, but the current unfunded pension liability problem will not go away any time soon and will almost certainly worsen over the next decade. The State is under no obligation to provide assistance to the County in this regard and none should be anticipated.

The 2019-20 Plumas County Grand Jury ("Grand Jury") believes it is important for County residents to understand the fiscal challenges posed by unfunded pension liabilities, the circumstances under which they may become even worse, what County government is doing, and what it might be required to do in the future to manage the issue.

The Grand Jury, based on a six-month investigation, found that Plumas County's unfunded accrued pension liability in 2018 amounted to almost 60% of the County's total liabilities, and had increased by 78% between 2011 and 2018, or at a pace of almost 9% per year. CalPERS has imposed yearly "catch-up" payments on the County, which are also projected to increase by about 8.5% per year through 2026, reaching a near-term peak level of almost \$6 million that would be due to CalPERS in 2025. The most recent "catch-up" payment exceeded 20% of the entire general fund balance for the County.

These liabilities and obligations are already imposing significant fiscal strains on the County, and if investment returns fail to match projected levels or if the discount rate used to calculate unfunded accrued liability is reduced (such as due to a severe or lengthy recession), those strains will increase even more over the next decade, beyond projected levels.

Although this problem has not arisen suddenly or unexpectedly, the Board of Supervisors has yet to adopt a concrete plan or process for dealing with it. Other local government agencies have considered, and in some cases adopted, various methods of coping with unfunded pension liability. The Grand Jury recommends, among other things, that the Board of Supervisors begin by appointing a special pension advisory committee and exploring alternative measures that may warrant further attention.

Presenting public employee pension plans and their related liabilities, even at the high level of generality this report will adopt, is not an easy task. For one, it involves the use of a technical and complex vocabulary. Some of the key terms are presented in the Glossary near the end of this report. The Grand Jury, however, feels that this topic is an important one, especially for local government agencies in California such as Plumas County. Many observers believe that unfunded pension liability is *the* most important issue in local government finance at this time.

BACKGROUND

This report begins with a background overview of California public employee pensions and public employer pension liability. It then turns to a discussion of the specific circumstances of Plumas County.

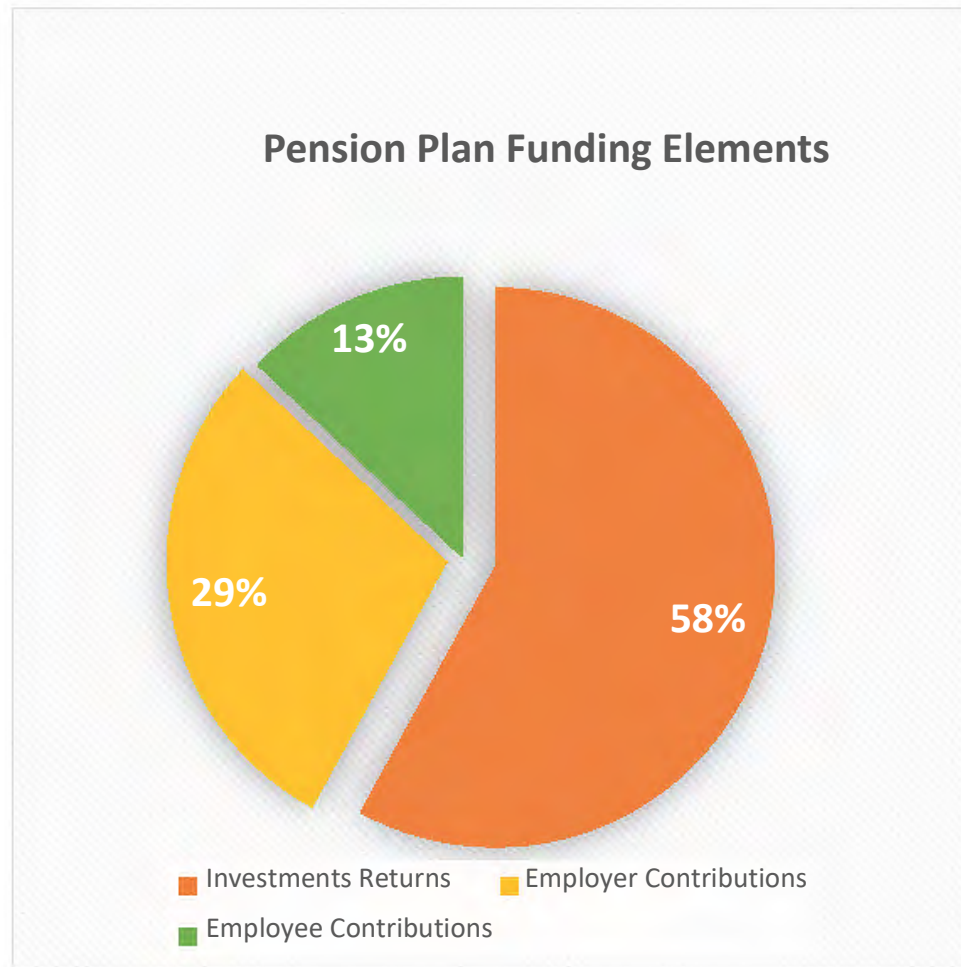
Public Employee Pension Plans and their Funding

There are two types of retirement plans offered by employers in the private and public sectors – *defined benefit plans* and *defined contribution plans*. Defined contribution plans include the familiar 401(k) and 403(b) plans, and are not the focus of this report, as they raise no significant long-term funding liabilities for the employer. Defined benefit plans, however, do create such liabilities. [fn 1] For this reason, few private employers still offer such plans to new employees.[fn 2] However, state and local government agencies have long offered them and continue to do so, even to newly-hired employees.

Defined benefit plans provide a lifetime series of regular payments to the retiree. These payments are of a *guaranteed, fixed* amount, which is established in the pension plan or labor contract terms agreed to during the employee’s tenure. Pension benefits vary, depending on several factors-- the number of years of service, the base salary amount used to calculate the pension payments, and the employee’s age at retirement. [fn 3] The benefits may have a cost of living adjustment, but do not otherwise vary.[fn 4]

Defined benefit plans (or simply, “pension plans”) have three funding elements: (1) employee contributions, (2) employer contributions, and (3) investment returns on invested plan assets. *Figure 1* shows the relative percentage of support provided by each of the three funding elements for plans administered by the California Public Employees’ Retirement System (CalPERS). [fn 5]

Figure 1



A few things about these funding elements should be noted:

- First, investment returns are clearly the predominant factor in the equation, at nearly 60% of the total.
- Second, investment returns are determined by the stock, bond and other asset markets, and by the investment choices made by the firm that is managing the plan assets (here, CalPERS).
- Third, employee contributions are essentially fixed, since they are set by multi-year labor or management contracts, and CalPERS terms.[fn 6]
- Fourth, and most importantly, if a plan's total assets are not sufficient to cover present and future pension obligations, the *employer* is the one solely responsible for making up the deficit.

Employer contribution rates for California local public agencies have increased significantly in recent years, especially as compared to the modest growth in employee contributions. The

amount contributed annually by all employers in the CalPERS system went from \$6.9 billion in 2009 to \$19.9 billion in 2018, almost a three-fold increase. Meanwhile, in that same period employee contributions increased from \$3.9 billion to \$4.4 billion. [fn 7]

CalPERS

For Plumas County, as well as for a majority of the other 57 counties in California, the periodic pension contributions made by the public employee and the employer are pooled, invested and managed by the state pension system— CalPERS. The remaining counties developed and use independent pension agencies. All pension-eligible Plumas County employees and former employees are members of CalPERS. Public employees and their employers are required to make contributions to CalPERS over the course of the employee’s employment. [fn 8]

CalPERS acts as a common investment and administrative agent for the employees and employers. It establishes the key parameters of the plan benefits, collects the contributions of employers and employees, pools them in investment accounts, selects the investments for those pools, and manages the eventual payouts. Upon retirement, CalPERS makes the pension benefit payments to the retired member on behalf of the participating employer. It is important to note, however, that CalPERS is *not* legally responsible for Plumas County’s pension liability, nor is any other State agency or office. The County, as the employer, remains solely liable for any shortfalls.

Unfunded Accrued Pension Liability and the Discount Rate

Prior to the early 2000’s, public employee pension plans administered by CalPERS were fully funded, or nearly so. [fn 9] This means that the sum of (1) employee contributions, (2) employer contributions and (3) investment returns, was equal to or greater than the present value of future pension payments that had been promised to retirees under those plans. It also meant that government employers felt they could be generous in their dealings with labor unions and management when offering pension terms. This no doubt contributed to the pension funding problems many local government agencies in California are now facing.

Employee contributions are fixed at the time of hire or negotiation of a labor contract. CalPERS sets the amount of employer contributions based in part on its projected investment returns on pension assets. These return projections have been reduced on several occasions by CalPERS since the year 2000, dropping from 8.25% to 7.75% (in 2003), later to 7.5% (in 2011), and more recently to 7%. [fn 10] However, actual investment returns fell considerably short of these levels, especially in the 2000- 2009 decade. Due to the 2001-02 tech recession and the 2008-09 “great recession”, CalPERS’ actual investment returns for that decade averaged only 3.1%. [fn 11]

As investment returns sank in the early years of this century, while pension entitlements remained fixed, the result was the emergence of a new phenomenon-- “unfunded accrued pension liability”. This term refers to the amount by which accrued pension liability (the amount

of promised retirement benefit payments) is greater than the value of the plan's assets. That amount becomes an additional obligation of the employer.

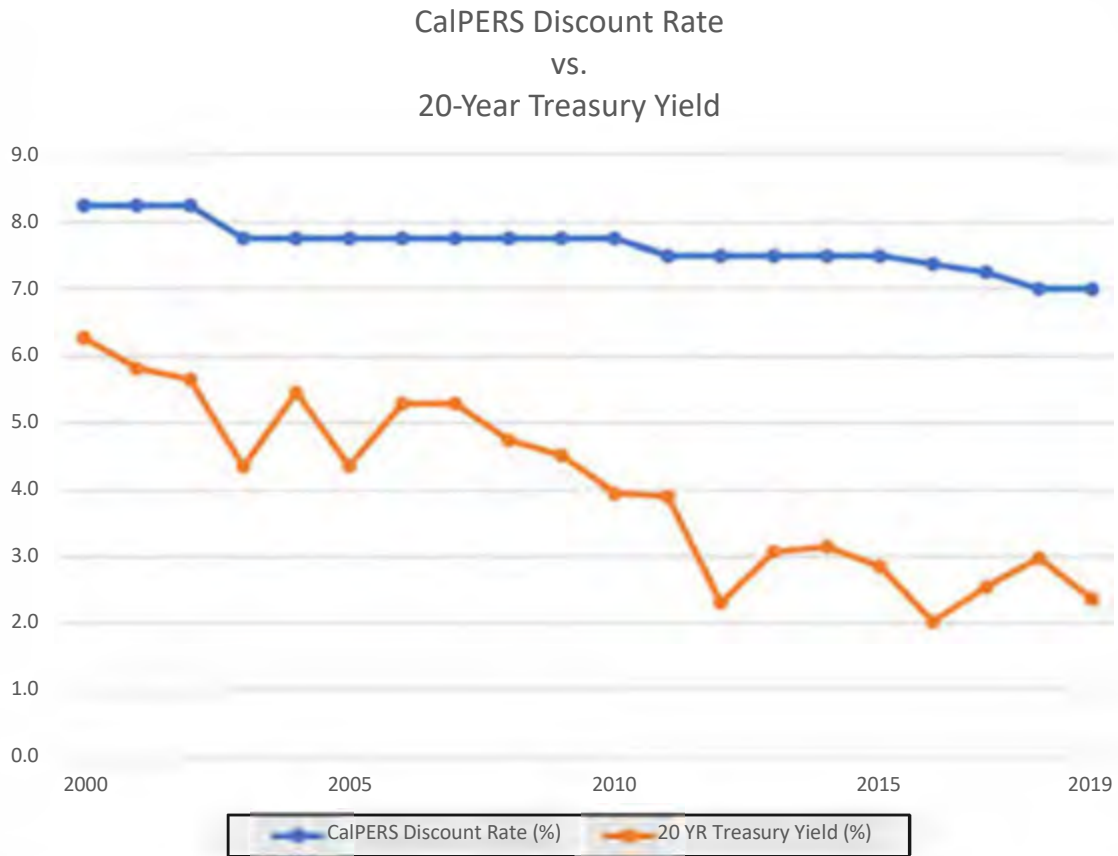
Total accrued pension liability reflects estimated *future* payment obligations to current and future retired employees. These future payment amounts need to be reduced to today's dollars (or "present value"), which is done using a "*discount rate*".

Importantly, CalPERS sets the discount rate that it uses to calculate accrued pension liability at a level equal to its anticipated rate of investment returns on plan assets. That rate is currently 7%. This particular discount rate is an element of what is sometimes called the "*actuarial*" method of determining accrued pension liability, although this report will generally refer to it as the "CalPERS method". [fn 12]

The most common alternative approach to calculating accrued pension liability is sometimes called the "*market*" method; it relies on a discount rate equal to the yield on a risk-free market instrument, such as the 20-year Treasury rate. As of mid-2019, that yield was about 2.5% per annum. [fn 13] Because the market method uses a lower discount rate than the CalPERS method, it produces a substantially *higher* amount of accrued pension liability. [fn 14]

Figure 2(a) shows the historical relationship between the 20-year Treasury rate and the CalPERS discount rate.

Figure 2a



As can be seen, in 2000, the two rates did not differ greatly, but since then the Treasury rate has dropped steadily and significantly while the CalPERS discount rate has declined only slightly, creating a significant difference, or “spread”, between the two. This spread means that the market and actuarial methods of calculating unfunded accrued pension liability now produce widely differing results. It also suggests that the risk that the CalPERS discount rate will need to be further reduced in future years has increased. [fn 15]

Many observers believe that CalPERS’ projection of a 7% rate of return on its investment portfolio is unrealistic over the next decade, and that the discount rate used to derive their actuarial pension liability numbers will therefore need to be lowered. [fn 16] CalPERS has not been particularly accurate in its investment return projections in the past. For example, its investment earnings averaged only 5.8% over the 20-year period ending June 30, 2019, versus discount rates ranging between 8.25% and 7.0% for this period. [fn 17] When viewed on a year-to-year basis, its investment returns fell short of their target in 9 out of the past 20 years.

Figure 2b

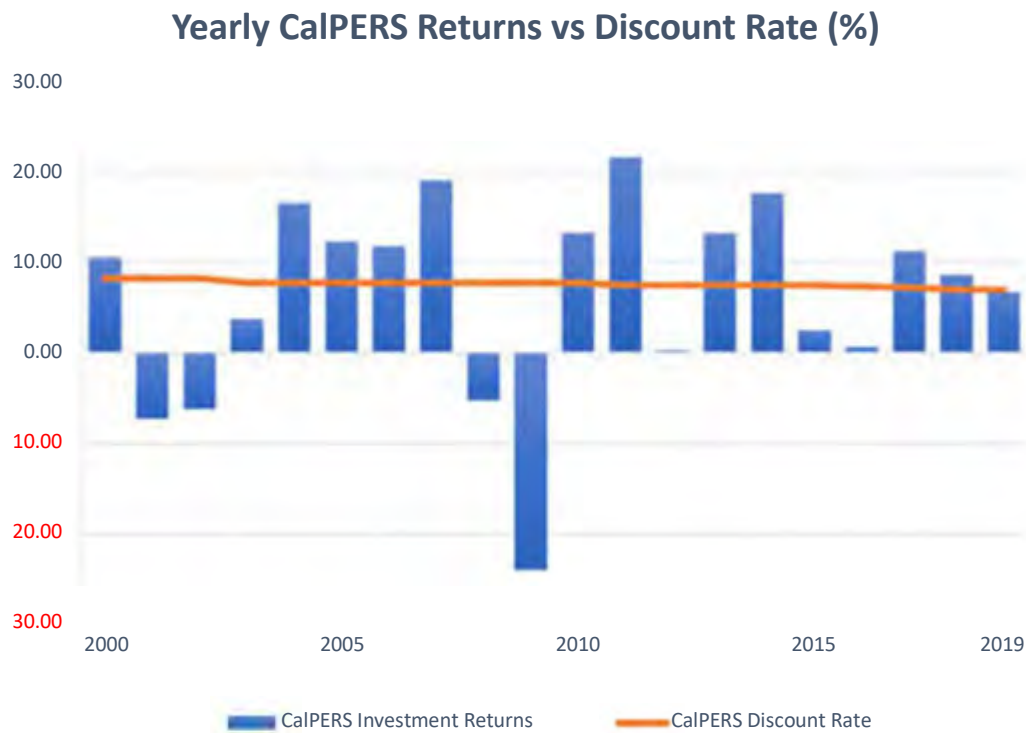


Figure 2b depicts the relationship between the annual CalPERS investment returns and the CalPERS discount rate, over the past 20 years. A quick glance shows that the periods in which investment returns dropped below the discount rate tended to be during or shortly after economic recessions. Recessions also tended to be followed by reductions in the CalPERS discount rate.

Because CalPERS sets the discount rate at its anticipated rate of investment returns, there is potentially a “double whammy” effect if actual investment returns prove to be lower than the CalPERS anticipated rate, over a multi-year period:

- (1) Since the investments have produced lower returns for the pension asset portfolio, under the three-element funding formula discussed above, employer contributions must increase to make up the difference, in order to keep the system in balance, and
- (2) lower investment returns over time will tend to drive reductions in the CalPERS discount rate, which in turn causes potentially significant increases in the amount of total accrued pension liabilities, under the present value formula.^[fn 18]

In short, under these circumstances, employers are forced to cover a larger share of the pie, while at the same time the size of the pie is growing. This is effectively what has been occurring over much of the past two decades—investment returns have generally failed to meet the projected

returns linked to the discount rate, prompting CalPERS to make successive cuts in its discount rate.

Impact of the Last Recession and Ensuing Events

In 2008 and 2009, the “great recession” hit the US economy, causing investment returns for pension funds to decline substantially. This caused unfunded pension liability amounts to increase at an alarming rate. In the years immediately following, this became an issue of major concern for many California government employers, as well as current and former employees, CalPERS, and the voting public.

Four important financial and legal developments occurred in the wake of these events:

- In 2012, the State legislature passed the California Public Employees’ Pension Reform Act (PEPRA), discussed below, which provided for less generous pension terms for employees hired after January 1, 2013, in an effort to lessen the pension burden on government employers in future years.
- CalPERS announced reductions in its discount rate (as of 2011, and again as phased in from 2015- 2020), prompted by concerns that investment returns for the foreseeable future would be lower than those experienced in the past. [fn 19]
- In 2012, the Government Accounting Standards Board (GASB) established GASB Standard No. 68, which provides comprehensive accounting frameworks for pension plans, requiring more comprehensive disclosure of pension liability, applicable as to Plumas County for fiscal year 2014-15 and thereafter.
- CalPERS announced that it would begin assessing governmental employers with annual “catch-up” payment requirements, linked to the calculated amount of unfunded accrued pension liability, beginning no later than 2017. [fn 20]

PEPRA

On September 12, 2012, Governor Jerry Brown signed into law the California Public Employees’ Pension Reform Act (PEPRA). It took effect January 1, 2013. PEPRA was adopted to address widespread concerns that existing pension benefits offered to many public employees were overly generous and created an unsustainable funding situation for their employers. PEPRA provided for new pension benefit formulas, although they only applied to employees hired after January 1, 2013. PEPRA will not, therefore, deliver material savings to local government employers in the near term, although it will certainly produce savings in the long run, as new employees are hired and ultimately retire under PEPRA pension terms.

PEPRA made the following changes, as applied to new employees: [fn 21]:

- Employees are required to pay 50% of the cost of their pensions;
- The age at which employees can claim pension benefits was increased;

- A cap was set on the total compensation on which an employee’s pension benefits could be based; and
- The annual compensation that serves as the base for the pension benefit became an average of 3 years, rather than a single year.

With limited exceptions, PEPRA did not alter the terms applicable to pension plans for employees who had been hired before January 1, 2013. The likely reason for this is the so-called “California rule” governing public employee pension entitlements under California State law. This rule, which is based on a line of California Supreme Court decisions, provides that public employee pension entitlements are a form of deferred compensation, that the rights to them arise at the time of hiring of the employee, and that these rights generally cannot later be altered, even by the legislature.[*fn 22*] In other words, the ability of the government to adversely modify public employee pension rights as to existing employees is severely constrained by law in California.

As discussed below, PEPRA gave rise to a separate set of pension plans, known as “PEPRA plans.” Employees who were hired before January 1, 2013, however, continued to receive the benefit of their prior pension plans, now dubbed “classic plans.” [*fn 23*]

CalPERS Annual Assessments

As noted, several years ago CalPERS announced that it would begin assessing participating employers (including Plumas County) annual payment amounts in respect of their unfunded accrued pension liabilities. This amount, known as an amortized unfunded accrued liability payment (or “UAL Payment”), and sometimes referred to as the “catch-up payment”, would be in addition to the so-called “normal cost” payments that had been assessed all employers from the beginning.

“Normal cost” is based on the employer’s current payroll and is expressed as a percentage of that payroll. It represents the ordinary employer pay-as-you-go contributions to pensions for then-existing employees. The UAL Payment, on the other hand, is a special, annual payment. It is calculated by CalPERS, based on its financial and actuarial assumptions, and represents the unfunded accrued liability of the employer, amortized (as with a mortgage) over a 20 or 30 year period.[*fn 24*]

Employers are required to submit the UAL Payment to CalPERS by July 31 of each year, and they will continue to be required to do so presumably until no further unfunded pension liabilities are projected, which for many counties appears unlikely to occur for at least another 20 years.[*fn 25*] Much like a home insurance policy, CalPERS permits employers to elect to make monthly installments on the UAL Payment, in lieu of a single annual payment. However, if this option is selected by the employer, it will also be assessed an implicit interest rate on the payments.

Each year, CalPERS prepares an “Actuarial Valuation Report” for each plan maintained by each participating employer. In addition to calculating the unfunded status of that plan, the report specifies the amount of the upcoming UAL Payment, and also provides certain projected amounts, including projected future UAL Payments. While these projections undoubtedly assist counties and other employers in planning for future fiscal periods, these numbers are only projections. They are based on assumptions as to investment performance, future payroll, discount rate, amortization period, and other factors. If circumstances force a change in the assumptions, the resulting liability and payment numbers will also change. [fn 26]

Future Changes in Key Assumptions

CalPERS has stated publicly that the next decade (2020- 2029) will be the critical period for California’s public employer pension plans. [fn 27] Unfunded accrued pension liability and UAL Payments are both projected to plateau for many employers during this timeframe. [fn 28]

To assess the potential impact of pension liabilities over this timeframe, the following two questions should be considered:

- Can local government agencies continue to fund their pension liabilities, as those liabilities are currently projected?
- What effect will it have on the agencies’ ability to continue to fund these liabilities if the assumptions on which the liability projections were based prove incorrect?

As to the latter, the future level of unfunded accrued pension liabilities in the CalPERS system, and whether they increase beyond the levels now projected, depend mainly on the following:

- *Investment Returns*: Whether future investment returns for CalPERS average out to a level at or above the current 7% projected return figure. If not, then unfunded pension liability will increase beyond currently projected levels, which means more contributions by employers. As shown in *Figure 2b*, during the last recession, the CalPERS investment return was negative in both 2008 and 2009.
- *Discount Rate*: Whether the 7% discount rate is determined to be overly-optimistic and needing to be further reduced, to perhaps 6%, or even lower. If so, then the present value of total accrued pension liabilities will increase, significantly.
- *Employee Actuarial Factors and Payroll*: Pension liabilities can also change as a result of shifting demographics; for example, employees retiring earlier than projected, retired employees not being replaced, and retirees living to an older age than projected by CalPERS actuaries. To the extent employees retire sooner and live longer, lifetime benefit payments will increase, along with total accrued pension liability. Similarly, if the employer’s payroll declines (for demographic or other reasons), fewer dollars will be contributed to CalPERS through regular normal cost payments, potentially resulting in more being required as payment on unfunded pension liability.

The most worrisome scenario in this regard is an economic downturn occurring during the next several years, similar to or even worse than the 2008-09 “great recession”. Such an event would likely have an adverse impact on all three factors outlined above. [fn 29]

Many local governmental agencies, particularly those that have not otherwise taken material steps to address the unfunded pension liability issue, might then find themselves considering the prospect of Chapter 9 bankruptcy, following in the wake of the Cities of Vallejo, Stockton and San Bernardino. [fn 30] Bankruptcy proceedings are usually powerful devices, allowing debtors to adjust the terms of their indebtedness and to “reject” certain contracts that are overly burdensome to them. As applied in the context of California pension entitlements, however, the legal picture is still murky. It is unclear, for example, whether a local government agency debtor is legally able to reject its pension contracts with current and former employees and renegotiate them in a Chapter 9 bankruptcy, consistent with the “California rule.”[fn 31]

METHODOLOGY

The Grand Jury conducted a six-month investigation of this topic, from September 2019 thru February 2020. It reviewed numerous online and other resource materials, including Actuarial Valuation Reports issued by CalPERS, Plumas County audited financial statements, and other sources listed in the Bibliography and in the various endnotes to this report.

The Grand Jury conducted interviews of Plumas County employees and officers, including persons in the following areas, among others:

- County Administration
- Auditor/Controller
- Human Resources
- Treasury
- Board of Supervisors

In addition, the Grand Jury interviewed current and former outside advisors having knowledge of the matters under investigation, and a CalPERS representative.

The Grand Jury also reviewed several reports on different aspects of public pension liability that were produced within the past few years by grand juries in other California counties, including those of Orange, San Mateo, Santa Clara, Shasta, and Sonoma Counties, as set forth in the Bibliography.

DISCUSSION

County Pension Plan Types

Before grappling with Plumas County’s overall pension liability situation, it must be noted that the County has in place multiple plans, which are categorized according to (i) the role performed by the employee, [fn 32] and (ii) when the employee first became a County employee.[fn 33] For purposes of this report, the latter categorization is the more important.

Those employed by Plumas County (or another CalPERS employer) prior to January 1, 2013 participate in a “classic” pension plan, while those arriving after that date are under a “PEPRA” plan. The classic plans, which have more generous terms for employees than the PEPRA plans, are the ones that pose significantly greater risk to the fiscal well-being of the County. Presently, PEPRA plans are nearly fully-funded, although this certainly could change in the future, given the right set of adverse circumstances. [fn 34] The classic plans are therefore the primary source of unfunded accrued pension liability for the County.

Plumas County’s pension liability exposure to CalPERS includes two elements, as presented above--(1) the employer share of “normal cost”, and (2) unfunded accrued liability. For Plumas County, both amounts have been increasing over the past several years and are projected to continue to increase. [fn 35]

Plumas County’s Unfunded Pension Liability and “Normal Cost” Burden

As shown in *Figure 3*, below, the County’s unfunded pension liability numbers (both CalPERS and market methods) have increased steadily and substantially, over the past eight years, or more. [fn 36]

Figure 3

**Unfunded Pension Liability and Funded Ratios
(Plumas County) – Historical**

| Year | Total (CalPERS) Unfunded Accrued Pension Liability (\$000) | Total (Market) Unfunded Accrued Pension Liability (\$000) | Combined Funded Ratio (CalPERS) | Combined Funded Ratio (Market) |
|------|---|--|---------------------------------------|--------------------------------------|
| 2011 | \$33,285 | \$81,372 | 74.9% | 55.0% |
| 2012 | \$40,359 | \$141,555 | 70.6% | 40.7% |
| 2013 | \$35,818 | \$115,213 | 75.0% | 48.2% |
| 2014 | \$33,834 | \$114,541 | 78.2% | 51.5% |
| 2015 | \$39,522 | \$141,514 | 75.3% | 46.0% |
| 2016 | \$50,293 | \$149,059 | 70.0% | 44.1% |
| 2017 | \$51,894 | \$176,864 | 71.0% | 41.8% |
| 2018 | \$59,356 | \$191,800* | 68.9% | 42.6%* |

*Estimated

In 2011, the County had total unfunded pension liability of approximately \$33.2 million, using the CalPERS method. By 2018, that had grown to roughly \$59.3 million. This represented an overall increase of about 78% for that 7-year period, or an annualized increase of almost 9%.

Based on Plumas County’s 2017-18 Financial Statements, net pension liability equated to 69.7% of total net long term debt, and 59.4% of total liabilities. [fn 37]

The CalPERS Actuarial Valuation Reports indicate that the primary factors driving the increase in the County’s unfunded accrued pension liability in the recent past were changes in actuarial “methods and assumptions”, of which the lowering of the discount rate appears the largest contributor.

The *funded ratio* is the ratio of the value of pension plan assets to total accrued pension liability. It shows the extent to which accrued pension liability is covered by current pension assets. Higher funded ratios are obviously better than lower, but there is no clear line separating acceptable from unacceptable ratios in all instances. However, the Government Finance Officers Association recommends that public employers aim to achieve a funded ratio that approaches 100%, while other observers view 80% as the lower level of reasonably acceptable funded ratios. [fn 38]

As shown in *Figure 3*, above, the estimated combined funded ratio for the County’s plans has dropped steadily and substantially since 2011.[fn 39] It is now (as of 2018) below 70%, even based on the CalPERS method.[fn 40] On a comparative basis, looking at the group of California counties with populations between 10,000 and 50,000, Plumas County’s overall funded ratio (as of 2017) was roughly in the middle, as indicated in *Figure 4*. [fn 41]

Figure 4

County Pension Statistics—Comparison (2017 data)

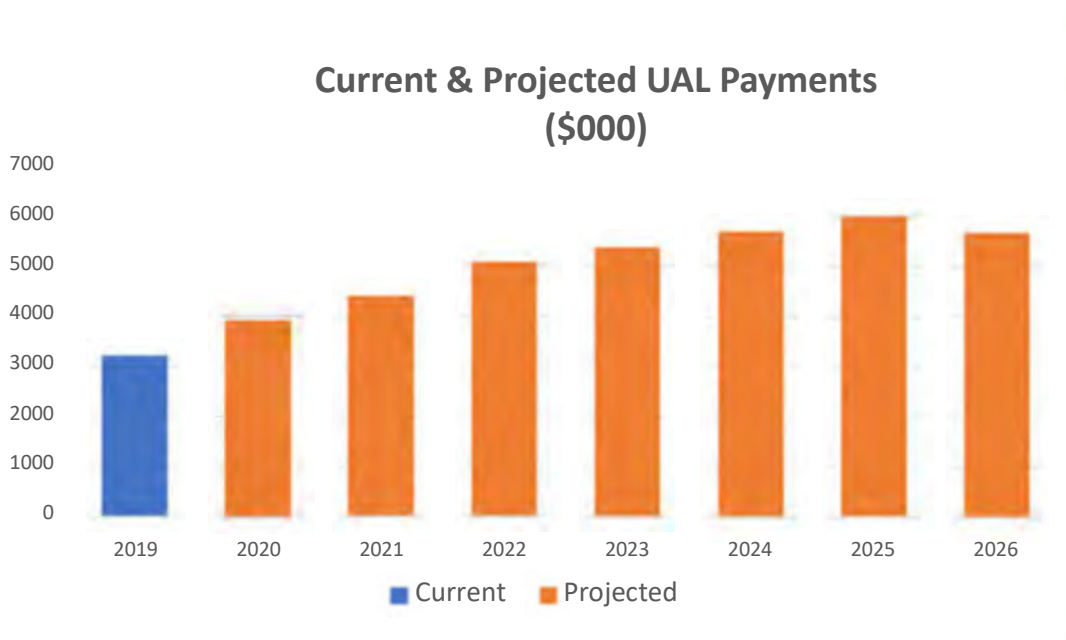
| County | Unfunded Accrued Pension Liability per Household (CalPERS method) | Funded Ratio (CalPERS method) | Total Employer Pension Contrib. / Operating Expenditures |
|---------------|---|-------------------------------|--|
| Calaveras | \$3,704 | 72.0% | 5.0% |
| Lassen | \$4,659 | 74.3% | 4.4% |
| Del Norte | \$4,677 | 70.3% | 4.7% |
| Amador | \$4,710 | 69.9% | 4.5% |
| Siskiyou | \$5,412 | 69.1% | 7.0% |
| PLUMAS | \$6,070 | 71% | 6.3% |
| Mariposa | \$6,398 | 71.1% | 6.5% |
| Glenn | \$7,542 | 63.3% | 6.4% |
| Inyo | \$9,070 | 69.8% | 6.0% |
| Mono | \$9,310 | 71.2% | 6.5% |
| Trinity | \$9,886 | 59.6% | 8.1% |
| Colusa | \$10,103 | 64.4% | 1.0% |

Perhaps a better sense of the burden of the County’s unfunded accrued pension liability can be obtained by viewing it on a per household basis. Dividing the most recent, 2018 CalPERS unfunded pension liability by the number of households in Plumas County yields \$7,375 per household.[fn 42] If one uses instead the *market* unfunded liability figure (for 2017), the per household burden is \$20,683 [fn 43]

As shown in *Figure 4*, Plumas County’s per household unfunded pension liability ranks near the middle for California counties with populations between 10,000 and 50,000. However, it is higher than a number of much larger and more prosperous metropolitan counties, such as Alameda County. [fn 44]

A final important piece of the pension liability picture is the UAL Payment, which must be paid by the County annually to CalPERS. As mentioned above, this is an amount calculated by CalPERS, as an installment, or “catch up” payment, on Plumas County’s amortized unfunded accrued pension liability. For at least three years now, Plumas County has been required to make UAL Payments in respect of all of its plans.

Figure 5



As shown in *Figure 5*, the County’s total UAL Payment obligation was about \$3.2 million in 2019, and is projected to grow to roughly \$5.6 million in 2026 (after hitting a near-term high of \$5.9 million in 2025).[fn 45] This represents a projected increase of about 75% over that 7 year period, or about 8.5% on an annualized basis. To place these dollar amounts in perspective, Plumas County’s current reserve is only \$2 million, and has been considerably lower than that in the past decade. [fn 46]

Based on the County's 2017-18 Financial Statements, as of 2018, the UAL Payment amounted to 22.4% of the entire general fund, and 37.3% of the unassigned balance of that fund. The 8.5% rate of increase for these annual payments is more than double the rate of revenue increases experienced by the County. For the five-year period ending June 30, 2018, Plumas County's tax revenues increased at an average annual rate of 3.58%, while total revenues for the County averaged a 4.18% per year increase.[fn 47]

UAL Payments can also be compared to the County's total operating expenditures. This comparison helps provide a perspective on the extent to which, barring future revenue increases or other measures, UAL Payments may tend to "crowd out", or displace, other expenses and services. [fn 48] Since Plumas County is only paying the required minimum UAL Payment each year (setting aside modest amounts being placed in a PARS trust, discussed below), a relatively high percentage of operating expenditures tends to suggest greater stress in the system in making those payments, and, absent increased revenues, greater potential for "crowding out" of other services or obligations. Interviews with County officials indicate that County services are already suffering as a result of accrued pension liabilities.

Based on Pension Tracker 2017 data, the percentage of total operating expenditures represented by pension liability payments for Plumas County was approximately 6%.[fn 49] This number was roughly in the middle, when compared to other counties having between 10,000 and 50,000 population, but significantly higher than some counties in that group, such as Colusa (1%), Lassen (4.4%), Amador (4.5%) and Del Norte (4.7%).

Plumas County's "normal cost" payments, meanwhile, run at more than 10% of a projected payroll of \$21.9 million, or roughly \$2.23 million per year. These CalPERS-based figures are understated, in that for 5 of the 8 existing labor contracts (Memoranda of Understanding), the County also pays (to some extent) the *employee's* pension contribution payment. Unfortunately, the Grand Jury was unable to obtain information as to the aggregate dollar amount of these payments by the County. [fn 50]

The County's Response to the Problem So Far

By several measures, Plumas County's unfunded pension liability problem is significant, and worsening, even under the optimistic methods and assumptions used by CalPERS. There is an appreciable risk that the County's liability situation could become far worse, particularly if a severe or lengthy recession occurs over the next several years. What has the County done, both procedurally and substantively, in recognition of this growing problem?

In investigating this topic, the Grand Jury found that this important issue has not been discussed in detail in County Board of Supervisor meetings. There were no Board sessions with an agenda item focused specifically on the topic of unfunded pension liability during the 2016- February 2020 period reviewed by the Grand Jury. The only time the subject appears to have been discussed in Board meetings was in connection with (i) the approval of the annual budget, (ii) the

annual financial statements, and (iii) the decision in 2018 to make PARS accounts available for pension funds (see below). In each instance, brief attention was devoted to the pension liability topic.

Unlike other local government agencies, Plumas County's Board of Supervisors has not appointed any special, *ad hoc* pension advisory committee, charged with looking into the pension liability issue as it affects the County, and presenting alternative courses of action to address it. Moreover, none of the existing Board committees, sub-committees or working groups, such as the Budget Subcommittee, the Treasury Oversight Committee, or the Debt Advisory Committee, has taken on this issue, and none appears to provide an effective platform for doing so, for varying reasons. The Budget Subcommittee, for example, meets only for a limited period each year and is focused entirely on addressing the next budget. It also does not include the Treasurer as a member. The Treasury Oversight and Debt Advisory Committees do not have this subject in their mandate and in any event appear inactive for the moment; they have not met recently nor scheduled any meetings as of this writing.

There is a need for an advisory committee that has the knowledge and time to focus on this problem, present it in all its facets to the Board of Supervisors, and offer suggestions as to potential courses of action. Some local agencies have appointed pension advisory committees that include both local citizens and pension retirees. [fn 51]

Neither the Board of Supervisors nor any of the involved County offices has developed any written plan or policy for attacking this problem. Unfunded pension liability took decades to develop and will require at least years to resolve, suggesting the need for long-term planning and an enduring statement of policy. However, there has not been any articulation by the Board of Supervisors of the relative importance or priority of the unfunded pension liability problem, as compared with other priorities. This has meant that the pension problem has tended to receive attention only for a short period of time each year, as part of the annual budget or financial statement approval process. The budget approval context is not one that is conducive to a thorough analysis of complex issues such as this.

Notably, Plumas County lacked a County Administrator (CA) (formerly known as the County Administrative Officer) from 2012 until early 2019, when the position was filled. [fn 52] The CA has historically been viewed by some as the chief advisor to the Board of Supervisors on budget and financial matters. The County has also been without a dedicated financial analyst since about 2012, until present. This position reported to the CA and was considered by some as functionally a chief financial officer.

Putting aside the question of whether the County was able to afford these positions in the 2012-2019 timeframe, given the severe budget constraints existing for much of that time, it is clear that the County lacked personnel in key financial advisory positions during the years in which unfunded pension liability was developing into a major financial issue.

Despite these deficiencies and challenges, some constructive steps have been taken by the County to address the growth in unfunded pension liabilities; specifically:

- The County's Human Resources Department implemented PEPRA plans for employees hired after January 1, 2013, thereby securing pension terms more favorable to the County than had been previously offered under the classic plans. [fn 53]
- The County has for at least three years paid the CalPERS UAL Payment amount as a single annual payment, rather than on a monthly installment basis. For 2019-20, for example, the County saved approximately \$112,000 in avoided interest payments by not opting for the monthly payment option.
- The County set aside approximately \$250,000 in a PARS trust account in 2019, as a prefunding of pension obligations. PARS accounts allow the County to access a broader array of investments for its cash, potentially enhancing return on such monies, while achieving certain financial statement benefits. [fn 54] The County hopes to be able to continue to fund this account on an annual basis. However, \$250,000 represents less than 10% of a single annual UAL Payment.
- There has been improvement in labor contract terms involving pension entitlements, in addition to the advent of the PEPRA plans. [fn 55]

All of these steps are commendable and do help mitigate the problem. However, other counties and local government agencies have taken or considered other substantive steps, including the following:

- Identifying or creating additional revenue sources that can be dedicated to covering unfunded pension liability. [fn 56]
- Taking advantage of favorable debt market conditions to incur debt (pension obligation bonds), used solely to service or prepay pension obligations. [fn 57]
- Declaring the prepayment of pension liabilities as a priority and budgeting for such prepayments. [fn 58].
- Making more aggressive usage of PARS trusts as a means of prepaying pension obligations.
- Considering accelerating the payment of unfunded pension liabilities, and reducing total interest paid, by substituting a shorter amortization period for the 20-year standard period used by CalPERS in generating its UAL Payment amounts.

There are no doubt advantages and disadvantages associated with each of these alternative measures, which is all the more reason to assess them in a careful and deliberate manner. [fn 59]

On the other hand, delay in taking action has forced some local government agencies to cut basic services in order to be able to continue to make required pension payments. An example is the City of Richmond, which found itself forced to cut jobs, street repairs and library services due to its pension liabilities. [fn 60]

The Threat of the “Double Whammy”

As discussed, the unfunded accrued pension liability and future UAL Payment numbers are projections, based on certain assumptions, including investment returns, discount rate, future payroll, and other actuarial factors. The most important assumptions are the investment returns on the CalPERS portfolio and the discount rate used by CalPERS—the “double whammy” discussed above. What impact would adverse changes in either or both of these factors have on Plumas County’s pension liabilities?

CalPERS provides a perspective on this in its Actuarial Valuation Reports. For Plumas County, it projects that if investment returns over the next several years average only 4% per year (vs 7% currently projected), the annual UAL Payment required in 2025 would increase from \$5.9 million to \$7.0 million. This is roughly an 18% increase. If, however, average investment returns drop to 1% for this period, the annual UAL Payment would go up by 35%, to nearly \$8 million.

If there is such a shortfall in investment returns over a multi-year period, it is likely that CalPERS will be forced to further reduce its discount rate, bringing the “double whammy” into full play. *Figure 6* shows the effect of reductions in the CalPERS discount rate from the current 7% to 6% and further to 2.5%, using the County’s June 2018 liability numbers. [*fn 61*]

Figure 6

Discount Rate Sensitivity (2018)

| Assumed Discount Rate | 2018 Plumas County Total Unfunded Accrued Liability (\$000) | 2018 Plumas County Funded Ratio |
|------------------------------|--|--|
| 7% (current) | \$59,356 (actual) | 69.0% (actual) |
| 6% | \$83,352 | 61.6% |
| 2.5% | \$326,683 | 41.2% |

The change in the unfunded accrued liability number due to even a one percentage point reduction in the discount rate (to 6%) is dramatic—causing a 40% increase in total unfunded accrued liability. A reduction in the discount rate to the 20-year Treasury yield (2.5%) appears catastrophic—resulting in more than a 500% increase in unfunded accrued liability. The funded ratio percentages decline commensurately—from the most recent level of 69% (assuming a 7% discount rate) to less than 62% (assuming a 6% discount rate) and to about 41% (under a 2.5% discount rate). [*fn 62*]

Given especially recent market and economic developments surrounding the Covid-19 virus (which have come into view only after the bulk of this report was written), these risks appear by no means remote or inconsequential.

Possible Future Responses by the County

What might Plumas County do in the future, to reduce or better manage its unfunded accrued pension liability and to prepare for possible further increases in such liability, driven by the factors described above? The answer may depend on when the measures are implemented.

If the County waits until there is a severe economic downturn before taking action, it will likely find that its options are greatly limited. For example:

- Revenue increases (tax or fee income) will likely be impracticable to implement during a recession.
- Addressing the problem through debt financing (pension obligation bonds) in a recession will be more difficult, if not impossible, with interest rates and other debt terms being less favorable to the County, particularly since the County's credit rating will likely decline in such circumstances. [fn 63]
- Cutting salaried positions to solve the problem will be partially counter-productive, in that the more payroll is reduced by job elimination, the less able the County will be to fund accrued pension liabilities through employer payroll contributions on a pay-as-you-go basis, with the result that unfunded pension liability may actually increase.

Chapter 9 bankruptcy, of course, is an option in such times, with the prospect of restructuring the County's various debts. However, given the legal uncertainty as to whether it would be possible for the County to modify vested pension rights in a federal bankruptcy proceeding, this alternative is not necessarily a cure-all. Even if it were legally possible, any local government agency seeking to go this route must consider the possible practical consequences, including having to arrange for a pension administrator to replace CalPERS, and the potential loss of existing employees, plus additional difficulty in hiring new personnel. [fn 64]

It should also be noted that pension liabilities are not the only long-term liabilities that Plumas County bears in relation to its retirees. There are also substantial amounts of "Other Post-Employment Benefits" (OPEB) that will need to be paid, particularly retiree healthcare benefits. [fn 65]

Although the problem of managing unfunded public pension liabilities is not an easy one under any circumstances, the County will have greater leeway in designing and implementing a plan of attack before a major recession occurs. Time is therefore of the essence.

It bears watching to see which tools the Board of Supervisors and County officers will decide to rely on, and in what sequence.

- Will they cut “soft services” (library, health, social services, etc.), some of which have not yet recovered from the last recession?
- Will they take on debt, converting some portion of the problem to financial indebtedness, potentially reducing current year budget impacts, but also adding an interest payment component to the final tab?
- Will they seek to increase fees or taxes, or find other sources of revenue?

While the specific answers to these questions are not yet evident, what is clear is that simply trusting to luck that the CalPERS investment portfolio finds a way to maintain average returns above 7% throughout the next decade, avoiding the “double whammy”, is not a strategy. The County must act, or risk becoming the proverbial deer, standing in the middle of the road, transfixed by the headlights of an oncoming vehicle. [*fn 66*]

FINDINGS

F-1. Plumas County’s aggregate unfunded accrued pension liability has increased substantially in recent years, and now makes up over half of the County’s total liabilities and more than two-thirds of its total net long term debt.

F-2. The failure of CalPERS investments to achieve projected returns, and the related reductions in the CalPERS discount rate, have been the principal causes of the deterioration in Plumas County’s unfunded accrued pension liability position.

F-3. Plumas County’s pension funded ratio has declined steadily, to a point that is considerably below desirable levels.

F-4. The UAL Payment (or “catch-up” pension liability payment) now required to be made by Plumas County to CalPERS on an annual basis (i) represents a sizeable percentage of the County’s operating expenditures, (ii) comprises over a third of the unassigned balance of the general fund, and (iii) is projected to increase substantially over the next several years, at a rate considerably beyond historic revenue growth rates.

F-5. The Board of Supervisors has not discussed the County’s unfunded pension liability problem in detail, and no concrete measures have been adopted to develop an effective policy, plan or process for addressing it, although some mitigating steps have been taken without the benefit of such a policy, plan or process.

F-6. Plumas County’s ability to respond effectively to the significant increase in unfunded accrued pension liabilities has been hampered by the absence of certain key financial personnel.

F-7. The need to fund existing accrued pension liabilities is already “crowding out” the provision of certain services by the County. This trend is projected to worsen significantly over the next several years.

F-8. A severe or lengthy recession during the next several years would materially increase the amount of Plumas County’s unfunded accrued pension liability, and significantly reduce its funded ratio, while also impairing the County’s ability to manage and fund that liability.

RECOMMENDATIONS

Based on the foregoing, the Grand Jury recommends:

R-1. The Board of Supervisors, by September 30, 2020, confirm that it has available to it sufficient subject matter expertise and resources in respect of pension liability matters and, if not, that it authorize the retention of such expertise.

R-2. The Board of Supervisors, by September 30, 2020, appoint an *ad hoc* pension advisory committee (“pension committee”), including relevant County officials, as well as members of the public and current and former County employees, to investigate and report back on the County’s pension liability problem and its various facets, and propose one or more multi-year mitigation plans.

R-3. The Board of Supervisors, by September 30, 2020, request the pension committee to deliver to it by April 6, 2021 a detailed report containing the results of the committee’s review.

R-4. The Board of Supervisors, by June 1, 2021, hold an open meeting to receive and discuss the findings and proposals of the pension committee.

R-5. The Board of Supervisors, by September 7, 2021, adopt a practical and effective, comprehensive policy and 10-year plan for remediation of unfunded accrued pension liabilities.

R-6. The Board of Supervisors, by September 10 of each year, beginning in 2021 and continuing through at least 2025, provide up-to-date annual reports to the public regarding the status of Plumas County’s unfunded accrued pension liabilities and efforts to better manage those liabilities, reflecting the most recent CalPERS Actuarial Valuation Reports and County financial statements.

REQUIRED RESPONSES

Pursuant to Penal Code section 933.05, the following responses are required:

From the following Plumas County governing bodies (within 90 days):

- Board of Supervisors: **F-1 through F-8, and R-1 through R-6**

INVITED RESPONSES

The Grand Jury invites the following responses:

From the following Plumas County officials (requested within 60 days):

- County Administrator: **F-1 through F-8**
- Auditor/Controller: **F-1 through F-8**

GLOSSARY

Inevitably, any substantive discussion of public employee pension liabilities requires the use of technical and trade terms. While this report has attempted to limit that usage, in the interest of reaching a broader potential audience, it does reference the following:

Accrued pension liability: The total dollar amount needed as of a valuation date to fund all pension benefits already earned by eligible County employees and former employees.

Actuarial method (or CalPERS method): The method of determining accrued pension liability and normal cost, based on certain actuarial assumptions, including a discount rate equal to the anticipated return on pension assets.

Actuarial Valuation Report: A statement issued annually by CalPERS in respect of each member plan, setting forth the assets and accrued pension liabilities of the plan, minimum required contributions for the employer (including the UAL Payment and normal cost), and providing certain actuarial information in relation thereto.

CalPERS: California Public Employees' Retirement System.

CalPERS members: All public employees, and former public employees, eligible to participate in one or more pension plans administered by CalPERS.

California rule: A rule of law, established in California Supreme Court decisions, holding that public employee pension rights are a form of deferred compensation, the rights to which arise upon the commencement of employment, and which are protected from impairment under the constitutional contracts clause.

Chapter 9 bankruptcy: Proceedings under Chapter 9 of the Federal Bankruptcy Code, applicable to counties, cities and certain other local governmental agencies, as bankruptcy debtors.

Classic plans: Public employee pension plans held by persons who joined CalPERS prior to January 1, 2013.

County: The County of Plumas.

Defined benefit plan (or pension plan): An employer-offered plan that provides lifetime pension payments to retirees, determined according to the employee's length of service, age of retirement and a determined base salary.

Discount rate: The rate of interest used to reduce (or discount) a stream of future payments to present value terms.

Fiscal year: For Plumas County and other California counties, July 1 to June 30 of each calendar year.

Funded ratio: The ratio of a fund's assets to its accrued pension liabilities. A ratio of more than 100% indicates that the fund has more assets than liabilities; one that is less than 100% indicates that it has fewer assets than liabilities.

GASB: Governmental Accounting Standards Board, the entity setting accounting standards for most governmental entities.

General fund: The chief operating fund of the County.

Miscellaneous plans: Classic or PEPRAs relating to CalPERS members who are not under Safety plans or the Peace Officer plan.

Market method: The method of determining accrued pension liability, based on market assumptions, including a discount rate equal to a risk-free rate of return.

Net pension liability: An accounting term used in GASB Standard No. 68, but essentially the same as unfunded accrued pension liability, using the actuarial method.

Normal cost: The annual cost of service accrual for the upcoming fiscal year for the pension entitlements of active employees.

Other Post-Employment Benefits (OPEB): Medical, dental and vision benefits provided on a post-employment basis to eligible employees and former employees of the County.

PARS trust: A Section 115 trust, administered by the Public Agency Retirement Services (PARS), used to prefund pension benefit payments.

Peace Officer plan: The classic plan held by one or more former employees in the County District Attorney's office.

PEPRA: The California Public Employees' Pension Reform Act of 2013.

PEPRA plans: Public employee pension plans held by persons who joined CalPERS on or after January 1, 2013.

Present value: The current value of future payments or receipts, calculated using a discount rate.

Safety plans: Classic and PEPRA plans held by persons engaged or formerly engaged in law enforcement or fire suppression.

UAL Payment: A payment assessed annually by CalPERS of certain employers, reflecting the amortized portion of unfunded pension liability, with certain adjustments made, as described in the relevant Actuarial Valuation Report.

Unfunded accrued pension liability: The amount of accrued pension liability for a given plan or plans that is in excess of the amount of assets held by such plan (or all such plans).

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END NOTES

1. The American Express Company was the first U.S. employer to offer a defined benefit plan, in 1875. See “History of PBGC”, *PBGC website*.
2. Between 1998 and 2017, the number of Fortune 500 companies offering new hires a traditional defined benefit plan declined from 238 to 16. See Willis Towers Watson, *Insider*, Vol. 28, No. 2 (February 2018).
3. Typical pension terms under certain “classic” plans may be summarized as “2% at 55”, which is shorthand for the following formula: At the age of 55, the employee, having a minimum number of years of service, may retire and will receive an annual benefit equal to $2\% \times (\text{number of years of service}) \times (\text{annual salary used to calculate benefits})$. For example, an individual retiring with 25 years of service and an annual salary of \$60,000 would receive \$30,000 per year in pension benefits.
4. A 2% per annum cost of living adjustment (COLA) is offered in most or all CalPERS plans.
5. See CalPERS website, as of 2/20/20.
6. They are also of limited duration, in that as employees retire, they cease making employee contributions. An aging workforce therefore can present a problem to employers offering defined benefit plans.
7. Mendel, Ed, “CalPERS gets candid about ‘critical’ decade ahead”, *Capitol Weekly*, August 27, 2019.
8. However, in some cases, employers agree to make some or all of the employee contribution on behalf of the employee. This may be agreed as part of a labor contract negotiation, in return for lower overall salary, for example.
9. For example, CalPERS plans in the aggregate were 128% funded in 1999, in the midst of the tech market boom. That figure dropped to 87% in 2004, and as of 2018, was about 71%. (CalPERS website)
10. See *Figure 2a*. See also CalPERS website
11. See Actuarial Valuation Report (June 30, 2018) (Plumas County).
12. GASB Standard No. 68 also endorses using a discount rate based on the expected rate of return on plan assets. One way to think about the discount rate and its role is to recall that CalPERS must calculate the amount of funds required to have on hand at present such that when the funds are invested, the returns will ensure sufficient future funds to meet future pension payment obligations. If a lower discount rate is used (and assuming a lower investment return), then a higher amount of present funds is required to satisfy those future payment requirements. On the other hand, if a higher discount rate is used (with a higher anticipated investment rate of return), then fewer current funds are required. This aligns with present value formulas, under which future payments that are discounted using a *lower* discount rate will result in *higher* present values than will the same future payments that are discounted at a higher discount rate. In other words, if the discount rate is *reduced*, the corresponding present value of accrued pension liability will *increase*. Indeed, this relationship can be viewed as similar to a multiplier, in that relatively small changes in the discount rate can result in large changes in the present value of future pension liabilities.
13. The *Pension Tracker* website, for example, uses “market” liability and assets as descriptors, which we’ve chosen to describe together as the “market method”. The 20-year Treasury bond has not been issued for over 30 years, although it is being reinstated in 2020. During this time, the 20-year rate continued to be calculated, and has been used for various purposes, by interpolating the yields of the 10 and 30 year bonds. As of mid-2019, that rate was quoted as around 2.5%, on the US Treasury’s website. (www.treasury.gov) More recently, it has dropped even further, to less than 2%.

14. The actuarial and market methods are in effect two different ways of looking at accrued pension liabilities. The subject is complex, but in essence, the market method is more conservative than the actuarial, and potentially more reliable in the event of severe or protracted economic downturns. CalPERS itself uses a method similar to the market method when calculating an employer's pension liability for one specific purpose-- in connection with a hypothetical termination of the contract between that employer and CalPERS.
15. This is the case for at least two reasons. First, Treasury bonds represent a sizeable part of the CalPERS investment portfolio, and therefore, reductions in the return of that component tend to lower the overall level of return on the entire portfolio. Second, Treasury bond rates express the view of the Treasury bond market (a vast global market) as to future returns on risk-free investments. Lower interest rates tend to foreshadow slower rates of economic growth, which in turn suggest lower overall returns on future investment portfolios.
16. Wilshire Associates, for example, recently forecast CalPERS to earn only 5.9% over the next 10 years, while the Pew Charitable Trust anticipates pension returns on a national basis to be a full percentage point lower than in the past. In addition, when CalPERS was considering in 2016 the reduction of the discount rate to 7%, it was reported that CalPERS consultants recommended an assumed rate of 6.2% for the next decade. See *CalMatters website*. Economists generally anticipate overall economic (GDP) growth rates for the next decade at levels below those of the past, with bond yields remaining considerably lower than those of the last 20 years. For example, the Congressional Budget Office projects a 1.7% real GDP growth rate from 2020 to 2030.
17. CalPERS website, as of February 21, 2020. The ten-year average annual return as of June 30, 2019 was 9.1%, but this is skewed by the fact that the beginning point was near the bottom of the 2008-09 recession and market drop.
18. The decision by CalPERS to adjust its discount rate for the future is essentially a policy decision, based on actuarial and financial input. However, it is a decision that must be made with an eye both to economic circumstances as they may drive future investment returns, and to the potential impact on public employers who must continue to service pension liabilities. Failing to reduce the discount rate when macroeconomic circumstances would otherwise suggest may create a funding shortfall in the future as a result of investment returns not reaching the needed level. On the other hand, reducing the discount rate causes the amount of unfunded accrued pension liability to increase immediately, which forces additional payment requirements on public employers, which they may not be capable of bearing.
19. The most recent round of discount rate reductions was implemented by CalPERS in a staged fashion, intended to create a smoother transition to the new, lower rates.
20. This may have been prompted in part by two or more instances in which local government agency employers defaulted in their payments to CalPERS, forcing CalPERS to reduce or suspend benefit payments to certain retirees. Two such instances that have come to the attention of the Grand Jury are (1) our neighboring city of Loyalton, and (2) the East San Gabriel Valley Human Resources consortium. In the Loyalton case, the City Council voted in 2013 to exit the CalPERS fund, in response to which CalPERS assessed it with a "termination fee" of \$1.66 million. See "Huge Pension Fund Makes Example of Tiny California City", *Reason website* (August 25, 2017).
21. See discussion in *Cal Fire Local 2881, et al v. California Public Employees' Retirement System*, 435 P.3d 433 (Cal. 2019)
22. See *id.* Under the California rule, public employee pension rights are deemed protected against unilateral modification by the constitutional contract clause.
23. PEPRAs funds were intended to be separate from classic funds. For example, employee contributions from one do not support the other.
24. See CalPERS Actuarial Valuation Reports (Plumas County). Until recently, CalPERS used a 30 year amortization period for this purpose. It is now set at 20 years. Reducing the amortization

- period for UAL Payments has the result of increasing the amount of each periodic payment, but lowering the total aggregate amount of payments, as the obligation is paid off earlier and the employer therefore saves on future interest.
25. See CalPERS Actuarial Valuation Reports (Plumas County).
 26. The CalPERS Actuarial Valuation Reports include the following standard disclaimer: “Future actuarial measurements may differ significantly from the current measurements presented in this report due to such factors as the following: plan experience differing from that anticipated by the economic or demographic assumptions; changes in economic or demographic assumptions; changes in actuarial policies; and changes in plan provisions or applicable law.”
 27. See Mendel, Ed, “CalPERS gets candid about ‘critical’ decade ahead”, *Capitol Weekly*, August 27, 2019.
 28. See CalPERS, Actuarial Valuation Report (Plumas County Miscellaneous Plan), as of June 30, 2018.
 29. It would of course reduce investment returns, creating greater unfunded pension liability that would need to be covered by the employer. It would also likely lead to a decision by CalPERS to further reduce the discount rate, which would in turn increase total accrued pension liability and unfunded liability numbers considerably. And, it could even impact actuarial employee assumptions, by prompting earlier (forced) retirement, leading to a declining workforce, as local governments struggle to find ways to cut their way to making ongoing pension payments.
 30. The Cities of Vallejo, Stockton and San Bernardino all filed Chapter 9 bankruptcy partly in response to their unmanageable pension liabilities. The City of Stockton, for example, had seen its pension contributions rise from \$6.8 million in 2002 to \$41.5 million in 2017. See Public Policy Institute of California website.
 31. See note 64, below.
 32. Based on the employee’s role, Plumas County has three types of plans: (1) *Safety plans*, covering employees engaged in “safety” functions (law enforcement and fire suppression); (2) *Peace Officer plan*, which included one or more former employees in the District Attorney’s office; and (3) *Miscellaneous plans*, covering employees performing all other roles. The miscellaneous plan is considerably larger, in terms of number of persons covered, and potential liability, than are the “safety” and “peace officer” plans. Typical classic terms for Plumas County miscellaneous employees are “2% at 55”, while PEPRAs terms for miscellaneous employees are “2% at 62”. For safety employees, typical retirement terms are “2% at 50” for classic plans and “2% at 57” for PEPRAs plans. See Plumas County Memoranda of Understanding. See also note 3, above.
 33. This report addresses solely pension liability faced by the County of Plumas. In addition, several service districts and one city (Portola) operating within Plumas County have their own pension plans with CalPERS and must address their own pension liability issues. See CalPERS website. Plumas County also offers its employees defined contribution plans.
 34. See CalPERS Actuarial Valuation Reports (Plumas County) (2018). Note that employees who began their careers in other counties, or cities under classic plans carry their classic plan status to their employment in Plumas County.
 35. See *id.*
 36. See *id.*
 37. Consistent with GASB Standard #68, the County uses “net pension liability” instead of “unfunded accrued pension liability” in its financial statements. The terms are for present purposes essentially the same, however.
 38. See GFOA website.
 39. The Grand Jury calculated aggregate numbers for the several plans, using a weighted average approach for the funded ratio. When viewed at the level of each individual plan, the County’s Miscellaneous plan was 75.8% funded in 2011, but only 69.8% funded in 2018, a drop of nearly 6 percentage points. The Safety classic plan funded ratio decreased from 74.5% in 2011, to 71.7%

- in 2018, and the Peace Officer classic plan went from 68.3% funded to 57.7%. *See* CalPERS Plumas County Actuarial Valuation Reports (Plumas County).
40. The funded ratio determined using market assumptions is considerably lower, at approximately 40%. *See* CalPERS Actuarial Valuation Reports (Plumas County).
 41. *See Pension Tracker* website.
 42. Based on U.S. Census data for households, as of 2018.
 43. Although the comparison is between the total unfunded pension liability amount and the annual median household income, this does not imply that households would under any scenario be required to pay this amount *each year*. The purpose is simply to provide a relative scale against which to view the pension liability number.
 44. *See* Nation, Joseph, Pension Math.
 45. Figure 5 source: CalPERS Actuarial Valuation Reports (Plumas County).
 46. Plumas County 2017- 2018 Financial Statements. Reserves are amounts set aside for certain contingencies, including emergencies and economic downturns.
 47. *See* Plumas County Financial Statements. Unlike most of the State of California, Plumas County's real estate values have not yet fully recovered from the "great recession".
 48. *See* Nation, Pension Math (2018)
 49. *See Pension Tracker* website.
 50. When this practice began, all or almost all Plumas County employees had their pension contributions paid for them by the County. At present, five of the eight Memoranda of Understanding currently in effect continue to provide this benefit, to some extent. For the County's miscellaneous plan, CalPERS projects normal cost payments to increase from 8.044% of payroll in 2018, to 9.185% in 2021. (CalPERS Actuarial Valuation Report (Plumas County Miscellaneous Plan) (2019))
 51. For example, the City of Santa Monica reportedly created an 11-person pension advisory committee, comprised of 7 members of the public and 4 persons from the workforce.
 52. The primary reason for not replacing the County Administrator prior to 2019 appears to have been budgetary constraints. It is unclear to the Grand Jury why the financial analyst has not been replaced even today.
 53. This step was mandated by PEPRA.
 54. PARS accounts are IRC Section 115 irrevocable exclusive benefit trusts, created for the sole purpose of prefunding OPEB or pension obligations.
 55. *See* note 50, above.
 56. For example, Mariposa County, which reportedly increased its tourism tax to support pension obligations.
 57. There is a relatively long list of counties and other local government agencies that have availed themselves of pension obligation bonds to help fund pension liabilities, including Sierra County, Mendocino County, Merced County, Sonoma County, and Imperial County, as well as cities, including Fresno, Oakland, Pasadena and Richmond. A discussion of the advantages and disadvantages of using debt to fund such obligations is beyond the scope of this report.
 58. For example, Shasta County and Redwood City.
 59. Certain local government agencies are reportedly approaching the State Controller's Office, arguing that the State should be required to reimburse prepayments made on pension liabilities, to the extent allocated to government agencies otherwise funded in part by the State. This alternative may warrant further examination by a pension advisory committee as to its viability.
 60. *See* article, Los Angeles Times website (February 6, 2017)
 61. Figure 6 source: CalPERS Actuarial Valuation Reports (Plumas County). The 2.5% discount rate resembles the rate used to develop the market method of calculating accrued pension liability.

62. CalPERS has not provided similar sensitivity analyses showing the impact of discount rate changes on UAL Payments, but it seems logical to expect that they would increase proportionately to the increases in the accrued liability numbers.
63. It is foreseeable that the County's credit rating would suffer in a severe or protracted recession. Apart from the usual factors, this would be driven in part by the anticipated increase in the County's unfunded pension liability and greater difficulty in servicing that liability in the ordinary course. For accounting purposes, unfunded pension liability is viewed as a form of debt.
64. There is no appellate-level legal precedent in California as to whether a local government may modify pension entitlements in a bankruptcy. In the Chapter 9 cases filed by the Cities of Vallejo, Stockton and San Bernardino, none of those debtors decided to attempt to alter the existing pension rights of their employees or retirees as part of their final plans. However, one bankruptcy judge did opine that the City of Stockton could reject its pension contracts with CalPERS and modify the terms of existing pensions. *See In re City of Stockton*, 526 B.R. 35 (Bankr. E.D. Cal. 2015). *See generally* Glassman, P. and Saenz, G., "A Guide to Municipal Bankruptcy for City Attorneys", *League of California Cities Annual Conference* (September 2018).
65. Based on the County's 2017-2018 Financial Statements, Plumas County is currently supporting \$7.19 million in net OPEB liability. A detailed consideration of this liability is beyond the scope of this report.
66. This report was substantially written prior to the March 2020 coronavirus stock market crash, with final edits being made at that time. For reasons detailed in this report, these recent developments do not bode well for the pension liability prospects of Plumas County.

Reports issued by the 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 any facts leading to the identity of any person who provides information to the Grand Jury.

COMPLIANCE AND CONTINUITY REPORT:

2018-2019 Grand Jury Report

SUMMARY

The 2019-2020 Plumas County Civil Grand Jury reviewed the responses to the two investigative reports issued by the 2018-2019 Plumas County Civil Grand Jury, to assess compliance with the California Penal Code. The complete text of these reports can be accessed at the following website:

<http://www.countyofplumas.com/index.aspx?nid=216>

The website also provides links to the responses given by the County agencies to the Findings and Recommendations contained in the reports.

BACKGROUND

California Penal Code Section 933(a) requires the grand jury to “submit to the presiding judge of the superior court a final report of its Findings and Recommendations that pertain to county government matters during the fiscal or calendar year.” Governing bodies or department officials are required to respond to the Findings and Recommendations directed to them within 90 days of the release of a grand jury’s report. Elected County officials are required to respond within 60 days. (PC §933(c)).

This Compliance and Continuity Report focuses only on the Penal Code requirements for responding to the Recommendations.

Penal Code Section §933.05 states that the body or official is required to select one of four possible responses to the Recommendations (PC §933.05(b)):

- 1) The Recommendation has been implemented, with a summary of the action taken;
- 2) It will be implemented, with a timeframe for implementation being provided;
- 3) It requires further analysis, with an explanation and the scope of the analysis and a timeframe for response being provided of not more than six months from the release of the report; or
- 4) It will not be implemented because it is not warranted or is not reasonable, with an explanation being provided.

The 2018-2019 Civil Grand Jury issued the following reports in its consolidated report dated June 3, 2019:

Portola Fire and Emergency Medical Services Report
Plumas County Elections

This Compliance and Continuity Report focuses on responses to the Recommendations made by the 2018-2019 Civil Grand Jury. The two reports contained four Recommendations, which required, in total, eight responses from five different persons, agencies or departments. Five responses were received within the Penal Code's specified timeframes, but one response was not timely received. The response that was not received on a timely basis was from the Portola City Council. The response was due on May 13, 2019 but was postmarked June 13, 2019.

METHODOLOGY

The 2019-2020 Civil Grand Jury evaluated responses to the 2018-2019 Civil Grand Jury Recommendations to ensure compliance with the governing sections of the Penal Code (PC §933.05(b)). The following criteria were considered:

1. If a response indicated that a Recommendation had been implemented, did it include a summary of what was done?
2. If a response indicated that a Recommendation would be implemented, did it include a summary and timeframe for what would be done?
3. If a response indicated that a Recommendation required further analysis or study, did it include an explanation of the scope, parameters, and timeframe of the proposed analysis or study?
4. If a response indicated that a Recommendation would not be implemented because it was unwarranted or unreasonable, did the respondent include a reasoned explanation supporting that position?

DISCUSSION

The following tables offer a summary of the responses provided to the 2018-2019 Civil Grand Jury's two reports, as assessed by the 2019-2020 Civil Grand Jury. In some cases, the responses contained additional details that are not included in the table.

Portola Fire and Emergency Medical Services

The 2018-2019 Civil Grand Jury initiated an investigation of the Portola Fire Department and its contractual relationship with the Eastern Plumas Rural Fire Protection District (EPRFPD) to review its service to the public. In December 2017 the Portola City Council decided to stand down its volunteer fire department. The report was issued on March 15, 2019, with responses

required from both the Portola City Council and the Eastern Plumas Rural Fire Protection District Board of Directors. The required responses were received from both agencies, dated June 13, 2019 and May 23, 2019 respectfully. The complete responses submitted for this report appear on the Plumas County Grand Jury website at <http://www.countyofplumas.com/Archive.aspx?AMID=38>

| PORTOLA FIRE AND EMERGENCY MEDICAL SERVICES | | | | |
|--|----------------|--|--|--|
| <p>R1-6. The 2018-2019 Plumas County Civil Grand Jury recommends that the Portola City Council and the Board of Directors for the Eastern Plumas Rural Fire Protection District enter into a Joint Powers Agreement for mutual fire and EMS coverage when the current contract expires on June 30, 2020.</p> <p>Pursuant to Penal Code section 933.05, the Plumas County Civil Grand Jury requires responses from the following governing bodies:</p> <p style="padding-left: 40px;">Portola City Council (R1-6) Eastern Plumas Rural Fire Protection District Board of Directors (R1-6)</p> | | | | |
| Responding Agency | Recommendation | Response Date; Response Timely or Tardy? | Content responsive to PC §933.05(b)? | Summary of Reply and 2018-19 Civil Grand Jury Analysis |
| Portola City Council | R1-6 | June 13, 2019 / Tardy. (Response by elected officials are due within 60 days of the report – answer was due by 5/14) | Yes | The City agrees with the findings of the Civil Grand Jury and the City intends to negotiate with Eastern Plumas Rural Fire Protection District for a joint powers agreement for fire and EMS coverage. Grand Jury acknowledges that the contract expires 6-30-20 and negotiations are ongoing. |
| Eastern Plumas Rural Fire Protection District Board of Directors | R1-6 | May 23, 2019 / Timely (Governing Body responses due within 90 days) | No – response should include timeline for completion of the process see Penal Code §933.05(b)(2) | The District agrees to negotiate with the Portola City. (note: the current contract doesn't expire until 6/30/20 so negotiations are ongoing as of this report) |

Plumas County Elections

The 2018-2019 Civil Grand Jury initiated an investigation of the Plumas County Elections Department (run under the County Clerk-Recorder’s Office) to review the complete voting process, the status of updating equipment and software, and staffing and training of personnel.

The report was issued on June 3, 2019, with responses required from the County Clerk-Recorder’s Office/Plumas County Elections, Board of Supervisors and the County Administrator.

The complete responses submitted for this report appear on the Plumas County Grand Jury website at <http://www.countyofplumas.com/Archive.aspx?AMID=38>

| PLUMAS COUNTY ELECTIONS | | | | |
|--|----------------|--|---|---|
| <p>R1. The Civil Grand Jury recommends that the Plumas County Elections establish a written departmental policy and procedures manual, or at a minimum develop a fully integrated table of contents or index to facilitate efficient usage of the various procedures. Such manual should include procedures confirming that the quantitative limit set out in Elections Code §3005 is satisfied in connection with each election. It is also recommended that the Elections Division confirm with County Counsel or other appropriate counsel compliance with Elections Code §3005.</p> <p>R2. The Civil Grand Jury recommends that the Elections Division seek, the County Administrator consider recommending, and the Board of Supervisors deliberate and consider approving, funding for the purchase and installation of new voting system equipment and software in order to comply with AP 19:020.</p> <p>R3. The Civil Grand Jury recommends that the County Administrator inquire into why the vacant position in the County Clerk’s Office remains unfilled and that findings be reported to the County Board of Supervisors for consideration of further action.</p> <p>Pursuant to Penal Code section 933.05, the Plumas County Civil Grand Jury requires responses from the following governing bodies:</p> <p style="padding-left: 40px;">Plumas County Clerk-Recorder’s Office/Election Division (R1, R2, R3) Board of Supervisors (R2) County Administrator (R2, R3)</p> | | | | |
| Responding Agency | Recommendation | Response Date; Response Timely or Tardy? | Content responsive to PC §933.05 (b)? | Summary of Reply and 2018-19 Civil Grand Jury Analysis |
| County Clerk / Elections | R1 | June 12, 2019; Timely | No – response should include timeline for completion of the process see | Elections Division is currently working on a procedure manual and will continue to update as laws are updated. Will also advise County Counsel prior to each election |

| | | | | |
|--------------------------|----|--------------------------|--|---|
| | | | Penal Code §933.05(b)(2). | of their compliance with Elections Code. The Grand Jury recommended that the Elections Division “confirm with” County Counsel and not simply advise County Counsel of their compliance with Elections Code §3005. |
| County Clerk / Elections | R2 | June 12, 2019; Timely | No – response should include timeline for completion of the process see Penal Code §933.05(b)(2) | Will work with the County Administrator to provide Board of Supervisors with needed information to approve funds for updated equipment and software. |
| Board of Supervisors | R2 | July 9, 2019; Timely | Yes | Will be implemented by 12/31/19 |
| County Administrator | R2 | July 7, 2019; Timely | No – response should include timeline for completion of the process see Penal Code §933.05(b)(2) | The County Clerk-Recorder’s recommendations were thoroughly researched and provided to the Board of Supervisors. |
| County Clerk / Elections | R3 | June 12, 2019; Timely | No – response should include timeline for completion of the process see Penal Code §933.05(b)(2) | County Clerk has requested reclassification of the open position on two prior occasions. Response should focus on upcoming plans to address issue and not prior actions. |
| County Administrator | R3 | July 7, 2019; Timely | Yes | Ongoing meetings are being held with upcoming meetings scheduled in July 2019. |

CONCLUSION

The Grand Jury appreciates all departments and agencies that replied to the 2018-2019 Grand Jury’s findings. It is important for responses to be complete and responsive so the public can know when to expect actions to be taken to address highlighted issues.