

# Grand Jury



# FINAL REPORT

# CALAVERAS COUNTY GRAND JURY

Box 1414  
SAN ANDREAS, CALIFORNIA 95249

June 7, 2005

The Honorable John E. Martin  
Judge, Superior Court

Your Honor:

Pursuant to California Penal Code Section 933, the Calaveras County 2004-2005 Grand Jury respectfully submits its Final Report. This report represents a culmination of many hours of hard work and dedication by those of us who had the privilege to serve the citizens of Calaveras County.

We were impaneled on July 1, 2004 as a diverse group of 19 individuals, including seven holdover jurors, from all areas of the County who came together as a collegial body. During our service year we had 16 resignations, and completed our service with a panel of 15 jurors. We are hopeful that at the initial juror interview a more detailed overview of juror obligations will be presented. The full panel pulled together and all of our assignments were completed on time.

This report includes the results of four new investigations, one department review, two mandated investigations (County Jail and County Audit), and nine reports on prior years' Grand Jury recommendations. Two complaints were resolved during the preliminary committee review, and six complaints were received too late to be addressed this year and will be held for the new Grand Jury. All issues were assigned to committees established within the Grand Jury. Committee reports regarding progress and findings were periodically discussed by the full Grand Jury throughout the term. The Grand Jury, voting as a body, has voted on each section of this report with at least twelve members in the affirmative on each issue.

This year's Grand Jury addressed the report continuity issue. One purpose of this is to keep the public informed from year to year on the results of investigations. When a report gives recommendations, the following year's report should include the responses received and a determination if the response adequately addressed the recommendation. Our jurors spent considerable time this year in following up prior years' responses and making a determination on the status of each recommendation.

One committee addressed the continuity of grand jury records. We have designed an Access database that will track all investigations. This will be helpful to future Grand Juries when they start a new investigation. They will be able to find when a previous investigation was performed on any agency or department and the outcome of the investigation. That information will direct them to the permanent Grand Jury files for details of each investigation.

Another task we started this year was updating our Grand Jury library. We have made a good start in organizing the reference material so it will be readily available for future Grand Juries. The County Law Librarian was extremely helpful in reviewing the law books we have, recommending how and what to update, and advising what additional material is needed.

Our experience as grand jurors has reinforced our belief in the Grand Jury system. The checks and balances provided by the Grand Jury are valuable in monitoring County government and being responsive to citizens who feel aggrieved by the government system.

We want to thank elected officials and employees of the numerous County offices and special districts who provided us with answers to our questions and provided material and documents on request.

Very special thanks to Jim Jones, County Legal Counsel and his staff; Jeffrey Tuttle, District Attorney; Tom Mitchell, County Administrative Officer and his staff; Howard Stohlman, Technology Services Director and his staff; and Mike Ibold, County Law Librarian.

Finally, we wish to thank you Judge Martin for your guidance, and your entire staff for their assistance throughout the year. We consider it an honor to have served on the Calaveras County Grand Jury.

Respectfully submitted,

A handwritten signature in cursive script that reads "Colleen Robertson".

Colleen Robertson, Foreperson  
2004-2005 Grand Jury

**2004-2005 GRAND JURY  
FINAL REPORT**

The 2004-2005 Calaveras County Grand Jury approved this Final Report on June 7, 2005.

S/: Colleen Robertson  
Colleen Robertson, Foreperson

Date: June 7, 2005

I accept this Grand Jury Final Report for the year 2004-2005 for filing, and certify that it complies with Title V of the California Penal Code.

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

Date: June 9, 2005

Any persons interested in receiving a copy of this 2004-2005 Grand Jury Final Report may do so by contacting the Calaveras County Administrative Office. A copy of the Final Report is available for viewing at the main Calaveras County Library in San Andreas, and at all County branch libraries.

The Final Report will be available to the public on July 1, 2005 via the local newspaper with the largest distribution in Calaveras County, and it will be published on the Grand Jury website:

[http://www.co.calaveras.ca.us/departments/grand\\_jury.asp](http://www.co.calaveras.ca.us/departments/grand_jury.asp)

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

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

The Grand Jury has its roots in early Anglo-Saxon custom and law. It was a body of notable citizens who were chosen to protect the community from the King. In the United States today there are two types of Grand Jury: Civil and Criminal.

Authority for the Grand Jury system is found in the Fifth Amendment of the United States Constitution, and in Article 1, Section 23 of the California Constitution, which states: "...One or more Grand Juries shall be drawn and summoned once a year in each County."

The true power of the Grand Jury's oversight function lies in disclosing inefficiency, unfairness, wrongdoing, and violations of public law and regulations in local governments. Valuable information is obtained by meeting with County officials, by visiting departments and facilities, and by conducting research.

Grand Jury findings are contained in reports describing problems encountered and solutions recommended. These findings are released in a formal Final Report, which goes to affected departments and agencies June 30 of each year. The Final Report is submitted to the public as a newspaper release July 1 of each year and is published on the Grand Jury website:

[http://www.co.calaveras.ca.us/departments/grand\\_jury.asp](http://www.co.calaveras.ca.us/departments/grand_jury.asp)

All elected officers or heads of agencies who are required to respond must do so within 60 days. The governing body of any public agency must respond within 90 days.

Grand Jurors serve a one-year term and are compensated based on actual days served (average of three days per month). Jurors may be asked to serve more than one term with the approval of a Superior Court judge. The current per diem is \$15 plus round-trip mileage for personal vehicle use.

Grand Jury applications are disbursed through random selection from Department of Motor Vehicles and Voter Registration files. A Superior Court Judge screens applications, interviews the applicants, and chooses 30 candidates. A final panel of 19 jurors is chosen by random drawing, and the jurors are sworn in as officers of the court to begin their service on July 1.

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

The first California Penal Code contained statutes providing for a Grand Jury. Early grand juries investigated local prisons, conducted audits of county books, and pursued matters of community concern. The role of the Grand Jury in California, by statutes passed in 1880, is to inquire into and review the conduct of local

government and special districts and includes the investigation of County government.

California is one of only seven states that provide for the investigation of county government by a Grand Jury, beyond alleged criminal misconduct of public officials.

### **CALAVERAS COUNTY GRAND JURY**

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

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

### **Responsibilities of the Grand Jury**

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

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

### **Response to Citizen Complaints**

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

The Grand Jury investigates the operations of governmental agencies, charges of wrongdoing within public agencies, and the performance of unlawful acts by public

officials. The Grand Jury cannot investigate disputes between private parties, or any matters in litigation.

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

### **FINAL REPORT**

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

[http://www.co.calaveras.ca.us/departments/grand\\_jury.asp](http://www.co.calaveras.ca.us/departments/grand_jury.asp)

### **HOW TO CONTACT THE GRAND JURY**

Those who wish to contact the Grand Jury may do so by writing to:

Calaveras County Grand Jury  
P.O. Box 1414, San Andreas 95249

Complaint forms may be requested by calling (209) 754-5860. The forms are available for download on the Grand Jury website and completed forms may be mailed or faxed to the Grand Jury room at (209) 754-9047.

### **MEMBERS OF THE 2004-2005 CALAVERAS COUNTY GRAND JURY**

Colleen Robertson, Foreperson  
Steve Hardie, Foreperson Pro Tem

Kathy Bandy  
Kolleen Bonneau  
Sandra Becker  
Teresa Farrell  
Michele Garcia  
Beth Hicks

Abigail Howard  
Jeff Johnson  
Aldean Pethan  
Claudia Raznikov  
Marilyn Rolland  
Karen Stewart  
Mark Wheeler

## COUNTY AUDIT REPORT

### REASON FOR INVESTIGATION

Section 925 of the California Penal Code states, "The Grand Jury shall investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county..." Additionally, in Calaveras County, the Grand Jury advises the Board of Supervisors in their selection of expert auditors pursuant to Section 926 of the California Penal Code.

### PROCEDURES

The Board of Supervisors contracted the services of the accounting firm of Bartig, Basler, & Ray (BB&R) to examine the financial statements of the County and to provide an opinion on the accuracy and reliability of these financial statements as a true reflection of the fiscal activities of the County. The Grand Jury reviewed the audit report submitted by BB&R, entitled, "*County of Calaveras Management Report for the Year Ended June 30, 2004*"; reviewed the County's "Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2004"; and interviewed the County Auditor-Controller, the County Administrative Officer, and the Human Resources Manager.

BB&R auditors examined the internal control structure of the County's financial system in order to be able to express an opinion on the validity of the County's financial statements and not to provide assurances on the adequacy of the internal controls; however, the auditors found no material weakness in those internal controls. Under standards established by the American Institute of Certified Public Accountants, "A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions." While recognizing that some County functions are not staffed sufficiently to accomplish the complete separation of duties and responsibilities involved in conducting financial transactions in the County's small departments, BB&R auditors identified several opportunities for strengthening internal controls and operating efficiency.

### AUDIT FINDINGS & RECOMMENDATIONS

The following is an account of BB&R's recommendations from the *County of Calaveras Management Report, Year Ended June 30, 2004*. The 2004-2005 Grand Jury requests that all departments respond with an update of the improvements to the conditions, as recommended by BB&R.

**Animal Control**

BB&R noted that in Animal Control the same individual collects cash, issues receipts, inputs data from this transaction in the Animal Tracking system, prepares deposits, and delivers them to the County Auditor-Controller. BB&R suggests the use of a cash collections log, with pre-numbered receipts and amounts recorded for a review by management or a department supervisor prior to making the deposit, since it is impractical to separate the custody of an asset from the corresponding recordkeeping. BB&R also noted that the sequentially numbered dog licenses need to be reconciled with the total number issued and on hand. Unissued dog license tags should be kept in a secure location.

**Management Response**

Animal Control has limited staff, including one position that bills, collects, receipts collections and deposits collections. Furthermore, the Department's supervisor/manager position has been unfilled since August 2004.

**Response Requested**

Director, Animal Control

**Sheriff's Department**

In the Sheriff's Department, BB&R noted that the Civil Department's trust fund was not being reconciled to the balance reported each month by the County's Auditor-Controller's Office. BB&R further noted that checks received in the Sheriff's Office were not being restrictively endorsed upon receipt to reduce the risk that a check could be misappropriated without detection by management in a timely manner. BB&R recommended that the Sheriff's Department should regularly reconcile its trust fund to the balances reported by the County Auditor-Controller and should implement the policies and procedures necessary to always restrictively endorse all checks upon receipt to prevent misappropriation of the funds.

**Management Response**

Civil staff has attended training regarding monthly trust fund reconciliation and are currently balancing deposits in-house daily. Further training regarding accounting/reporting software is scheduled and civil staff will conference with Auditor-Controller's office to develop a system of checks and balances.

**Response Requested**

Sheriff's Department  
Auditor-Controller

**Public Administrator**

The following functions of the Public Administrator should require segregation for proper internal control: 1) Marshalling of cash and other items from the estates; 2) Writing checks from the individual estate's bank accounts; and, 3) Closing of the bank accounts of the estates after the funds are transferred to the County's pooled cash. BB&R suggests, "...staff from the County Auditor-Controller Office could assist with the bank account reconciliations and staff from the Sheriff's Office could

assist with marshalling of cash and other items from the estates. As another alternative, someone else could be assigned to learn how to perform these duties and to actually perform them periodically to reduce the chance of errors and fraud from occurring and not being detected in a timely manner.” BB&R pointed out the need for the Public Administrator to reconcile the ending balances of trust funds and to insure that the interest earned is properly credited to each estates’ cash balance within the trust fund. BB&R recommends that the Public Administrator should continue to explore ways of trading off with other departments within the County to achieve a higher degree of segregation of the duties and responsibilities involved in the management of the real and personal property of estates held in trust.

**Management Response**

All functions of the Public Administrator are performed with the assistance of the County Counsel’s Office. The Public Administrator is in the process of computerizing operations, and keeping track of estate assets is becoming much easier. The trust fund’s interest is allocated to the Public Administrator’s trust fund on a quarterly basis by the Auditor-Controller’s Office, who then distributes the lump sum to each individual estate’s cash balance.

**Response Requested**

Public Administrator

**Public Guardian**

BB&R recommended that opening and routing of mail by the Public Guardian staff should be independent of reconciling and maintaining of the conservator accounts.

**Management Response**

All handling of Public Guardian mail begins with clerical staff where it is opened, date stamped, then distributed to the appropriate Public Guardian Deputy for further processing.

**Response Requested**

Director Calaveras Works and Human Services Agency

**County Airport**

At the County Airport, BB&R observed that one person posts payments, changes and write-offs to accounts receivable, and also collects cash, issues receipts and prepares the deposit permit. BB&R observed that the department does not have any policies and procedures for the collection and write-off of delinquent accounts receivable. BB&R recommends that incompatible duties regarding the handling of cash and the accounts receivable be segregated with others in the department. If segregation of duties is not possible because of limited staffing, BB&R recommends that management of the department periodically spot check the collections and posting of the receipts to the accounts receivable. BB&R recommends that the department prepare written policies and procedures for collection and write-off of delinquent accounts receivable balances including the approval of account write-offs and write-downs by authorized personnel. Old balances should be reviewed

periodically, and procedures should be established to make sure that delinquent accounts are paid in a timely fashion.

**Management Response**

Due to limited staffing at the Airport, segregation of duties is not possible. The Administrative Office will audit collections and the posting of receipts to the accounts receivable on a quarterly basis. The County Administrative Officer and County Airport Manager will prepare written policies and procedures for the handling of delinquent accounts receivable balances. These procedures will be completed and implemented no later than March 31, 2005. The Administrative Office will review old balances on a quarterly basis.

**Response Requested**

Airport Manager  
County Administrative Officer

**Treasurer/Auditor Controller**

BB&R found that two checks were issued during the year in connection with a property tax sale. The checks were improperly prepared, requiring the old set to be voided and a new set to be issued. During BB&R's reconciliation of the County treasury, it was discovered that the voided checks were not voided in the accounting records. The actual voided checks could not be located. BB&R recommends enforcing procedures that do not allow the issuance of new checks until after the physically voided checks have been recorded in the accounting system and control over them has been established. BB&R also recommended exploring options for the Treasurer's office's reconciliation of the trust accounts to include outstanding checks.

**Management Response**

Prior to issuing checks for proceed disbursement, the Auditor Controller's office reviews all tax sale documentation. In an effort to maintain the integrity of the check processing system, it is critical that all checks be reversed at the time a stop-payment is issued and prior to the issuance of a replacement check. A policy has been implemented which requires authorization from responsible personnel for stop-payments and check voidance prior to check reissuance.

**Response Requested**

No response required.

**Administration**

In Administration, BB&R determined that the monthly reports received from NoteWorld Servicing Center, a third party contractor, were not reconciled to records which track the allocation of principal and interest of current loan balances for Community Development Block Grant loans receivable. BB&R also noted that the balance of these loans are not posted to the County accounting system. BB&R recommends that the County implement a policy wherein the collection department follows up on third-party billings after 30 days and posts the loan receivables to the County accounting system on a timely basis.

**Management Response**

The Administrative Office will work with the Auditor-Controller's office to ensure that a job ledger or similar system is set up to track Community Development Block Grant loans receivable in the County accounting system.

**Response Requested**

County Administrative Officer

**GRAND JURY GENERAL FINDING REGARDING FINANCIAL AUDIT**

BB&R's *Calaveras County Single Audit Report* gives a qualitative opinion about the reliability of our financial statements, and is based on figures supplied by the Auditor-Controller's Office.

As examples, the following data would seem to raise some questions.

*Calaveras County's Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2004*, states that vacation and compensatory time off are accrued and paid out to the employee upon termination of employment; but sick leave benefits are not paid out to the employee upon termination of employment. The Grand Jury recommends that the County Administrative Officer in coordination with the Auditor-Controller should review the historical data on sick leave balances forfeited in proportion to total sick leave balance to determine what amount need not be accrued. The balance of sick leave that is eventually expensed should be accrued.

The lack of sufficient funding is often cited as preventing the adequate staffing or performance of functions within the County and yet *Calaveras County's Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2004*, reflects a positive fund balance for current year operations of \$3,502,026.00, and the County's equity in the County Treasurer's Investment Pool is \$60,320,498.00. The Grand Jury recommends that this condition be explained and reconciled to the citizens of Calaveras County.

**Response Requested**

Board of Supervisors



## **OFFICE OF EMERGENCY SERVICES (OES)**

### **REASON FOR REVIEW**

A review of the Office of Emergency Services (OES) was conducted pursuant to California Penal Code Section 925, which allows the Grand Jury to review County agencies on some selective basis to report on the operations and functions of the department.

### **PROCEDURES**

The County Office of Emergency Services Coordinator gave a presentation to the Grand Jury and a copy of the County Emergency Operations Plan (EOP) was provided for Grand Jury review. The Coordinator was subsequently interviewed. The Grand Jury observed a statewide Medical and Health Disaster tabletop exercise held in November 2004 at the County Emergency Operations Center at the Calaveras County Airport.

A tabletop exercise, as opposed to a field exercise, tests various sections of the County EOP without activating field personnel. The exercise is initiated and driven by the State OES with a "This is a test" message sent to all counties advising them of the nature of the emergency. This message starts the activation of the County EOP. Depending on the State exercise scenario, appropriate sections of the plan will be activated. Messages are exchanged between the counties and the State for the duration of the exercise. Procedures in the plan that may be tested include communications, initial personnel activation, requests for mutual aid, and coordination among response agencies. Following the termination of the exercise, a critique is conducted by the State OES and attended by the participating county agencies. These exercises and critiques are helpful to the counties because they identify potential problems or weaknesses that need to be addressed in the plan.

### **GENERAL INFORMATION**

The State Office of Emergency Services is the oversight agency for California counties' emergency response. The Federal Emergency Management Agency (FEMA) is available for victim assistance during State-proclaimed emergencies. The four federally identified phases of an emergency are Preparedness, Response, Recovery, and Mitigation. In the Calaveras County EOP, each of the four emergency phases is addressed with accompanying detailed procedures. Possible hazards are identified with detailed response procedures. The Initial Response section of the EOP contains hazard-specific guidance with call-out lists for each responsible department. Each department will then initiate their own department's emergency response plan in coordination with the County's EOP. The County Emergency Operations Plan addresses the entire spectrum of contingencies, ranging from relatively minor incidents to large-scale disasters, such as an earthquake. Any interested citizen can review the plan with the OES Coordinator.

A buildup or warning period providing sufficient time to warn the public will precede some emergencies so that mitigation measures can be implemented to reduce loss of life, property damage, and effects on the environment.

Other emergencies occur with little or no advance warning, thus requiring immediate activation of the Emergency Operations Plan, and efficient, coordinated mobilization and deployment of resources. All departments and agencies of the County must be prepared to promptly and effectively respond to any foreseeable emergency and take appropriate actions, including requesting and providing mutual aid.

Calaveras County was instrumental in developing a Multi-Agency Coordinating Group (MAC) and the County's MAC serves as an example of how new decision-making models can improve emergency communications and cooperation. Calaveras County's maintenance of a well-organized MAC has encouraged other counties in California to develop a MAC in their area. Due to the recurring nature of large-scale wildland fires, and the multi-jurisdictional nature of the region, Calaveras County is an area needing this multi-agency coordinating group.

To reinforce the role and responsibilities of MAC, a charter and a formal Memorandum of Understanding were established and signed by each participating agency. The Calaveras County MAC is composed of representatives from California Department of Forestry, County Sheriff's Office, California Department of Transportation, Calaveras County Fire Department, County Administrative Office, County Office of Emergency Services, United States Forest Service, City of Angels, Pacific Gas and Electric, California Highway Patrol, and Calaveras County Water District.

While not intended to assume authority of any single jurisdictional agency, the MAC Group provides countywide coordinated decision-making in an effort to improve overall incident management. Individual agencies still retain authority to manage their incidents and their jurisdictions. Each agency maintains updated emergency plans, including Standard Operating Procedures for each identified threat.

The MAC Group meets to review individual emergency plans, evaluate ongoing risks, and conduct tabletop exercises. The exercises have proven particularly helpful, with MAC participants becoming more familiar with the multi-agency decision-making process and improving the group's performance during an actual emergency.

A terrorist risk assessment was performed by the County and identified three major threat areas:

1. Water treatment - Dams in the County are not routinely highly patrolled and could be at risk. They are watched more closely if there is a national terrorist alert.
2. Government infrastructure - Sites open to the public have varying levels of security protection, and provide key public health and safety services to the community. Local, State and Federal government facilities have been identified by the U.S. Department of Homeland Security as key domestic terrorism targets and have been included in our County terrorist risk assessment plan.
3. Domestic terrorist acts - Includes explosives and chemicals, including drug labs.

Calaveras County is the first rural county to get funded for Hazardous Material (HazMat) response and mitigation. Thirteen to 20 weeks of training over a four-year period is required for each HazMat expert.

There are 40 bomb squad accredited counties in California, most of them in urban areas. Calaveras County was bomb squad accredited in 1996. This function is heavily subsidized by the FBI. By agreement, Calaveras County provides bomb squad services to Amador and Tuolumne Counties.

All planning, training, and implementation is accomplished with 0.6081% of the total County Budget. OES's fiscal year 2004-2005 budget was \$532,994.00. Some funding is provided by State OES, and grant funds have been obtained from Homeland Security and other sources. The OES Coordinator is continually seeking funding for all mandated planning.

All of the participants in the MAC Group should be commended for their dedication to protecting the citizens of Calaveras County. The Coordinator mentioned that they welcome volunteers.



## **CALAVERAS COUNTY SHERIFF'S DEPARTMENT AND JAIL FACILITY**

### **REASON FOR INVESTIGATION**

Penal code section 919 requires that the Grand Jury inquire annually into the condition and management of public prisons located within the County.

### **PROCEDURES**

The Grand Jury visited the County jail located in the Government Center on Mountain Ranch Road in San Andreas to observe general conditions, staffing, and inmate procedures. The Grand Jury interviewed the Sheriff's Department staff, reviewed the 2004 Health and Safety Report, and the 2004 Fire/Life Safety Annual Inspection Report.

### **RESULTS OF INVESTIGATION**

#### **Finding 1**

The jail facility, built in 1963, was designed to house a maximum of 47 inmates. In 1960, the population of Calaveras County was 10,200. In January of 1992, a court order increased the maximum jail population to 65. The population of the County in 1990 was 31,998. The 2000 census reports the County population as 40,554. The Chamber of Commerce projects that population in 2005 will be 43,500. The Sheriff's Office estimates an increase of population on weekends and holidays to 80,000-100,000, with an increase to 120,000 on Frog Jump weekend. The jail capacity remains at 65.

With the population growth of Calaveras County in recent years, crime has increased, including an increase of misdemeanor offenses as it becomes widely known that little, if any, time will be spent in jail because of capacity limits. At 5:00 pm each day many inmates are released. Statistics indicate that early release encourages repeat offenses, as offenders know that little time will be served. Time not served in the first three and a half months of 2005 amounts to almost 18 years, with 180 inmates released prematurely due to jail over-crowding. The total unserved jail time in 2004 was 52 years. Taxpayer's money is wasted by the court's sentencing of convicted offenders to jail terms that will not be served because of the over-crowded jail. Recidivism continues to be a problem in Calaveras County.

#### **Recommendation**

We recommend that the citizens of Calaveras County, the Board of Supervisors, and the Sheriff's Department diligently persevere in their quest to obtain funding for the construction of new jail facilities. In the meantime, the Grand Jury believes that the Supervisors and the Sheriff must actively explore alternative ways of dealing with the incarceration of convicted criminals to keep our communities safe.

#### **Response Requested**

Board of Supervisors  
Sheriff's Department

**Finding 2**

The intake entrance to the jail is a wide-open, unsecured area. There are many other public buildings close by, as well as a large parking lot in which someone could hide. If an inmate were to try and escape, it would put many innocent people in harm's way. This open area is also the route used by jail staff when escorting inmates to court, again causing a high-security risk to inmates as well as staff. Calaveras is the only county in California that does not have secure, indoor access from jail to court.

**Recommendation**

A security fence should be erected wherever necessary for the safety of staff, inmates, and the public.

**Response Requested**

Board of Supervisors  
Sheriff's Department

**Finding 3**

There was one negative finding in the Fire/Life Safety Report, regarding Section 1207.5, Article 11, California Code of Regulations, Title 15, which states, "An additional mental health screening will be performed, according to written procedures, on women who have given birth within the past year and are charged with murder or attempted murder of their infants. Such screening will be performed at intake and, if the assessment indicates postpartum psychosis, a referral for further evaluation will be made." Although a Registered Nurse examines all inmates upon intake, the Calaveras County Sheriff's Department does not have a written policy in place to meet the requirement of Section 1207.5.

**Recommendation**

The Grand Jury recommends that the Sheriff's Department develop, implement, and adhere to a written policy that will meet the requirements of Section 1207.5.

**Response Requested**

Sheriff's Department

**Finding 4**

The Grand Jury inspected the jail library and found it stocked with a variety of books as well as with an up-to-date law library.

**Recommendation**

No recommendation

**Response Requested**

No response required

**Finding 5**

The kitchen is clean and well run, and it should be noted that it continues to pass all health inspections with high marks. In fact, its scores are generally higher than many restaurants in the county. The kitchen is staffed by low-risk inmates who wear blue uniforms. Inmates wearing orange uniforms, which are used for the

general population, or those wearing red uniforms, which indicates a high-risk prisoner, are not allowed to work in the kitchen.

**Commendation**

The food service manager, who has served the county jail for 16 years, is to be commended. It is generally held that good prisoner behavior is directly related to the quality and presentation of the meals that are served.

**Reponses Requested**

No response required

**GENERAL FINDING**

The Grand Jury's tour of the facility exposes, once more, several troubling issues due to the number of convicted criminals who returned to our communities without completing their sentences. There is a clear and present danger to the citizens of Calaveras County. We are concerned with the revolving door that exists due to jail over-population. The crime rate is increasing in many of our communities and, at present, neither the Sheriff's Department nor the Board of Supervisors has offered any adequate solutions.

The age of the facility has presented issues with meeting current code for public buildings. If this jail had to close or suspend service for any amount of time, current building codes would not allow us to re-open the facility and this County would be left without accommodations for adult offenders.

Currently, the inmate holding areas are not designed to accommodate officer or inmate safety. Holding cells in modern jails are equipped with viewing windows which allow for constant inmate monitoring. Our current facility has cells with blind corners requiring guards to risk personal safety in order to monitor inmates. The narrow doorways minimize the guards' ability to deal with aggressive, hostile, or violent inmates.

It is well understood that a new jail facility will present solutions to many of our current concerns; however, there is no Federal, State, or County money currently allocated for a new facility. According to the Sheriff, it will take approximately four to five years for a new facility to be completed and functional after the funding has been secured.

**Recommendation**

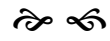
We recommend that the citizens of Calaveras County, the Board of Supervisors and the Sheriff put a high priority on the financing and building of a new jail facility. But since it is probable that a new jail will not be realized for some years, it is critical that the Supervisors and the Sheriff actively explore alternative ways of dealing with the incarceration of convicted criminals to keep our communities safe. Alternative solutions to early release may include a tent city as in Arizona, house arrest with an electronic bracelet, or contracting with other counties to absorb our over-capacity jail population.

**Responses requested**

Board of Supervisors

Sheriff's Department

Citizens of Calaveras County



## **TOBACCO SETTLEMENT FUNDS**

### **REASON FOR INVESTIGATION**

The 2004-2005 Grand Jury received a complaint against Calaveras County alleging misuse of Tobacco Settlement Funds.

### **BACKGROUND**

The 2003-2004 Grand Jury also received a complaint alleging misuse of tobacco settlement funds by Calaveras County. It was found that there were some questions about how the tobacco funds were being utilized, and a response was requested from the Board of Supervisors. The Board responded that there is no legal requirement that tobacco funds be spent according to the Master Settlement Agreement. They also state that a number of counties in California follow policies similar to our own in the allocation of these funds.

### **SUPPLEMENTAL DATA, 2004-2005**

In 1998, California and most other states, territories and districts signed an agreement with the cigarette manufacturers of America to settle a class action lawsuit brought to recover tobacco-related costs, primarily Medicaid expenses, incurred by the States as a result of citizens' use of tobacco. In 2003, California received \$862 million in Master Settlement Agreement (MSA) payments. In 2003, Calaveras County received \$500,788.50 as its share. The total tobacco settlement funds received by Calaveras County since 2000 are \$1,918,104.12.

The National Conference of State Legislatures (NCSL) tracked the states' spending of Tobacco Settlement Funds through several categories included in the Master Settlement Agreement: Health Services, including Medicaid, Long-Term Care, Tobacco-use Prevention, Tobacco Farmers, Research, Education, Children and Youth, Endowments and Budget Reserve, and Other, including tax relief and debt reduction. According to the NCSL, California appropriated its 2001 revenue to specific health programs or reserve accounts. However, beginning in 2002, the State securitized its Tobacco Settlement revenue stream, selling to financial institutions half of the annual payments of the next 25 years for \$2.5 billion and, in 2004, sold the other half for \$2.4 billion. The State of California uses the term "securitization" to describe the act of selling future payments for a reduced lump sum. The proceeds are then deposited in the State's General Fund. California and other states chose to securitize the annual revenue because of the prediction that the magnitude of the MSA payments would bankrupt the tobacco product manufacturers, jeopardizing annual payments. That fear was unfounded, as the added expense was passed on to the consumer of tobacco products.

### **PROCEDURE**

The Grand Jury interviewed the County Administrator and reviewed the following documents: a summary of the *Attorneys General Master Tobacco Settlement Agreement*,

from the Assembly on Federal Issues (AFI) Health Committee; *State Management and Allocation of Tobacco Settlement Revenue 2003*, from the National Conference of State Legislatures; *MSA: Five Years Later*, from *State Government News*, November/December 2003; and the County's expenditure records for these funds.

## **FINDING**

According to the Council of State Government's *State Government News* November/December 2003, "Although the original drive behind litigations that led to the Master Settlement Agreement was the financial burden of tobacco-related illnesses on state health care systems, the settlement does not specify the way the states should spend the money." In 2003, Calaveras County disbursed \$53,699.00 to community groups as follows:

Vallecito Union Elementary School District Healthy Start	\$10,000.00
Blue Mountain Coalition for Youth	\$6,301.00
Mountain Ranch Youth Alliance	\$13,893.00
Human Resources Council	\$4,226.00
Healthy Start West Point and Railroad Flat	\$19,279.00

Of the total \$1,918,104.12 received from 2000 through 2003, \$1,354,725.31 was transferred to Capital Project Funds. The balance was placed in a trust fund within the County's General Fund. County financial records do not provide sufficient detail to track expenditures from the trust fund, nor are they required to do so.

The Grand Jury finds that Tobacco Settlement Funds received by the County have been used within the prerogatives empowered to the Board of Supervisors by the National Conference of State Legislators, even though less than 3% of the money was actually used for anti-tobacco school programs or other health education efforts regarding tobacco use.

## **RECOMMENDATION**

While the County is not required to confine its use of Tobacco Settlement Funds to the reduction of tobacco-related costs, the Board of Supervisors should give special attention to the use of these funds and remain sensitive to the fact that citizens believe that these funds are being used to reduce the tax-payers' burden for tobacco-related health care.

This finding should raise questions from the citizens of Calaveras County, who in turn may effect change through continued complaints to elected officials, and ultimately through the electoral process.

## **RESPONSE REQUESTED**

Board of Supervisors



## CALAVERAS COUNTY BUILDING DEPARTMENT

### REASON FOR INVESTIGATION

A complaint was received against the Calaveras County Building Official and the onsite sewage septic test inspectors regarding lack of consistency in testing and in granting permits for septic systems. The complaint referred to several specific lots in the Rancho Calaveras area.

### PROCEDURES

The Grand Jury interviewed the Building Official, septic engineers, real estate agents, and installers/contractors of septic systems operating in Calaveras County. The Building Department records of individual sewage disposal system inspections were reviewed and various sites were visited.

### RESULTS OF INVESTIGATION

#### Finding 1

There is a lack of consistency in the permit process for septic systems and there may be several reasons why a septic permit may not be granted initially. The process for the on-site inspection is as follows: The landowner contracts with an engineer and requests a permit from the Building Department for a profile inspection by a County onsite sewage inspector. Pursuant to the initial issuing of the inspection permit, the inspector and the engineer conduct a visual inspection of three holes dug on the property to check the strata, soil type, and sewage drainage abilities of the lot.

The outcome of the inspection can be one of two scenarios:

One - The inspector and the engineer agree that the lot can sustain a standard or engineered sewage system and they agree on the type of system. At this point, the installation portion of the Permit for Individual Sewage Disposal System is completed. The Onsite Sewage Disposal Site Investigation Report is completed by the inspector and placed in the County records. The engineer informs the landowner of the outcome. The landowner is then issued a final permit for a sewage disposal system; or

Two - The County inspector determines and indicates on the Onsite Sewage Disposal Site Investigation Report that, "Conditions observed on the parcel do not appear to meet current County regulation for subsurface sewage disposal. Final determination should be provided by a private consultant based upon a more thorough investigation than provided by the department." This report may be falsely interpreted to mean that the property will never be able to support a sewage disposal system and that the value of the land is adversely affected. The report, however, only states that more work needs to be done before a final determination can be made. A landowner has the option to further employ the septic engineer to do additional tests on the lot and perhaps design an engineered, or an experimental engineered, septic plan that may meet the County regulations. Some landowners do not wish to take on the expense of further

investigation, since there is a risk of the property not passing. Additionally, there may be higher costs incurred by the use of engineered or experimental septic systems.

Each of these steps, including additional inspections by the Building Department, require further costs. It is often the builders that are financially able to continue the process in the hopes that the lot will eventually obtain a permit for an individual sewage disposal system. Landowners can be left with a devalued piece of property if they choose to walk away.

**Recommendation**

The Onsite Sewage Disposal Site Investigation Report needs to be revised to more clearly reflect the status and history of the inspection. The Plot Plan Requirements packet needs to be revised to more clearly explain the septic system permit process so that the general public can understand all possible options available to them.

**Response Requested**

Calaveras County Building Official

**Finding 2**

The use of experimental engineered septic systems has become quite extensive in Calaveras County due to the rise in property values which encourages the development of sites that would not otherwise be buildable. The issuing of permits for individual sewage disposal systems is at the sole discretion of the Building Official.

**Recommendation**

Since the Building Official holds final say in the permit process, it is necessary that the policies regarding experimental systems be made available to the public. Without a source of reference, the public will have no way of determining whether consistent standards have been applied in all cases.

**Response Requested**

Calaveras County Building Official

**Finding 3**

Although there are many experimental system manufacturers, one company based out-of-state has planted itself firmly in Calaveras County by setting up training classes locally and maintaining a well-orchestrated marketing campaign.

**Recommendation**

Landowners, builders, engineers, and the Building Department need to familiarize themselves with all individual sewage disposal systems in order to facilitate choice and to allow the landowner to take advantage of all available technologies.

**Response Requested**

Calaveras County Building Official

**Finding 4**

It came to the attention of the Grand Jury that some staff members at the Building Department recommend specific septic engineers and installers. For example, without

any investigation or soil report, Building Department staff made statements that an engineered system would be mandatory in the Valley Springs area. The Building Official was made aware of this issue and stated that the staff would be instructed to end any such practice.

**Recommendation**

Building Department staff must remain impartial when recommending septic engineers and installers.

**Response Requested**

Calaveras County Building Official

**Finding 5**

At the time of the March 2005 interview with the Building Official, the Grand Jury was denied access to the Policies and Procedures Manual; therefore, we were unable to determine whether the Department adheres to their own policies and procedures.

**Recommendation**

The Building Department internal Policies and Procedures should be made available to the Grand Jury and to the public.

**Response Requested**

Calaveras County Building Official



## CALAVERAS COUNTY SHERIFF'S DEPARTMENT

### REASON FOR INVESTIGATION

The Grand Jury received a complaint alleging fraud, waste, and abuse against Calaveras County and the Board of Supervisors with regard to the Sheriff's leave of absence for a temporary contract position in Iraq. The complainant also alleges that the Sheriff neglected to inform the Board of Supervisors that the position was not with the U.S. State Department.

### PROCEDURES

The Grand Jury reviewed the Board of Supervisors' minutes and press release, and interviewed the Sheriff regarding his employment status in Iraq. The Grand Jury also conducted an internet investigation with regard to the Sheriff's employer while he was in Iraq.

### RESULTS OF INVESTIGATION

The Board of Supervisors approved the Sheriff's leave of absence with Resolution #03-368, December 15, 2003, and an amended Resolution #04-014, January 26, 2004, was passed regarding medical benefits during his temporary leave of absence.

It was found that the Sheriff was employed by CSC/DynCorp, which was contracted by the U.S. State Department to advise the Iraqi government on setting up effective law enforcement, judicial, and correctional agencies in Iraq.

### RECOMMENDATION

Resolution #03-368 and #04-014 are public records and adequately address the Sheriff's leave. Since the Sheriff is an elected official, the Grand Jury feels that if the citizens of Calaveras County have any concerns, those concerns can and should be addressed through the electoral process.

### RESPONSE REQUESTED

No Response Requested



## CALAVERAS WORKS AND HUMAN SERVICES AGENCY

### REASON FOR INVESTIGATION

A complaint was registered against Calaveras Works and Human Services Agency (CWHSA). The complainant alleged mismanagement, conflict of interest, fraud, waste, and abuse. The specific allegations are listed below as numbered complaints. There were several additional complaints that did not cite specific incidents and were too vague to investigate.

### PROCEDURES

The Grand Jury reviewed job descriptions, Kelley Blue Book information, automobile proposals, a cleaning contract brought before the Board of Supervisors for approval, the Calaveras County Personnel Ordinance, the Calaveras Works and Human Services Agency Office Policy, CWHSA personnel records, and the Board of Supervisors' press release regarding these complaints.

The allegations in the complaint were addressed by the Board of Supervisors, who requested a response from the director of CWHSA. The director's response was provided to the public through a press release from the Board of Supervisors, dated March 29, 2004.

### RESULTS OF INVESTIGATION

#### Complaint 1

The complainant alleged that a worker had not been performing competently, yet was retained and assigned make-work projects. The complainant further alleged that the individual was retained because of his or her work "...with a community-based volunteer organization that raised funds, which were then given to the spouse of the Director, who used the funds to support his private contracted work for the school district."

#### Finding

The employee in question was evaluated by the director and the final determination of his or her employment status is documented satisfactorily in the personnel records. There was no substantiation to the accusation that he or she was retained because of charity work. The employee and the director's spouse were both members of a community organization but this was unrelated to the employee's job with CWHSA.

#### Response Requested

No response required.

#### Complaint 2

The complainant states conflict of interest because, "The Director and Deputy Director serve on a series of private, (Non-Profit community-based service organization with direct conflict of interests..." [sic]

**Finding**

The Director is appointed by and represents the Board of Supervisors as a member of the Human Resource Council Board of Directors. "The Director avoids potential conflicts of interest by abstaining from voting on issues before non-profit boards that might involve [the] agency directly." (Quoted from Board of Supervisors' press release, March 29, 2004.)

**Response Requested**

No response required.

**Complaint 3**

The complainant alleges a conflict of interest: "The Deputy Director serves on the Salvation Army Board of Directors for the community of Valley Springs."

Complainant also alleges that agency employees are solicited to volunteer for the Salvation Army.

**Finding**

CWHSA has a history of involvement with numerous community service providers. All agency employees, including the Director and Deputy Director, who volunteer at the Salvation Army do so on their own personal time. There is no financial impact on tax payers' dollars. All expenses involved in the volunteer work are paid for by the Salvation Army. It is not uncommon that employees are encouraged to get involved in volunteer organizations but it is not mandated. CWHSA and the Salvation Army work hand-in-hand to help out in the community. Vital and emergency assistance provided by the Salvation Army often supplements the services that CWHSA provides.

**Recommendation**

CWHSA could use some media attention to alert the public to the work they actually do, and the attention the employees give to charity work in the community.

**Response Requested**

Director, Calaveras Works and Human Services Agency

**Complaint 4**

The complainant alleges that contracts, such as the contract for commercial cleaning of the CWHSA building, are approved solely by the director.

**Finding**

All contracts entered into by CWHSA are reviewed and approved by County Counsel and authorized by a Board of Supervisor's resolution. Minutes of the Board of Supervisors' meeting show the authorization for the cleaning contract.

**Response Requested**

No response required.

**Complaint 5**

The complainant cites an incident wherein a County credit card account was charged for a private, non-County, commercial ad placed in a newspaper by a County employee.

**Finding**

A County credit account was mistakenly charged by a newspaper staff person. An ad had been called in to the newspaper and the staff person taking the call assumed the charge should be applied to the County credit account, as is often the case. When the mistake was found, the employee provided a check to cover the expense that had been incorrectly applied to the County credit card account.

**Response Requested**

No response required.

**Complaint 6**

The complainant alleges that the County Administrative Officer personally interceded in the purchase of an automobile for the county. The complaint states that the automobile was purchased out-of-area for a higher price than that offered by a local dealer.

**Finding**

A 2003 Ford Windstar, was purchased out of the area for \$15,314.50, while a 2002 Ford Windstar was offered locally for \$16,201.19. The Kelley Blue Book shows the value for a 2003 Ford Windstar to be \$20,920. The Board of Supervisors, in resolution #03-180, approved this purchase.

**Response Requested**

No response required.

**Complaint 7**

The complainant alleges the Director, Deputy Director, and Eligibility Program Manager, demonstrate bias and bigotry in selectively dealing with agency personnel. This particular complaint dealt with an employee whose record of telephone calls had been requested for review for the purpose of, as complainant states, catching him or her misusing the phones.

**Finding**

The Eligibility Program Manager requested telephone records for several workers with comparable caseloads, in order to make a comparison of the amount of time spent on the telephone by each worker. These records have not been reviewed, and no action has been taken against any employee.

**Recommendation**

The Grand Jury recommends that the Director report the final outcome of this investigation to the Grand Jury.

**Response Requested**

Director, Calaveras Works and Human Services Agency

**Complaint 8**

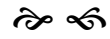
The complainant alleges that a fully-qualified employee had been passed over for a promotion while an outside applicant had been hired who would need "...at least six full months of just qualifying to perform (legally and technically) in CPS."

**Finding**

The Grand Jury found that hiring procedures were followed.

**Response Requested**

No response required



## **INTRODUCTION**

### **Responses to Findings and Recommendations**

Each year, the Grand Jury is charged with monitoring and reporting on responses received from agencies and public officials as a result of the previous year's recommendations and requests for response.

All respondents are provided specific criteria to follow when responding to the Grand Jury. Penal Code Section 933(c), provides requirements for response to the Grand Jury Final Report. The governing body of any public agency must respond within 90 days. The response must be addressed to the presiding Judge of the Superior Court. All elected officers or heads of agencies who are required to respond must do so within 60 days to the presiding Judge of the Superior Court with an information copy provided to the Board of Supervisors. These responses are subsequently forwarded to the current year's Grand Jury for review and follow-up.

The following is a detailed account of the follow-up work completed by this year's Grand Jury as a direct result of previous Grand Jury's requests for response.

**RESPONSE FROM CALAVERAS COUNTY  
CHIEF PROBATION OFFICER  
REGARDING ACCOUNTS RECEIVABLE BALANCES**

**ORIGINAL RECOMMENDATION, 2002-2003**

In the 2003-2004 Final Report, the Grand Jury highlighted the following unanswered request for response from the 2002-2003 Grand Jury recommendation: That the accounts receivable software be modified to provide totals each month and an aging of accounts receivable balances, and that the trust account be reconciled to the Auditor-Controller's office at least monthly.

**RESPONSE**

In response, the County Chief Probation Officer drafted a letter dated August 4, 2004 indicating an inability to fully comply with the recommendation as the software currently being used is somewhat out-dated and incompatible with other, more current versions of the software. The response also stated that the Probation Department lacks funds to purchase new software and that even if software were purchased and the transition made today, it would take several years before the system would be able to generate accurate accounts receivable aging reports.

**GRAND JURY DETERMINATION, 2004-2005**

This response is inadequate, as it reflects a continued inability to address the recommendations of the Grand Jury. Solutions must be found to resolve the issue of tracking accounting data in the Probation Department.

**RESPONSE REQUESTED**

Auditor-Controller  
Chief Probation Officer



## **RESPONSE FROM THE BOARD OF SUPERVISORS REGARDING AREA 12 AGENCY ON AGING**

### **ORIGINAL REASON FOR INVESTIGATION, 2003-2004**

In response to a complaint alleging mismanagement of funds and embezzlement, the 2003-2004 Grand Jury investigated and reported on the Area 12 Agency on Aging (Area 12). Area 12 is an organization that oversees the provisions of services to seniors in a five-county area; Alpine, Amador, Calaveras, Mariposa, and Tuolumne Counties. Area 12 is governed by a Joint Powers Agreement (JPA), which is enforced by a Governing Board made up of representatives from each of the five member counties.

### **ORIGINAL FINDINGS & RECOMMENDATIONS, 2003-2004; RESPONSES, DETERMINATIONS, & ADDITIONAL RECOMMENDATIONS, 2004-2005**

**General Note Regarding the Responses Received:** The Board of Supervisors responded to the 2003-2004 Final Report recommendations in a letter dated September 13, 2004, received by the Grand Jury on January 11, 2005. The Board of Supervisors is required to respond to the Grand Jury within 90 days of the publishing of the Final Report. No responses were received from Common Grounds, the senior meals service provider, or from Area 12.

#### **Finding 1, 2003-2004**

The involvement of the citizens of Calaveras County on the Area 12 Advisory Council is minimal.

#### **Original Recommendation, 2003-2004**

The citizens of Calaveras County are encouraged to participate in the Advisory Council of Area 12.

#### **Response**

The Board of Supervisors agrees that citizen participation should be strongly encouraged.

#### **Determination, 2004-2005**

The obligation for response from the Board of Supervisors has been adequately met.

#### **Finding 2, 2003-2004**

Board of Supervisor involvement in the Joint Powers Agreement was limited, but had been expanded prior to the publishing of the 2003-2004 Grand Jury Final Report.

#### **Original Recommendation 2003-2004**

The Board of Supervisors must demonstrate commitment to and active participation in the providing of services to seniors through the JPA.

#### **Response**

The Board of Supervisors has a representative on the Area 12 Governing Board who regularly attends meetings and is a strong advocate for local seniors.

#### **Determination, 2004-2005**

The obligation for response from the Board of Supervisors has been adequately met.

**Finding 3, 2003-2004**

Calaveras County had not fully met their obligation to pay for meals that were provided to seniors.

**Original Recommendation 2003-2004**

The Board of Supervisors must authorize an audit to determine amount of money owed, if any, to Area 12, and must pay any deficit or justify the non-payment.

**Response**

The Board of Supervisors stated that they will discuss the funds owed during the 2004-2005 fiscal year hearings, in September, 2004.

**Supplemental Data, 2004-2005**

The Grand Jury reviewed a newspaper article published in *The Record* on February 11, 2005, which reported that Calaveras County agreed to pay \$30,000.00 to Area 12 to resolve this issue.

**Determination, 2004-2005**

Given Area 12's acceptance of the reported settlement, it is the 2004-2005 Grand Jury determination that the obligation for response and corrective action will have been adequately met when Area 12 receives payment as agreed to by the Board of Supervisors.

**Additional Recommendation**

Area 12 and the Board of Supervisors should respond to the Grand Jury regarding final payment to Area 12 of the outstanding \$30,000.00.

**Response Requested**

Director, Area 12 Agency on Aging  
Board of Supervisors

**Finding 4, 2003-2004**

The 2003-2004 Grand Jury requested an independent audit of Area 12 to reconcile accounting discrepancies within the Area 12 agency. That request was denied by the Board of Supervisors.

**Original Recommendation, 2003-2004**

The Grand Jury reiterates its recommendation that the Board of Supervisors authorize an audit to determine whether these discrepancies do exist.

**Response**

The Board of Supervisors does not agree with the recommendation that it should authorize an audit of Area 12, as they are regularly audited by State and Federal agencies, who allocate funds to Area 12. An additional audit of Area 12's books would be extremely expensive due to the various State and Federal funds allocated each year to that agency.

**Supplemental Data, 2004-2005**

In a newspaper article published in the *Calaveras Enterprise*, on November 2, 2004, it was reported that an audit of Area 12, conducted in August, 2004, questioned \$963,800.00 in unaccounted expenses. Additionally, it was reported in the *Calaveras Enterprise*, on April 12, 2005, that the Director of Area 12 had been terminated.

**Determination, 2004-2005**

The 2004-2005 Grand Jury determines that the Board of Supervisors' response is reasonable and that in conjunction with the supplemental data adequately meets the obligation for response.

**Finding 5, 2003-2004**

Training and monitoring by Area 12 of the staff of Common Grounds, senior meal provider, had been limited, but there had been some improvement.

**Original Recommendation, 2003-2004**

Area 12 should continue the training and monitoring of service providers. Penalties should be imposed upon service providers for non-compliance with training and procedural requirements.

**Response**

The Board of Supervisors stated that they look for a response to this finding directly from Area 12. There was no response received from Area 12.

**Determination, 2004-2005**

The 2004-2005 Grand Jury determines that the response from the Board of Supervisors is adequate. The lack of response from Area 12 is not acceptable.

**Additional Recommendation, 2004-2005**

Area 12 must respond with an update regarding service provider training and monitoring.

**Additional Response Requested**

Director, Area 12 Agency on Aging

**Finding 6, 2003-2004**

Seniors who receive either home-delivered meals or congregate meals are expected to pay a stated fee insofar as they are able. This information is not being well-communicated to them.

**Original Recommendation, 2003-2004**

During the needs-assessment process and the meal-delivery process, it must be made clear to the meal recipients that they are expected to pay for the meals to the extent that they are capable. Procedures for the collection and reporting of collected donations must be instituted.

**Response**

The Board of Supervisors strongly concurs with this recommendation. Area 12 is responsible for implementing these procedures and the Board has made it clear on numerous occasions that this requirement should be followed.

**Determination, 2004-2005**

The 2004-2005 Grand Jury determines that the response from the Board of Supervisors is adequate. The lack of response from Area 12 is not acceptable.

**Additional Recommendation, 2004-2005**

The 2004-2005 Grand Jury repeats the recommendation to Area 12 that they should develop and implement procedures for informing meal recipients that they may make contributions toward the cost of meals received to the extent they are capable and for the collection and reporting of collected contributions.

**Additional Response Requested**  
Director, Area 12 Agency on Aging

**Finding 7, 2003-2004**

Calaveras County has been remiss in their attempts to raise funds to offset the cost of senior services.

**Original Recommendation, 2003-2004**

Common Grounds should institute fundraising programs in Calaveras County to help offset the cost of delivering meals to seniors in this County.

**Response**

Although there is currently no local provider in Calaveras County, and no central agency to sponsor fundraising activities, the Board of Supervisors supports the goal of having local fund raising to help offset the cost of meals and meal delivery. No response was received from Common Grounds.

**Supplemental Data, 2004-2005**

Common Grounds, the local provider of senior meals has since been closed.

**Determination, 2004-2005**

The need for fundraising is imperative and the responsibility for fund raising for senior services should not rest with any single agency.

**Additional Recommendation, 2004-2005**

The 2004-2005 Grand Jury recommends that fund raising activities in Calaveras County continue to be explored.

**Additional Responses Requested**

Board of Supervisors' Representative to the Area 12 Advisory Board  
Director, Area 12 Agency on Aging



**RESPONSE FROM COUNTY ADMINISTRATIVE OFFICER AND BOARD OF SUPERVISORS REGARDING CALAVERAS COUNTY AUDIT REPORT AND BI-TECH SOFTWARE**

**ORIGINAL RECOMMENDATION, 2003-2004**

The full implementation of the Bi-Tech software system, the County's automated payroll and accounting software system, will address the recommendations of the County's external auditing firm, Bartig, Basler & Ray, and maximize the County's investment in the software. The County Administrative Officer and the Board of Supervisors must ensure cooperation between the Human Resources Department and the Auditor-Controller's Office and with the software developer. The Board of Supervisors should review the contract with Bi-Tech to ensure fulfillment of installation and training agreements.

**RESPONSE**

Calaveras County Administrative Officer's letter dated August 23, 2004, states: "The Administrative Office is committed to full implementation of the Bi-Tech Human Resources system by January 2005, after the Auditor's office completes the 2004 payroll process. With the full implementation of the new system, the Auditor-Controller should have additional time available to pursue implementation of other Bi-Tech accounting reports and departmental on-line review of financial data."

The Board of Supervisors stated in their response dated September 13, 2004, received by the Grand Jury, January 11, 2005, that they concur with the Grand Jury's recommendations and with the County Administrator's response. The Board also authorized and directed the Technology Services Director to monitor the Bi-Tech system implementation.

**SUPPLEMENTAL DATA, 2004-2005**

Calaveras County implemented Bi-Tech's Integrated Financial and Administrative Solution software six years ago. When the County first selected the software, generally referred to as Bi-Tech, County staff made the decision to use a variety of modules, including payroll, but decided not to utilize the Human Resource module at that time. That decision was made in part because of the recommendations of Bartig, Basler & Ray. The Board of Supervisors approved the purchase of the Human Resource module in February 2002.

The Technology Services Director is closely monitoring the integration of the functions of the Human Resources and Auditor-Controller modules of the Bi-Tech system. Human Resource personnel are being trained and weekly meetings are being held to verify progress. However, the bottom line is that full integration has not yet been successful and the Auditor-Controller's Office continues to manually edit payroll data prior to issuing County employee payroll checks.

One component for successful implementation of the Human Resources module is the need to accurately encode critically important details for almost 500 employees. The 2004-2005 Grand Jury learned in the course of the interview with County employees that the time-consuming process of inputting the large volume of personnel records is further burdened by the practice of providing free payroll services to approximately 100 non-County employees. These employees are employed either full or part time by cemetery districts, fire districts and small special district entities.

#### **GRAND JURY DETERMINATION, 2004-2005**

After having missed several targeted deadlines over the last three years, the Auditor-Controller's Office and the Human Resources Department have failed to fully implement the Bi-Tech system. It is the Grand Jury's determination that the response does not adequately address the recommendations.

The Bi-Tech system remains only partially implemented, and it is the Grand Jury's determination that the Technology Services Director, the Auditor-Controller, the Director of Human Resources, and the County Administrative Officer continue to monitor and report progress to the Grand Jury and to the public.

#### **RECOMMENDATION**

The County Administrative Officer must continue to monitor and report progress to the Grand Jury and to the citizens of Calaveras County. In addition, the Board of Supervisors must hold the Human Resources Department, in cooperation with the Auditor-Controller, accountable for the full implementation of the Bi-Tech system.

The County Administrative Officer also should review the practice of providing free payroll services to non-County employees.

#### **RESPONSE REQUESTED**

Technology Services Director  
Auditor-Controller  
Director, Human Resources  
County Administrative Officer  
Board of Supervisors



**RESPONSE FROM THE DEPARTMENT OF PLANNING  
AND THE BOARD OF SUPERVISORS REGARDING  
THE STRUCTURE AT SUNSET AND MARIPOSA IN SAN ANDREAS**

**ORIGINAL RECOMMENDATION, 2003-2004**

The 2003-2004 Grand Jury investigated and reported on a complaint regarding a 2400-square-foot structure. It was alleged that this metal building was constructed in spite of restrictions in the building code prohibiting such a structure. The Grand Jury determined that this complaint has been repeatedly filed for at least the last four years. The 2003-2004 Grand Jury made the following recommendations: The Board of Supervisors should institute Review Standards for Code Compliance as soon as possible to ensure fairness and protect neighborhoods as well as the County; and the Calaveras County Planning Application for Variance form should be changed to reflect the fact that a public notification and hearing may not apply to all variance requests.

**RESPONSE**

The Department of Planning responded July 19, 2004 as follows: "... it is important to note that the landowners appealed the revocation of the Setback Variance 1996-07 by the Planning Commission (Resolution 2001-79) to the Board of Supervisors. On November 13, 2001, the Board of Supervisors by majority vote upheld the landowners' appeal, thereby reinstating the variance previously approved by the Planning Commission. California Code of Civil Procedure section 1094.5 provides that a ninety-day statute of limitations to sue on Board adjudicative decisions, such as the grant of appeal. Since no lawsuit was filed within the statute of limitations, the Board of Supervisors' decision became final and the setback variance is legal.

"The Code Variance form is being amended to clarify Notice, Public Hearing requirements and when Public Hearings are required."

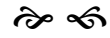
The Board of Supervisors concurs with the response from the Interim Planning Director with regard to these recommendations. The Board further states that this issue has been addressed by the Planning Department, the Building Department, and the Planning Commission on several occasions since the completion of the structure in 1996. The Board states, "...the Planning Department continues to clarify policies and procedures to the public so that County citizens will understand the public hearing requirements and other processes to successfully deal with their planning requests." Additionally, the Board points out that the statute of limitations for the complainants to file suit has long since expired.

**SUPPLEMENTAL DATA, 2004-2005**

The Grand Jury reviewed the Planning Department's new instructions for filing Application for Variance and determined that it is clear that public notification and hearing does not apply to all variance requests.

**GRAND JURY DETERMINATION, 2004-2005**

This issue requires no further investigation or response. Each County department required to do so has issued a response, sometimes several times over, throughout the five-year life of this complaint. The County has made every effort to resolve this issue, but there does not appear to be a resolution acceptable to all parties.



**RESPONSE FROM THE BOARD OF SUPERVISORS AND  
THE CALAVERAS COUNTY SHERIFF'S DEPARTMENT REGARDING THE  
CALAVERAS COUNTY SHERIFF'S DEPARTMENT AND JAIL FACILITY**

**ORIGINAL RECOMMENDATION, 2003-2004**

As a part of the 2003-2004 investigation of the County Jail pursuant to Penal Section 925, the Grand Jury made the following recommendation: The 2003-2004 Grand Jury encourages the Board of Supervisors and the County Sheriff to inform the Grand Jury of any revisions to the Calaveras County Adult Detention Facility Needs Assessment and report any progress toward the construction of a new jail facility.

**RESPONSES**

The Board of Supervisors' letter dated September 13, 2004, received by the Grand Jury on January 11, 2005, stated:

"The Grand Jury repeated its annual finding that the Calaveras County Jail, although well managed and maintained, is inadequate to meet the housing needs of the total sentenced population, resulting in, 'to some degree, a revolving door ... for most misdemeanor offenders.' It is also well known that the Sheriff, with the full support of this Board of Supervisors, continually seeks grants or outside funds to assist in the construction of a new jail facility.

"The Board has reviewed and concurs with the response of the Acting Sheriff. We will keep the Grand Jury apprised of any revisions to the *Calaveras County Adult Detention Facility Needs Assessment* and report on any progress toward the construction of a new jail facility."

Response from the Acting Sheriff, dated July 22, 2004:

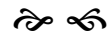
"I have reviewed the 2003-2004 Grand Jury Report and [the Sheriff] or I will keep the Grand Jury apprised of revisions to the *Calaveras County Adult Detention Facility Needs Assessment* and of any progress regarding the construction of a new jail facility. I agree with the Grand Jury findings regarding the Sheriff's Office and County Jail.

"The needs assessment was completed in 2002, and in 2003 the jail released inmates, per the court ordered jail cap, the equivalent of more than thirty-five years of unserved time. The projected release times of 2004 is over seventy years. Our office recognizes the problems associated with not being able to house sentenced inmates and releasing them back into society so they can continue their criminal behavior.

"The Sheriff's Office will continue to work with the County Board of Supervisors and County Administrative Officer to search for remedies and funding for a new jail facility."

**GRAND JURY DETERMINATIONS, 2004-2005**

It was determined that the Board of Supervisors and the County Sheriff have adequately responded to the original recommendations.



## **RESPONSE FROM CALAVERAS COUNTY WATER DISTRICT REGARDING MANAGEMENT**

### **ORIGINAL REASON FOR INVESTIGATION, 2003-2004**

A complaint was received against Calaveras County Water District (CCWD) requesting an investigation of the actions made by management and the Board of Directors. The complainant alleged questionable hiring procedures, acts of conspiracy, conflicts of interest, acts of fiscal mismanagement, and that three members of management have conspired to enhance their personal financial future at the cost of the ratepayers of CCWD. The complainant alleged that the CCWD Chief Counsel engaged in self-dealing with public tax dollars in violation of the State Bar Code of Ethics.

### **RESPONSE**

Responses were requested from the CCWD General Manager and the Board of Directors. The General Manager who retired June 30, 2004, declined to respond. A response was written by the current General Manager/Chief Counsel on July 6, 2004, and approved by the Board of Directors. The response was received by the Grand Jury on September 1, 2004.

The Grand Jury met with the CCWD Board of Directors and General Manager on March 21, 2005, to review and clarify the CCWD response to last year's Grand Jury Final Report recommendations. The Grand Jury stated that the allegations contained in last year's final report were the allegations of the complainant, and not of the Grand Jury as was implied in CCWD's response.

### **ORIGINAL ACTION, FINDINGS, & RECOMMENDATIONS, 2003-2004; RESPONSES, 2004-2005**

#### **2003-2004 Finding 1**

The Grand Jury received a lack of cooperation in the production of documents required to prove or disprove the Chief Counsel's alleged self-dealing.

#### **2003-2004 Action**

The Grand Jury submitted the results of this investigation, including documentation, to the California State Bar Association, in connection with allegations that the CCWD Chief Counsel engaged in self-dealing with public tax dollars in violation of the State Bar Code of Ethics.

#### **2004-2005 Action Response**

The California State Bar accepted the documentation and the complaint was reviewed by their staff attorney. On October 12, 2004, the Grand Jury received notification from the State Bar that, "After careful review and after taking into consideration all relevant factors, the State Bar has concluded that the matter does not warrant action. The jurisdiction of the State Bar is to investigate violations of the rules of Professional Conduct and the State Bar Act. The matter about which you complained, 'self-dealing with public tax dollars,' appears to be a matter better suited to your County District

Attorney and County Counsel. The issues you raise can be brought to the attention of the local court by the appropriate authorities. If the court makes a finding that [CCWD Chief Counsel] acted improperly, please contact us and provide a copy of the court's ruling so that we may review the matter at that time."

**2004-2005 Interview Response**

The CCWD Board of Directors insists there was no self-dealing by Chief Counsel with public tax dollars or violation of the State Bar Code of Ethics. The document produced by CCWD to disprove the allegations of self-dealing was a fax copy of a letter indicating that the General Manager's contract had been reviewed. The CCWD Board of Directors stated it was acceptable for the General Manager/Chief Counsel to review his own contract.

**2003-2004 Finding 2**

Witnesses claim that hiring of certain employees did not follow Board-approved policy. The Grand Jury found that, in one instance, an individual was selected, a job was created, and the Board's policy was modified to accommodate the position. In a separate instance, the practice of hand-picking employees resulted in the hiring of a senior staff member who did not meet the minimum qualifications of the position.

**2003-2004 Recommendation**

The Board of Directors must insure that hiring practices are stringently followed.

**2004-2005 Interview Response**

Last year's Grand Jury report did not identify the specific senior staff member's job title and CCWD inaccurately presumed that the Grand Jury Report referred to the General Manager. After the Grand Jury provided clarification to CCWD with regard to the referenced job title, the Board of Directors agreed to insure that hiring practices would be stringently followed and agreed to review hiring practices and the qualifications of the staff member identified by the Grand Jury.

**2003-2004 Finding 3**

CCWD's in-house legal counsel created a management unit benefit package with a retirement package to include lifetime health, dental, and vision coverage. This enhanced lifetime package is available after only two years of service.

**2003-2004 Recommendation**

Since this is an increased expense to the District which will impact rate payers for many years, the Board of Directors must examine whether two years of employment is an appropriate vesting period by doing a comparison study of retirement benefit packages in similar special districts in California.

**2004-2005 Interview Response**

In-house legal counsel did not create a management unit benefit package. The benefit package described was negotiated by the previous General Manager with the Board of Directors and was valid only for that General Manager. No other management unit employees are entitled to this or any other special benefit package, unless negotiated directly and independently with the CCWD Board of Directors.

**2003-2004 Finding 4**

The California State Public Employees' Retirement System (CalPERS) enjoyed a few years of over-funding due to favorable investments. CCWD pays both employer and employee contributions to the fund. During the period of over-funding, CCWD was not required to pay the employer contribution. After the terrorist acts of September 11, 2001, and the subsequent stock market downswing, CalPERS notified all public agencies that employer contribution would not only be reinstated, but also be increased up to an additional 3% of employees' annual salary, starting in 2004. This increase, up to 10% of employees' salaries in retirement contribution, was presented to the Board by management as having no financial impact. The pending rate increase and its financial impact should have been brought to the attention of the Board.

**2003-2004 Recommendation**

Management must present complete and accurate pertinent data, including potential financial impact on the District, to the Board. The Board of Directors must be diligent in efforts to verify information presented by management and adhere to their mission statement, which reads in part, "The governing body is dedicated to protecting, enhancing, and developing our water resources to the highest beneficial use for Calaveras County, while maintaining cost-conscious, reliable service, and our quality of life, through responsible management."

**2004-2005 Interview Response**

The CCWD Board of Directors maintains that they are, and have been, aware of the retirement benefit costs for CalPERS and this cost is incorporated into the annual budget. Future waiver of Cost Of Living Adjustments by employees offsets the cost of providing this enhanced retirement formula.

**2003-2004 Finding 5**

Staff advised management that it is bad financial practice to allow the water assessment revenues to support the sewer operations in order to avoid the impact of rate increases.

**2003-2004 Recommendation**

The Board should audit financial practices regarding sewer operations.

**2004-2005 Interview Response**

As part of the original complaint, the Grand Jury was given a copy of a memo dated February 21, 2003, addressed to the CCWD General Manager. This memo advised management that it is bad financial practice to allow the water assessment revenues to support the wastewater operations in order to avoid the impact of rate increases. The CCWD Board of Directors and General Manager maintain that the wastewater and domestic water entities do not support each other.

**2003-2004 Finding 6**

A letter written by a former senior management employee on behalf of six employees alleged that the District's management took improper actions. This letter was addressed to the Board of Directors and hand-delivered to the District office. The letter did not reach the Board in open session but, in closed session, an edited version was presented

as an anonymous letter. This was not only an act of tampering with the mail, but it also deprived the Board of crucial insight on the detailed actions.

**2003-2004 Recommendation**

Management and staff must not censor correspondence addressed to members of the Board of Directors. A policy should be established whereby correspondence can go directly to the Board rather than through staff and management. The original letter in question should be made available to the Board for review and consideration.

**2004-2005 Interview Response**

A signed copy of the original letter, addressed to the CCWD Board of Directors, was furnished to the Grand Jury by the author. The author subsequently waived confidentiality and allowed the Grand Jury to disclose identity. During the interview with the CCWD Board of Directors on March 21, 2005, it was stated that the author of the letter spoke to a Director on the evening before the Board meeting in which the letter was to be presented. The Director confirmed this. After talking to the Director, the author decided to resubmit the letter as anonymous. The letter was delivered to the Director at the CCWD office the next morning. The Director did not reveal the identity of the author to other Directors, and the letter was discussed in closed session.

There was no editing, mail tampering, or censorship involved, as previously indicated in last year's Grand Jury Report.

With regard to the allegations in the letter, the question was posed to the CCWD Board of Directors, that although the letter was anonymous, were there any concerns about the seriousness of the allegations? The Directors responded that they did have a complete management evaluation performed, and some management tasks were reassigned.

**2003-2004 Finding 7**

Employees informed Directors by telephone and by letter of management's callous treatment of and lack of respect for District employees. The employees received no response.

**2003-2004 Recommendation**

The Board of Directors should respond to all communications from the public and employees and must encourage communication and complaints by constituents.

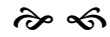
**2004-2005 Interview Response**

The CCWD Board of Directors stated that they do respond to communication; however, the Board of Directors cannot and will not respond to anonymous phone calls and letters. Letters that are brought to the attention of the board, signed by the author, are investigated and replied to.

**2004-2005 GRAND JURY DETERMINATION**

The Grand Jury accepts the responses from CCWD regarding the 2003-2004 Grand Jury Final Report. The elected Board of Directors serve in a position of trust that they will manage operations of the district to the best of their ability. However, some of the responses point to management practices that the ratepayers of Calaveras County Water

District should address through the electoral process. Additional complaints have been received, but were received too late in the year to be addressed by the 2004-2005 Grand Jury.



**RESPONSE FROM CALAVERAS COUNTY WATER DISTRICT (CCWD)  
REGARDING LEGISLATIVE PLATFORM**

**ORIGINAL REASON FOR INVESTIGATION, 2003-2004**

In response to a complaint, the 2003-2004 Grand Jury investigated CCWD and found the CCWD Board in violation of California Government Code 56824.12 in pursuing programs not consistent with their Board-approved legislative platform.

**ORIGINAL RECOMMENDATION, 2003-2004**

The 2003-2004 Grand Jury recommended that CCWD Board of Directors must thoroughly review all projects presented for approval to ensure compliance with CCWD's own legislative platform and that management should provide adequate operational training to each Director to better prepare them to govern the district.

**RESPONSES**

In the response from the General Manager, dated July 6, 2004, it was stated, "The government code cited has nothing to do with activities of the Board relating to pursuit of programs by the District. A legislative platform is nothing more than a mission statement or Board philosophy that evolves over time and has no force of law."

During a March 21, 2005, interview with the Board of Directors, one Director gave the opinion that the government code cited was valid and that the Board had not been adhering to those provisions. That Director also pointed out that three Directors could make the final decision on any vote. Other Directors explained that the legislative platform is in place primarily to identify programs that could provide grant funding. Some projects that fall within CCWD's legislative platform could be funded through grants whose primary focus falls outside the scope of that legislative platform. CCWD's intent is to pursue grant funds to benefit the County.

**GRAND JURY DETERMINATION, 2004-2005**

The Grand Jury accepts the Board of Directors' explanation regarding their pursuit of funding for projects. As to the issue of not following California Government Code 56824.12, during the interview, the Directors modified their response to the 2003-2004 Grand Jury Final Report to include the statement that all proposed projects will be more carefully reviewed.



**RESPONSE FROM CITY OF ANGELS  
REGARDING THE BUILDING AND PLANNING DEPARTMENT**

**ORIGINAL RECOMMENDATION, 2003-2004**

The 2003-2004 Grand Jury investigated a complaint made against the City of Angels (Angels Camp) Building Official regarding the construction of a retaining wall on Sonora Street in Angels Camp. The complainant stated that the City of Angels allowed construction of a retaining wall that is not consistent with the engineered plan on file with the City.

The recommendation stated that since there were deviations from the original plan, the Building & Planning Department should require that revised plans be filed before the project passes final inspection.

**RESPONSE**

The response from the City of Angels, dated September 24, 2004, states, "The Building Official deemed the revised details were enough to satisfy the Building Department that the changes were demonstrated. In the future, the Building Department will require a set of revised plans before the project passes final inspection."

**GRAND JURY DETERMINATION, 2004-2005**

It was determined that the obligation for response and corrective action has been adequately met by the City of Angels.



**RESPONSE FROM COUNTY COUNSEL AND THE DISTRICT ATTORNEY  
REGARDING GENERAL REPORT CONCERNING SPECIAL DISTRICTS**

**ORIGINAL RECOMMENDATION, 2003-2004**

County Counsel should provide annual training to elected County Supervisors to insure their understanding of the Brown Act and other applicable California government codes, and the penalties for non-compliance.

**RESPONSE**

In a letter dated July 16, 2004, County Counsel stated agreement with this recommendation and stated the intent to implement training within three months, by October 2004. In a letter dated March 9, 2005, County Counsel stated that this training process has been initiated by sending a Brown Act pamphlet and letter of explanation to all special districts and local County agencies for distribution to their Board members and staff.

**GRAND JURY DETERMINATION, 2004-2005**

The obligation for response and corrective action have been adequately met by County Counsel.

**ORIGINAL RECOMMENDATION, 2003-2004**

The District Attorney's Office should take a more supportive role in the processing of requests for subpoenas by the Grand Jury.

**RESPONSE**

The Office of the District Attorney responded on July 8, 2004, and stated, "We accept the finding."

**GRAND JURY DETERMINATION, 2004-2005**

While the Grand Jury has not requested any subpoenas this year, we appreciate the District Attorney's agreement with our recommendation.



## **RESPONSE FROM VALLEY SPRINGS PUBLIC UTILITY DISTRICT**

### **ORIGINAL REASON FOR INVESTIGATION, 2003-2004**

The 2003-2004 Grand Jury received a complaint against Valley Springs Public Utility District (VSPUD) alleging that VSPUD increased its water rate by 84%, doubled its sewage rate, and that a conflict of interest exists between VSPUD and one of the Directors.

The 2003-2004 Grand Jury Final Report contained ten findings, two action items, and nine recommendations, the details of which are listed below. Responses were requested from the General Manager and the Board of Directors. One response, dated August 11, 2004, was received with signatures of both the Manager and the Board President. The 2004-2005 Grand Jury determined that the responses did not adequately meet the recommendations contained in the 2003-2004 Final Report and subsequently requested an interview with the former Manager and the Board of Directors to review and clarify the response. This interview was held December 1, 2004.

Note: Since July 2004, the Manager and the Board President have resigned and new staff has been hired.

### **FINDINGS, ACTIONS, & RECOMMENDATIONS, 2003-2004; RESPONSES, 2004-2005**

#### **2003-2004 Finding 1**

There is a dual conflict of interest in one Director's position as a member of the Board of VSPUD. This Director has a financial interest in the district since the District employs the Director's spouse. Further, the Director's spouse was promoted to Manager by Board action in which that Director voted.

#### **2003-2004 Action**

Proof of conflict of interest was forwarded to the Fair Political Practices Commission for further investigation.

#### **2004-2005 Written Response**

The Director did not participate in any Board action regarding spouse's duties or compensation as an employee of VSPUD.

#### **2004-2005 Interview Response**

The former Manager said there was an error in transcribing the minutes of the meeting when the promotion to Manager was approved. The minutes reflect a unanimous vote, and should have stated that one Director abstained.

#### **2003-2004 Finding 2**

VSPUD did not distribute Consumer Confidence Reports in accordance with State Water Control Board regulations.

**2003-2004 Action**

In a letter to VSPUD, the Water Quality Control Board directed that VSPUD comply with regulations requiring a water district to mail or otherwise deliver a copy of each year's Consumer Confidence Report to each customer.

**2004-2005 Written Response**

The District states that it has always published the Water Quality Report in the local newspaper and placed a notice on customers' bills stating "Water Quality Report available upon request." In their response, the District stated, "This procedure was never questioned in the past by the Department of Health Services until it was contacted by the Grand Jury, which then informed the District that the report should be sent to the customers. This year, the District's Water Quality Report was sent to all customers, as it will be in the future."

**2004-2005 Interview Response**

Former Manager admitted to an oversight regarding the Consumer Confidence Report.

**2003-2004 Finding 3**

A perception of impropriety exists because of the many familial relations between Board members, management, and employees of the VSPUD.

**2003-2004 Recommendation**

VSPUD should establish a Policy and Procedure Manual which outlines precise hiring procedures and includes job descriptions, minimum requirements for each position, and Board-approved salary schedules, in accordance with Equal Opportunity Commission regulations. This would validate that each employee hired is the most qualified candidate available for the position, thereby diminishing the perception of impropriety.

**2004-2005 Written Response**

In the response, it was stated that, "VSPUD maintains a water and sewer system for a community of relatively small size, and historically the District has been staffed by residents of the local community, that is, the Town of Valley Springs. Many of the people in the Town of Valley Springs are related. "

**2004-2005 Interview Response**

A newly adopted manual was reviewed by the 2004-2005 Grand Jury. One omission was cited. The section covering nepotism was not in the final version, although it had been included in an earlier draft. It was stated by the Board that the omission of that section was an oversight and that it will be added.

**2003-2004 Finding 4**

There is a lack of effort on the part of VSPUD to raise consumer awareness of District business. Agendas are not published in the time period prescribed in Government Code Section 54950 et seq.

**2003-2004 Recommendation**

VSPUD must maintain strict compliance with regulations relating to advertising meeting dates and agendas per Government Code 54954.2

**2004-2005 Written Response**

Regular meetings are held monthly on the fourth Wednesday of each month at 6:30 pm. District agendas are posted and published at least 72 hours before a regular meeting. District meeting agendas are always posted on the door of 150 Sequoia Street in Valley Springs, where meetings are held.

**2004-2005 Interview Response**

The Manager said that, in the past, there had been a problem getting the notice published 72 hours in advance, and this would be corrected.

**2003-2004 Finding 5**

VSPUD Board meeting minutes are not maintained in compliance with Government Code 54950 et seq. Personnel actions are voted on without reference to prior Board discussion.

**2003-2004 Recommendation**

VSPUD Board meetings must follow posted agendas, and meeting minutes should clearly detail the business conducted to verify compliance with Government Code 54950 et seq.

**2004-2005 Written Response**

The District currently follows published agendas unless a request is made to hear an item out of order. In the future, the District will insure accurate reporting of all votes in the minutes.

**2004-2005 Interview Response**

The Board member admitted that there is a problem with strict adherence to the current month's agenda. They are working to solve this problem.

**2003-2004 Finding 6**

VSPUD bookkeeping and general recordkeeping is confusing and in violation of California Penal Code 933.1. When asked to produce personnel records, including applications, performance evaluations, and exit interviews, VSPUD staff responded that no personnel files were kept. Absence of this documentation is in violation of the Government Codes which dictate the need to maintain personnel records.

**2003-2004 Recommendation**

VSPUD must upgrade accounting and recordkeeping procedures to comply with Government Codes.

**2004-2005 Written Response**

"We believe our records are complete, accurate, and furthermore they are subjected to an annual audit by a licensed CPA, which has found no problem with them."

**2004-2005 Interview Response**

The Manager misunderstood the request for personnel records during the original investigation. The records do exist.

**2003-2004 Finding 7**

Seventy-six of the District's 276 consumers are using less than 2,000 gallons of water per month, but are being charged a base rate of 6,000 gallons per month. This translates into a very high cost-per-gallon for low-volume consumers.

**2003-2004 Recommendation**

The Grand Jury recommends that the District revise its rate structure to benefit the water user and VSPUD.

**2004-2005 Written Response**

VSPUD pointed out that the Grand Jury has neither the jurisdiction nor the expertise to suggest rates. All water agencies charge a minimum water fee after which additional fees are based on usage. These base fees insure that the fixed costs of system operations and maintenance are covered.

**2004-2005 Interview Response**

It was agreed the Grand Jury has neither the jurisdiction nor the expertise to suggest rates. This issue was raised by the complainant and had to be addressed. It was pointed out by the Grand Jury that better communication by the Board to the consumers disclosing the reasons for the rate increase may dispel future complaints.

**2003-2004 Finding 8**

The VSPUD office is located in the home shared by a Director and the District Manager. This relationship promotes privatization of a public entity and raises issues of nepotism, unprofessional hiring practices, and contributes to the perception that one family owns the water district.

**2003-2004 Recommendation**

VSPUD should establish a permanent office with regular hours and conduct District business from that location.

**2004-2005 Interview Response**

The Board President advised the Grand Jury that the District business office has been relocated to a permanent location and is fully staffed. VSPUD inferred that the costs of maintaining this newly refurbished office will be passed on to the rate payers.

**2003-2004 Finding 9**

VSPUD Directors are paid approximately \$200.00 per meeting, whereas directors of similar sized water districts are paid zero to \$50.00 per meeting. This excessive compensation rate is in violation of Government Code 61207.

**2003-2004 Recommendation**

VSPUD should reduce the Directors' fees to bring them more in line with directors in similar districts.

**2004-2005 Written Response**

On February 4, 2004, the Board lowered Director meeting compensation to \$50.00 per meeting effective March 2004. The District rarely holds more than one meeting a month, but when it does, the Directors are paid no more than \$50.00 for that month.

**2003-2004 Finding 10**

VSPUD does not advertise for labor bids in accordance with California Public Contract Codes 20600 through 20602.

**2003-2004 Recommendation**

All contracts over \$3,500.00 should receive a minimum of three bids, and all subject bids should be posted in the local newspaper with the largest subscription base. Contractors should possess a valid California contractor's license. Emergency work may be done on an on-call basis and, when feasible, should be done by a licensed contractor.

**2004-2005 Written Response**

The Board contends that all contracts are reviewed by their auditor, District Engineer, and legal counsel. The Board also contends that the Public Contracts Code Section 20601, specific to County Waterworks Districts and relied upon by the Grand Jury for its conclusion that VSPUD does not advertise for labor bids, is not applicable. The Board holds that the controlling section is Public Contracts Code Section 20201, which is specific to Public Utility Districts. Under that Code, the current baseline figure requiring competitive bids is \$15,000.00. VSPUD states that the District is in full compliance with Public Contracts Code Section 20201.

**2003-2004 General Recommendation**

VSPUD legal counsel should thoroughly interpret the requirements of the Brown Act to each Director so they fully understand their obligation to conform to the requirements and so that they understand the penalties for non-conformance.

**2004-2005 Written Response**

Newly elected Board members are provided a copy of the Brown Act to review with VSPUD legal counsel.

**2004-2005 GRAND JURY DETERMINATION**

The VSPUD Board is commended for the progress made during the first six months of the fiscal year. The Board of Directors has recognized the validity of the Grand Jury Final Report and has demonstrated their intent to follow the Jury recommendations.

