

Superior Court of California
County of Butte
JUN 12 2012
Kimberly Flener, Clerk
By *Kinty 2hr* Deputy

2011 – 2012

Butte County

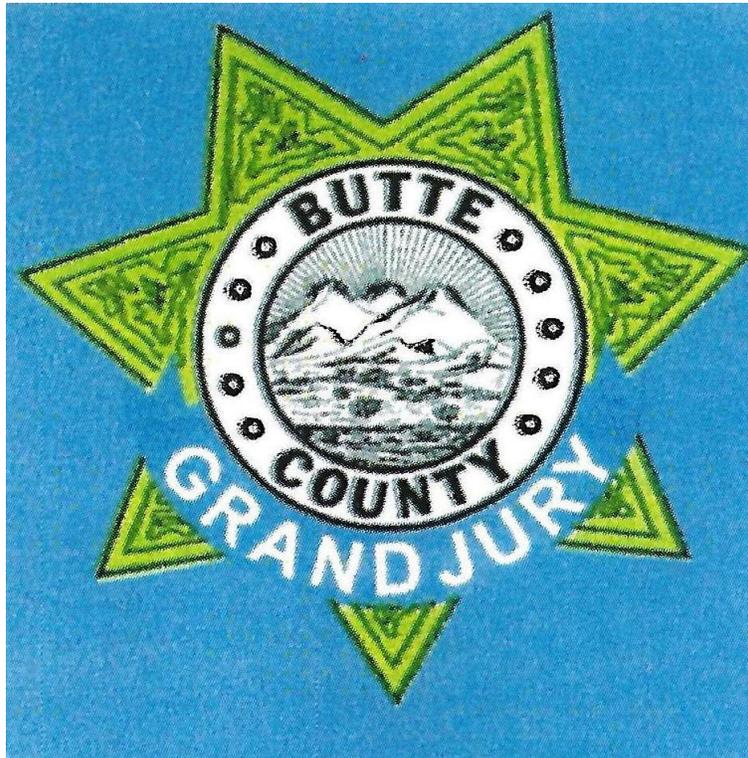
Grand Jury Report

Oroville Courthouse, Circa 1930



Courtesy of Meriam Library, California State University, Chico,
Special Collection

2011 – 2012
Butte County
Grand Jury Report



This 29th day of June 2012

~
2011-2012 Grand Jury Mission Statement
~

Butte County Grand Jury is tasked with oversight of all levels of government in the County to help evaluate the manner in which government operates so that it best serves the needs of the Citizens of the County.

The Grand Jury will also hear and determine the appropriateness of criminal indictments when called upon to do so by appropriate law enforcement agencies.

(This page intentionally left blank.)

TABLE OF CONTENTS

Preface

Letter to Citizens	ii
Foreperson Letter to the Presiding Judge	iii
2011-2012 Grand Jury Members	iv
Grand Jury Final Resolution	v
History and Overview of the Grand Jury	vi
California Penal Code Sections 933 and 933.05	x
Comments on Responses to the 2010-2011 Grand Jury Report	xii

2011-2012 Butte County Grand Jury Reports

Foreperson's Overview of the FY 2011-2012 Grand Jury Report	1
Butte County Department of Behavioral Health	3
Butte County Department of Behavioral Health - Financial Challenges	21
Investigation Into the Utilization of Involuntary Detention Under W&I §5150	27
Butte County Jail - Butte County Juvenile Hall	37
City of Oroville	45
City of Gridley	55
Recreation and Park Districts	81

(This page intentionally left blank.)

PREFACE

To The Citizens of Butte County:

The term of the 2011-2012 Grand Jury is coming to a close. We as a body have been privileged to serve for the past year. It has been a rewarding and interesting experience for all of us and we are pleased to have had the opportunity.

The Grand Jury functions mainly as a “watchdog” representing the citizens of the county in providing oversight to local government. Another section of this report gives more details about what and how the Jury is organized and functions.

In this letter we would like to comment on the importance of the complaints which the Grand Jury receives from the citizens of the County. Though each Grand Jury is independent and free to look into such matters as its members decide, many investigations have their origins in correspondence received from citizens of the county. Complaints are received, acknowledged and given due consideration. Because each Grand Jury sets its own priorities, some complaints may not result in investigations.

An investigation undertaken by a Grand Jury typically takes several months to complete. If a report is written following the investigation, several weeks must be added to the process. Because of this, complaints received early in the Grand Jury term, which in Butte County always begins July first of each year, have a better chance of being selected for investigation. Complaints received later in the term may be passed on to the next Grand Jury which may or may not choose to investigate them.

The process of making complaints is easy. Instructions and a complaint form are available on the Butte County website, buttecounty.net.

Service on the Grand Jury is voluntary. We would urge those citizens, who may receive a letter offering them the opportunity to serve on a Grand Jury, to give the opportunity serious consideration. For those able to devote the time and energy, it is a worthwhile and rewarding opportunity to become a better informed citizen.

We’ve been glad to be of service during the past year. We thank our family members and friends who have supported us during our year of service. And we thank the citizens of the County for the opportunity to serve.

Sincerely,

Members of the 2011-2012 Grand Jury

The Honorable Stephen Benson
Presiding Judge, Superior Court of California, County of Butte

Dear Judge Benson,

On behalf of the 2011-2012 Butte County Grand Jury, it is my honor to present to you our Final Report for your review and consideration. The eight reports which follow have been approved by the Grand Jury. It is our intent that these reports and our year of service will be of benefit to the citizens of Butte County.

We have been grateful this year for the use of the courtroom facility in Paradise. It has served our needs well and we hope that as long as the County has use of that facility, it can be used by future Grand Juries. It would be our hope that during the time this facility is in use that the County would develop a plan for permanent facilities for the Grand Jury which would include a room for meetings and a secure place for storage of materials so that a library of resource materials could be developed.

The Grand Jury visited many County departments, cities and other government offices. Numerous interviews were conducted. Although some of these investigations did not result in the issuance of individual reports, we wish to express our appreciation for the assistance we were given. We also wish to thank County Counsel and the Assistant County Counsel who have been most helpful in advising us.

2012 is an election year and members of the Grand Jury have been invited by the Butte County Registrar of Voters to serve the Logic and Accuracy Board. These members will help to assure that the final vote tallies accurately reflect the votes cast by the voters.

The 2011- 2012 Grand Jury has worked as a team. It has been our pleasure to serve the citizens of the County in this manner. We thank our families, friends and employers who have supported us during our year of service.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Kenneth Fleming".

Kenneth Fleming, Foreperson
2011-2012 Butte County Grand Jury

2011-2012 GRAND JURY MEMBERS

Kenneth Fleming	Chico	Foreperson
Margaret Siemsen	Durham	Foreperson Pro Tem
Susie Welsh	Oroville	Corresponding Secretary
Linda Koch	Chico	Recording Secretary
Helen Mann	Oroville	Recording Secretary
Ted Raleigh	Chico	Treasurer
Eileen Aggi	Chico	
Loretta Armstrong	Paradise	
Fred Davis	Chico	
Michelle DeMel	Paradise	
Angeline Dilg	Chico	
Roy Ellis	Chico	
John Hitchcock	Paradise	
John Jepsen	Chico	
Merrilyn Koslin	Oroville	
Jerry Kunkle	Magalia	
Paul Moore	Chico	
Louise Ross	Paradise	
Susan Schohr	Gridley	

2011-2012 BUTTE COUNTY GRAND JURY

FINAL RESOLUTION

Whereas, the 2011-2012 Butte County Grand Jury has conducted the business of its term and has reached certain conclusions, and

Whereas, the 2011-2012 Butte County Grand Jury desires to disclose the substance of those conclusions for the benefit of local government, its agencies and the citizens of Butte County,

Now, therefore, be it resolved that the attached papers, commendations, findings and recommendations are adopted as the 2011-2012 Grand Jury Final Report and submitted to the Presiding Judge of the Superior Court of California, County of Butte, to be entered as a public document pursuant to California Law.

The above resolution was passed and adopted by the 2011-2012 Butte County Grand Jury at the Butte County Superior Court in Paradise, California on this 4th day of June 2012.



Kenneth Fleming, Foreperson

A BRIEF HISTORY AND OVERVIEW OF THE GRAND JURY

WHAT IS A GRAND JURY?

The concept of the Grand Jury traces its roots to Classical Greece. Ancient Athenians employed an “accusatory body” much as did the Saxons of early Britain. In fact, from 978 until 1016 one of the Saxon Domes (laws) required an accusatory body of 12 for every 100 men. The accusing body was exhorted, “not to accuse an innocent man or spare a guilty one.”

The modern European jury system began to evolve during the Eleventh and Twelfth Centuries. As early as 1066, during the Norman conquest of England, courts summoned sworn citizens to investigate crimes that had come to their attention. Initially, these early juries both accused and tried suspects. The members of the accusing bodies were selected from small jurisdictions and they naturally presented accusations based on their personal knowledge.

During the reign of Henry II (1154-1189), juries were divided into two types - civil and criminal. The oath taken by these jurors provided that they would faithfully carry out their duties, that they would aggrieve no one through enmity nor give deference through love, and that they would conceal things that they had heard. By the year 1290, civil juries were given authority to inquire about the conditions of bridges and highways and review the practices and conditions in the jails.

The Massachusetts Bay Colony impaneled the first American Grand Jury in 1635 to consider cases of murder, robbery and wife beating. By the end of the colonial period, the institution of the Grand Jury was firmly fixed in America’s new and ever-evolving system of government. Although the Constitution does not specifically mention Grand Juries, the Fifth Amendment provides the guarantee that, “no person shall be held to answer to a capital, or otherwise infamous crime, unless on the presentment of indictment of a grand jury.” Grand Juries were used in our early history to protest governmental abuses, to propose new laws and very often to determine who should face trial.

Today, forty-two states have some form of Grand Jury, and California is one of the states that still allows prosecution to be initiated by either criminal Grand Jury indictment or a judicial preliminary hearing. The name “Grand Jury” derives from the fact that the body usually has a greater number of jurors than a trial (petit) Jury. In Butte County a Grand Jury of 19 persons is impaneled each year with 11 chosen as alternates.

THE GRAND JURY SYSTEM TODAY

The California State Constitution calls specifically for the use of Grand Juries in the governance of the State. In 1849, the California Legislature authorized Grand Juries in each county. The legislature passed laws in 1880 that required Grand Juries to review and investigate the activities of county government. Certain larger jurisdictions – such as the cities and counties of San Francisco and Los Angeles – impanel separate criminal (indictment) and civil (watchdog) Grand Juries each year. Some counties impanel a separate Criminal Grand Jury only when needed. The Butte County Grand Jury serves in both capacities.

As constituted today, the Grand Jury is a part of the Judicial Branch of Government and an arm of the Court. The Grand Jury does not have the functions of either the legislative or the administrative branches and it is not a police agency or political group. It is an investigative body with the objective of detecting and correcting flaws in government.

The primary civil function of the Grand Jury, and the most important reason for its existence, is the examination of all aspects of county and city government, including special districts and joint powers agencies. The Grand Jury sees that the public's monies are handled judiciously and that all accounts are properly audited. In general, the Grand Jury assures honest, efficient government in the best interest of the people.

THE GRAND JURY'S POWERS

The Grand Jury has three ways to exercise its power:

- By reports and recommendations regarding county government, cities, special districts and joint powers agencies.
- By indictment, bringing charges against an individual for criminal offense.
- By civil accusation of an official or employee where the result, on conviction, would be removal from office.

A large portion of the public wrongly believes that the appearance of an individual, particularly a public official, before the Grand Jury suggests guilt of malfeasance, misfeasance, or nonfeasance. It is the Constitutional responsibility of the Grand Jury to review the conduct of government each year. This entails having public officials appear before the jury for the purpose of providing information relative to their departments or offices. While it is a part of the judicial system, a Grand Jury is an entirely independent body. The Presiding Judge of the Superior Court, the District Attorney, the County Counsel, and the State Attorney General act as its advisors, but cannot prevent the actions of the Grand Jury except on issues of legality. The Grand Jury is not accountable to elected officials or governmental employees.

Due to the confidential nature of a Grand Jury's work, most, if not all, of that work must be conducted in closed sessions. Members of a Grand Jury are sworn to secrecy, thus assuring all who appear before it that their testimony will be handled in strict confidence. No one may be present during the sessions of a Grand Jury except those specified by law, and the minutes of its meetings may not be inspected by anyone, nor can its records be subpoenaed.

The Grand Jury serves as an ombudsman for citizens of the county. The Grand Jury may receive and investigate complaints by individuals regarding the actions and performances of county or other public officials. The Grand Jury is tasked with oversight of all local government. Additionally, the California Penal Code specifies that the Grand Jury shall inquire into the conditions and management of the public prisons, jails and juvenile detention facilities within the county.

The members of the Grand Jury are collectively granted special powers and privileges to aid them in carrying out their duties. The Grand Jury in its official capacity is permitted, with limited exceptions, access to and the right to inspect government facilities, and to review official books and records to which other citizens are denied access. The Grand Jury may issue subpoenas as necessary. The Grand Jury findings and recommendations are to be unbiased and impartial.

HOW IS THE GRAND JURY SELECTED?

Each fiscal year the Butte County Superior Court summons a large number of qualified citizens who have resided in the county for over a year and are at least 18 years of age. The court makes it clear that service on the Grand Jury is voluntary. Potential jurors should be reasonably intelligent, of good character and must possess a working command of the English language. From the pool of willing candidates, the court makes a good faith effort to select qualified men and women who are diverse in age and socio-economic, ethnic and educational backgrounds, and who represent the varied geographic areas of the county.

Superior Court Judges and staff interview the body of qualified and willing candidates and choose thirty potential jurors. Nineteen members make up a full jury. At the discretion of the Presiding Judge, as many as ten members from the previous year's jury may "holdover" or serve a second term. In order to constitute the full panel of nineteen, names are drawn at random, to serve a term of twelve months beginning in July. Over the course of the year as necessary, alternates are called in sequential order from the pool of remaining potential jurors.

HOW DOES THE GRAND JURY WORK?

The Presiding Judge appoints a Foreperson to preside at meetings. The Grand Jury organizes itself into officers and committees. It then determines which of the various departments and functions of County, City and Joint Powers Government it will review. It also reviews compliance with the recommendations of previous Butte County Grand Juries.

Inquiries on the part of Grand Jury, letters and complaints from citizens, and dictates of the California Penal Code collectively determine the Grand Jury's work. The Grand Jury aims to identify policies in government that may need improvement. All actions of the Jury – including any communication from the public and all deliberations and votes – are completely confidential. The Grand Jury does publish a report of its significant findings and recommendations near the end of its term.

The Grand Jury's Final Report typically reflects only a small part its actual endeavors over the course of its term. State law requires specific and detailed responses from departments upon which the jury renders findings and recommendations. Elected officials have sixty days to respond; public agencies have ninety days.

The work of a Grand Jury is demanding. Members can expect to invest approximately 500 hours of time to Grand Jury work. Gratifying and personally rewarding service leads one to a much-improved understanding of the organization and business of local government. In addition, there is the personal satisfaction of having contributed to its improvement. The Grand Jury experience provides a unique and valuable opportunity for community service.

The 2011-2012 Grand Jury wishes to thank those who responded to last year's Final Report and recognizes their contribution to the community and to the Grand Jury process. The time and effort taken to review the 2010-2011 Grand Jury Final Report and to prepare and submit responses to the Presiding Judge are appreciated.

June 4, 2012

The Grand Jury Final report has been submitted for filing on this date pursuant to California Penal Code section 933.

Final Reports, Responses, and Government Entities

§ 933.

- (a) Each grand jury shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year. Final reports on any appropriate subject may be submitted to the presiding judge of the superior court at any time during the term of service of a grand jury. A final report may be submitted for comment to responsible officers, agencies, or departments, including the county board of supervisors, when applicable, upon finding of the presiding judge that the report is in compliance with this title. For 45 days after the end of the term, the foreperson and his or her designees shall, upon reasonable notice, be available to clarify the recommendations of the report.
- (b) One copy of each final report, together with the responses thereto, found to be in compliance with this title shall be placed on file with the clerk of the court and remain on file in the office of the clerk. The clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.
- (c) No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.
- (d) As used in this section "agency" includes a department.

Responses to Findings and Recommendations

§ 933.05.

- (a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:
 - (1) The respondent agrees with the finding.
 - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.
- (b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:
 - (1) The recommendation has been implemented, with a summary regarding the implemented action.
 - (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
 - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
 - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.
- (c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.
- (d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.
- (e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.
- (f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

(Added by Stats.1996, c.1170 (S.B.1457), § 1. Amended by Stats.1997, c.443 (A.B.829), § 5.

COMMENTS REGARDING RESPONSES TO THE 2010-2011 GRAND JURY FINAL REPORT

Effective January 1, 1997, State law requires that all agencies and public officers submit responses to Grand Jury final reports, and address every finding and recommendation pertaining to that agency or officer. Penal Code section 933 details the time-frame for responses.

The 2011-2012 Grand Jury received a majority of the responses requested from the 2010-2011 Grand Jury Final Report. The 2011-2012 Grand Jury evaluated those responses and determined that most met the basic requirements for responding to the findings and recommendations. In determining the adequacy of the responses, the 2011-2012 Grand Jury considered the following questions:

- Did the agency's response address the subject of the findings?
- Did the agency attempt to avoid the issue, or issues, raised by criticizing the Grand Jury or by offering excuses?
- Did the agency's response indicate that it would take the necessary action to correct the problem?
- Did the agency provide a specific date by which it would take the necessary corrective action?
- Does the Grand Jury find reason to request clarification of response, or responses, or reason to refer to the appropriate committee for follow-up or investigation?

The responses to the findings and recommendations of the 2010-2011 Grand Jury Final Report are available for public review on-line at the Butte County Website. (Grand Jury link: <http://www.buttecounty.net>)

The 2010-2011 Grand Jury Final Report included nine separate reports which identified a number of issues that resulted in a combined total of 37 recommendations. Most of the agencies identified in the Final Report responded to the findings, with the exception of some of the agencies listed regarding Ethics Training in Special Districts. Of the recommendations that were made, a total of 22 recommendations have been implemented in full or in part. In addition, more recommendations are being studied by the applicable agencies while others will be considered as funds are available.

In all, approximately 65% of the recommendations made by the 2010-2011 Grand Jury have been implemented or will be implemented in the near future. Of those that will not be implemented, the 2011-2012 Grand Jury reviewed the comments that explained why the recommendations could not or would not be implemented, and accepted those responses as being in compliance with California law requiring a response to Grand Jury recommendations.

One of the primary functions of Grand Juries within the State of California is specifically to act in a "watchdog capacity" over local government. This function allows the Grand Jury to routinely examine all aspects of local government with impartial eyes, to conduct investigations as necessary, to determine "findings", and to make recommendations based on those findings. As Grand Jurors it is very satisfying to see that the majority of our recommendations are implemented.

The 2011-2012 Grand Jury wishes to thank those who responded to last year's Final Report and recognizes their contribution to the community and to the Grand Jury process. The time and effort taken to review the 2010-2011 Grand Jury Final Report and to prepare and submit responses to the Presiding Judge are greatly appreciated.

CLARIFICATION OF RESPONSES TO 2010-2011 GRAND JURY'S FINAL REPORT

One of the Grand Jury's responsibilities is to ensure that each organization or individual listed at the end of each Grand Jury Report submits an adequate response without needed further clarification. Grand Juries are not required to investigate whether or not a government agency actually performed the action it said it would take in response to a recommendation, but only that the response is "adequate" as set forth above.

While the Grand Jury found responses to meet the requirements set forth above, some citizens questioned the adequacy of the responses to the report on the City of Gridley. These were regarded by the current Grand Jury as new complaints and were a partial basis for a new investigation on the City of Gridley.

Some agencies failed to respond to the 2010-2011 report. All of those which failed to respond were asked to respond to a recommendation contained in the report on Ethics Training in Special Districts. As part of this report, the 2010-2011 Grand Jury had sent out a survey to 18 Special Districts in the County. Many of these reported that they were either exempt from the requirements to take part in ethics training or that their board members were in compliance with the requirements.

However, recommendation at the end of the report, R2 read as follows:

R2: Every district surveyed develop and adopt a plan to ensure continued compliance with ethics training requirement of AB 1234.

The following failed to respond to that recommendation:

Biggs West-Gridley Water District	Drainage District #200
Butte Water District	Durham Recreation & Park District
Chico Area Park & Recreation District	Feather River Park & Recreation District
Drainage District #1	Paradise Recreation & Park District
Drainage District #100	Rock Creek Reclamation District

Earlier during the 2010-2011 investigation, these agencies either claimed exemption from the ethics training or claimed that they were in compliance with the requirements. However, a formal response to the final report is required by law. It should also be noted that the recommended ethics training is available free of charge via the internet. The requirements of AB 1234 are that officials renew the training every two years, so the request that agencies develop a plan for continued compliance was a reasonable one.

(This page intentionally left blank.)

2011 – 2012
Butte County
Grand Jury Reports

(This page intentionally left blank.)

FOREPERSON'S OVERVIEW OF THE FY 2011-2012 GRAND JURY REPORT

The FY 2011-2012 Grand Jury has served during a particularly challenging time for local government. The financial challenges of the 21st century have been considerable, including the deepest recession since the Great Depression. The budget challenges at the federal, state and local levels have been ongoing for so long that negative impacts, which have not previously been seen by most persons living today, are being experienced.

In Butte County, the results can be seen throughout the cities and towns. There are rental signs on residential and commercial properties. There are fewer jobs and ever-larger numbers of homeless individuals and families. Growing numbers of people are using hospital emergency departments as a primary source of health care. The result of these circumstances is a greater demand for services from the public and nonprofit social organizations.

Early in the term the FY 2011-2012 Grand Jury identified three areas of focus. These were:

- The potential impact on the community of the State realignment of the criminal justice, behavioral health, public health and social services programs;
- Follow-up on previous grand jury investigations where the responses by the agencies investigated were inadequate or identified remediation's had not been confirmed;
- Complaints from citizens received or passed on by the previous Grand Jury.

It soon became apparent that all three of these areas of interest overlapped.

The first four reports in this section focus on two of the realigned departments: Behavioral Health and the Sheriff's Office. As these reports are read it becomes clear that the problems identified affect more than these two departments. They impact other health and human services programs in the county, both public and private, including hospitals. Many of these problems are due to a lack of staff after years of declining funding. Many attempts by agencies to cope with funding shortfalls have simply transferred the cost elsewhere. A reduction of resources in one agency forces persons in need to other agencies, which in turn have to find additional funding often by moving resources from one service to another to meet the additional need. This creates yet another gap in services.

The Grand Jury is not convinced that our County lacks the professional and financial resources to meet the needs of the community. However, it will be necessary to change the approach to these problems. Consequently, many of the Grand Jury reports recommend expanding the scope of and participation in planning and coordination efforts.

Butte County has a \$4 billion economy supported largely by agriculture, manufacturing, higher education, health care and government spending. The Grand Jury was given with technical assistance by the Center for Economic Development (CED) at California State University, Chico which allowed a better understanding of the components of the County's economy. Data was provided to show the economic stimulus to the County's economy of spending by the County of Butte and the proportion of that spending made up by the three health and human service departments (Behavioral Health, Public Health, and Employment and Social Services). The stimulus provided by the County's spending was compared to that provided by manufacturing and healthcare.

The results of this study show that the entire county economy produces 94,733 jobs while generating a total of \$4,158,000,000 in labor income. Of this total, 6700 jobs and \$366,000,000 in labor income is created by the budget spending of the County of Butte. By way of comparison, manufacturing in the county accounts for 7600 jobs and \$363,000,000 in labor income.

Analysis of spending by the three health and human service departments of the County shows they account for 51% of the County of Butte budgetary spending and 72% of the total economic impact generated by the County of Butte. Healthcare spending throughout the county accounts for 19,363 jobs (20.4% of the total county jobs) and \$1,016,000,000 in labor income (24.4% of the total county labor income). Of the total healthcare spending in the county, 4800 jobs and \$252,000,000 in labor income, is generated by the spending of the three County health and human services departments. Even though a great deal of money is being spent, lack of coordination and planning between the public and private sectors hinders efficient use of the funding available.

The Grand Jury's report on Recreation and Parks Districts suggests a model for correcting the health services issues described in the first four reports. The Recreation and Parks Districts have also been affected by the downturn of the economy. However, they have generally done a much better job of cooperating with other private and nonprofit organizations to meet the missions of their districts.

There are two Grand Jury reports on cities, Oroville and Gridley, which had been investigated by previous grand juries. The FY 2011-2012 Grand Jury was impressed with the progress of Oroville in improving the manner in which they conduct their business despite these difficult financial times. Gridley continues to make progress, but many issues remain to be addressed by their leadership.

A handwritten signature in black ink that reads "Kenneth Fleming". The signature is written in a cursive style with a large, stylized 'K' and 'F'.

Kenneth Fleming, Foreperson
2011-2012 Grand Jury

2011-2012 BUTTE COUNTY GRAND JURY REPORT

BUTTE COUNTY DEPARTMENT OF BEHAVIORAL HEALTH

SUMMARY

Due to the complexities of services provided by the Butte County Department of Behavioral Health (DBH) and the tremendous financial challenges this department faces, the 2011-2012 Butte County Grand Jury examined the administration and programs of the Department to determine status and progress following reports made by Grand Juries in 2008-2009 and 2009-2010.

Further incentive to review the Department came from complaints and comments from the public. Challenges faced by the Department are impacted by ever increasing service demands stemming from the growing numbers of citizens in our society with debilitating psychiatric and substance abuse issues and from the increase in demand for services for an aging population. There was evidence of significant improvement in the management of the Department associated with the hiring of a permanent Director. New programs such as WIN, WRAP®, and CIT are experiencing positive results. Staff members have expressed appreciation for the style and professionalism of the new Director. The Citizens' Advisory Board is playing a more significant role in monitoring the activities of the Department. Collaboration among County departments seems to be more substantial, and the professionalism and commitment of DBH staff deserve positive recognition.

At the same time, the Department continues to face significant challenges. For a number of years there has been a lack of long-term planning. The recruitment of medical leadership and psychiatrists continues to be a serious problem. The resulting utilization of techniques such as tele-medicine accentuates cost challenges. The relationship between the Department and local hospitals, including Enloe, continues to be a challenge as noted in previous Grand Jury reports. The organizational communication between the Director and program staff is seen by the latter to be a continuing problem. The lack of consistent utilization of the data system AVATAR by staff presents a service and financial challenge. The Grand Jury was quite surprised and concerned to note the lack of a comprehensive drug and alcohol treatment system in the county. The challenges associated with communication among county entities concerning the treatment needs of inmates released from both the county jail and state institutions must be noted.

The Grand Jury while expressing concern for these challenges, also notes a broad range of possible solutions coming from the comments of citizens and the professional perspectives of staff. Progress noted in the development of a strategic plan for the Department should incorporate many of these proposed solutions.

GLOSSARY

- AVATAR - Software program used by Butte County Department of Behavioral Health. This system is one of two widely used in California. Its name comes from the name of the company which developed it.

- CIT - Crisis Intervention Team - A joint program between DBH and the Butte County Sheriff's Department which provides training for law enforcement personnel and others who might encounter persons with mental illness. The goal of this training is to enable responders to de-escalate crisis situations.
- Consumer - A citizen who is the recipient of DBH assistance.
- CSU - Crisis Stabilization Unit. A facility of DBH, also called a 23-hour facility. Consumers with issues that can be dealt with in a short period of time can be brought to this facility. Stays there are limited to 23 hours or less as the licensing requirements differ when longer admissions are necessary.
- DBH - The Department of Behavioral Health for Butte County.
- ED - Emergency Department of a hospital.
- HAP - Hospital Alternative Program. An intensive treatment program aimed at keeping youth from acute psychiatric hospitalization by providing alternatives. Youth in this program are served by a multi-disciplinary team. During the first six months of 2011, 87% of the youth in this program were able to avoid hospitalization.
- Medi-Cal - The State program that provides health, including mental health services for low-income citizens. Payment under this program is approximately 50% state provided and 50% federal. Federally, this program is known as Medicaid.
- MHSA - Mental Health Services Act. The passage of Proposition 63 in November 2004 provided the first opportunity in many years for the California Department of Mental Health to provide increased funding, personnel and other resources to support county mental health programs. This Act, also referred to as the millionaires tax, levied an additional tax of 1% on incomes of over one million dollars. In the current fiscal year, Butte County received over 8 million dollars from this source.
- MCT - Mobile Crisis Team. A team of DBH employees with the responsibility to respond to area Emergency Departments and assess the condition of persons brought in with mental health issues to determine if in-patient care is needed.
- NAMI - National Alliance on Mental Illness. The local chapter of NAMI provides a variety of services to support their mission of improving the lives of individuals and families affected by mental illness.
- PHF - Psychiatric Health Facility. The in-patient facility operated by DBH. This is a 16-bed facility, licensed by the state, for the treatment of consumers requiring in-patient services.
- Section 5150 - Also referred to as 5150. California Welfare and Institutions Code sections 5150 - 5157). This portion of California Law specifies conditions under which a person deemed to be "a danger to himself or other" may be detained for a mental status evaluation. These code sections can be viewed at the following: www.leginfo.ca.gov
- TBS - Therapeutic Behavioral Services- Intense services provided for mental health consumers under the age of 18. This is another alternative to hospitalization. The consumer and his/her family are provided with intensive support in order to avoid hospitalization.
- WIN - Working Innovations Network - A team DBH staff and volunteers who attempt to ease the transition for consumers coming out of in-patient treatment and needing to connect with out-patient resources.
- WRAP® - Wellness Recovery Action Plan - A nationally recognized program implemented at some DBH sites. The WRAP® is designed by the consumer in practical, day-to-day terms, and holds the key to getting and staying well. It does not necessarily replace traditional treatments, but can be used as a compliment to other treatment options.

A Note on terminology: Over time there have been a variety of terms used to refer to persons needing mental health services. The presently accepted term of reference is “consumer”. While members of the Grand Jury did not find this term to be particularly accurate, because of its current use and apparent acceptance by the “consumers” themselves, it will be used in this report.

BACKGROUND

The Grand Juries of 2008-2009 and 2009-2010 conducted intensive investigations of the Butte County Department of Behavioral Health. Both reports were critical of this Department. Since the most recent report was issued, there have been significant changes in the management of this Department. This Grand Jury decided that a new investigation was warranted to determine if the changes in management have resulted in correction of previously reported deficiencies in the Department. The Department is one of three human services departments in the County slated by the State of California for realignment. While realignment is touted to provide more flexibility to the counties, it will increase the challenges to management and staff.

Further motivation for this investigation came from complaints received by the Grand Jury. The magnitude of the problems to be dealt with by DBH is almost overwhelming.

According to the California Department of Mental Health statistics (based on 2000 census figures):

- Approximately 6.5% of the total state population is identified as having either serious emotional disturbance or serious mental illness.
- In Butte County the figure is 7.11%, giving the County a potential total of over fourteen thousand persons to serve. The percentages are slightly higher for youth (under age 18) than for adults. While private providers fill some of the needs for service, DBH as the “service of last resort” provides treatment for those without other resources. Nearly all of the services provided by DBH are paid for under Medi-Cal.
- It was also pointed out to the Grand Jury by sources contacted, that the number of older persons needing mental health services is increasing as the percentage of the population in upper age brackets increases. Caring for these older adults is especially challenging as many have physical as well as mental illnesses.

Poverty compounds the problems of caring for those with mental illness. There is a well-recognized correlation between poverty and mental illness. According to the US Census Bureau figures, approximately 18% of Butte County residents have incomes below the poverty level. The *County Health Rankings and Roadmaps* data shows Butte County with 25% of its children living in poverty compared to the state-wide rate of 22%. Also, California Department of Education data shows 48% of school-age children in the County qualify for free or reduced lunch program. It can be assumed that nearly all of the consumers treated by DBH are represented in this data as nearly all qualify for Medi-Cal.

Tobacco use is another issue in mental health. The *County Health Rankings and Roadmaps* data show Butte County with 21% of adults using tobacco compared to the stat-wide rate of 14%. People living with mental illness have a very high rate of smoking. A study in [The Journal of the American Medical Association](http://jama.ama-assn.org/content/284/20/2606.abstract) (<http://jama.ama-assn.org/content/284/20/2606.abstract>) reported that 44.3 percent of all cigarettes in America are consumed by individuals who live with mental

illness and/or substance abuse disorders. Smoking leads to lung disease and is a contributing factor to the lower life expectancy of those with mental illnesses.

For the current fiscal year, Butte County DBH operates with revenues of approximately 53 million dollars out of a total county budget of 420.5 million dollars. Nearly all of this money comes from the State of California and the Federal Government. Most of the consumers treated by DBH are eligible for Medi-Cal and thus the services are reimbursed according to Medi-Cal guidelines. Approximately half of the total comes from the State with the Federal Government paying nearly all of the rest. In a complicated arrangement, a very small local (County) match is required. In the current fiscal year this County match is \$285,000. State regulations require that mental health services provided to Medi-Cal eligible consumers be paid for through DBH, meaning that a private provider or hospital can be reimbursed for such services only under an agreement with DBH.

Another relevant aspect is that according to representatives of law enforcement interviewed by the Grand Jury, approximately 70% of those incarcerated in the Butte County Jail are identified as having either mental health or substance abuse issues, or both. Point-in-time data from the Butte County jail medical staff shows in the month of October 2011 there was an average inmate population of 573 persons of which 199 (35%) were active mental health cases. Of the 199 active mental health cases 84 were new cases. Inmates with a mental health diagnosis required 189 visits by a masters level therapist and 69 visits by a psychiatrist who also did 32 chart reviews. On the last day of the month the inmate population was 577 of which 43 (7%) were receiving psychotropic drugs. Those inmates receiving psychotropic drugs represented 22% of the active mental health cases. This is similar to data regarding state prison inmates with mental illnesses. According to the California Department of Corrections and Rehabilitation, the proportion of inmates with a mental illness increased from 19 percent in 2007 to 25 percent in 2012. These inmates, of course, impact the mental health system while incarcerated and in the community after release. The care of these individuals also impacts local hospitals as those in crisis frequently end up in emergency departments.

APPROACH

1. The members of the Grand Jury reviewed documents obtained from DBH and from other sources including, organizational charts, reports prepared by outside agencies, reports of consumers, program overviews for numerous programs, departmental brochures and on-line resources including statistics from the California Department of Mental Health and other sources.
2. More than 49 people were interviewed, some of them more than once.
3. Members of the Grand Jury visited the following: area hospitals, numerous DBH facilities and several contracting agencies.
4. Members of the Grand Jury attended meetings including those of the Citizens' Advisory Board, DBH Budget Task Force Committee, local chapter meeting of the National Alliance on Mental Illness (NAMI), and the Butte County Board of Supervisors.

DISCUSSION

This investigation revealed that while a number of positive changes have taken place, the Butte County Department of Behavioral Health continues to face significant challenges. In June of 2010, a new Director was hired for DBH. This Director followed two interim directors who in turn followed a Director who had been criticized in the previous Grand Jury reports. Since the current Director was hired, a number of changes have taken place in the Department. There have also been a number of changes imposed upon the Department due to new State and Federal policy and financing directives.

Some of the positive developments in the department since the hiring of the current Director include:

- **The implementation of new programs such as WIN, WRAP® and CIT.**

Working Innovations Network (WIN) is a project of DBH funded with Mental Health Services Act (MHSA) funds. The purpose of this program is to provide support for those in transition from in-patient treatment to out-patient facilities. When possible the WIN team makes contact with the consumer while he or she is in the in-patient unit. In some instances, the WIN team provides transportation to and/or from in-patient facilities and the consumer's place of residence. The WIN team members help with the scheduling of out-patient counseling visits and provide general support until the consumer feels comfortable accessing such appointments. Some consumers are employed by DBH for the purpose of accompanying and assisting DBH staff team members. Many consumers coming out of in-patient treatment reenter a facility within a short period of time. Any effort that reduces this recidivism is not only a cost saving to the County but is a benefit to the consumer.

Wellness Recovery Action Plan (WRAP®) is a nationally recognized program that has been implemented at some locations within the department. WRAP® is a part of the overall strategy known as the "Wellness and Recovery Model," which aims to have consumers live the fullest lives their conditions allow. It is recognized that while some may make full recovery and be able to live independently, many will need at least some degree of support throughout their lives. WRAP® endeavors to assist the consumer in acquisition of life comprehension and adjustment tools and techniques that will contribute to maximum functionality in daily living. The plan, a central part of WRAP®, is one made by the consumer, and lays out steps to take if things begin to destabilize. It sets up who to call, where to go and what steps to take to help avoid a crisis.

Crisis Intervention Team (CIT) is a joint effort between DBH, Butte College and area law enforcement agencies. Members of this team have completed a 40-hour course conducted by a Sheriff's Department employee using Butte College facilities. *"The Crisis Intervention Team was developed to help improve the outcome of crisis situations by partnering law enforcement, behavioral health workers, first responders, and emergency departments to provide a safe, attentive, and compassionate system and response to crisis situations. The goal is to respond to the person in crisis in a calm, supportive and respectful manner."* (Quote from CIT brochure) Many local law enforcement individuals have taken part in this training.

- **Many staff members appreciate the style and professionalism of the current Director.**
- **The current Director is active and pro-active at the regional and State levels.**
- **The Citizens' Advisory Board, which had become a sounding board for those unhappy with DBH services, now seems to be functioning well.**

Members of the Citizens Advisory Board appear to get along with the current Director. Only a few minor complaints were expressed by consumers at meetings of the Citizens' Advisory Board attended by Grand Jury members. Most of those who expressed complaints seemed satisfied by the response received from DBH.

Publication of announcements concerning Citizens' Advisory Board meetings should be expanded. Public meeting act requirements are met by posting notices at DBH office. Announcements are supposed to be, and usually are, posted on the Department website but public awareness would be increased by posting meeting notices on community event calendars in local newspapers. Expanding publicity might help to make the community at large more aware of the work and programs of DBH and thereby increase support for DBH programs and outreach. New brochures prepared and distributed by the Department are a step toward gaining the support of the citizenry.

- **The collaboration of County Departments in response to the 2011-2012 realignment of the criminal justice system seems to be appropriate, though a complete evaluation of the effects of the State directed realignment and County's responses to it will not become fully known for several years.**

Butte County has been proactive in planning for and implementing programs in response to recently enacted State of California realignment directives contained in Assembly Bills (AB) 109 and 117. Butte County is well ahead of the majority of counties in the State of California. Other counties in the State have sought advice and guidance from Butte County as a leader in establishing and enacting programs in response to the directives. To date the program implementation efforts put forth by Butte County are in early stages, and will require future analysis, evaluation and adjustments in order to become fully functional and efficient.

By early 2012, it appeared the impact of the State law enforcement realignment directive, which has offenders categorized as "low level" serving sentences either in the County Jail or under the supervised control of the County Probation Department, rather than in State Prison, was happening more rapidly than anticipated. The impact of realignment is as yet unknown, but one area of concern is the need to provide a transition team to work with parolees who have received mental health services while incarcerated but who may fall through the cracks upon release. Unfortunately, many of these individuals may be identified only when they have a mental health crisis or end up reentering the criminal justice system.

- **DBH has many devoted personnel who care about their clients and the public.**

The Grand Jury was impressed with the dedication and professionalism of DBH staff members who shared their views and concerns during site and facility visits.

Positive changes being noted, the Department still faces many significant challenges from both internal and external sources. Since the Department is dependent on State and Federal funding, changes and cut backs at these levels will have affect on how the Department will be able to operate. The 2011-2012 realignment of the State Department of Mental Health is ongoing. The mental Health realignment will make changes in regulations and in how finances are handled. It is advertised as giving counties more flexibility but as the Federal Government provides the funds it also determines the rules. Medicaid (in California, Medi-Cal) is an entitlement program that requires services be provided to any eligible person in need. California Counties are being asked to meet this open-ended obligation without the ability to obtain additional funds if the need is greater than the available funding. Given Butte County has unemployment and poverty rates higher than the State average, its risks may be high. For more information see the *Butte County Department of Behavioral Health – Financial Challenges* report that is part of this Grand Jury’s consolidated report.

Looming in the background, but certain to have an effect on the future functioning of DBH, is the Federal reform of health care.

Some of the specifically identified challenges facing the Department include the following:

- **An apparent lack of over-all long-term planning.**

The department has begun working on a strategic plan. Hopefully, this plan will meet a long-standing need to identify the most pressing issues and set forth methods for overcoming those issues. A consultant has been selected and work has begun on the strategic plan.

In the past, it appeared that many new programs within the Department were driven by the availability of finances rather than by identified need. The Department has been operating for a long period of time without systematically identifying and prioritizing its most pressing needs.

Changes mentioned above concerning State and Federal involvement in the Department, can be viewed as an opportunity for long-range planning and evaluation of current practices. With an open planning process involving DBH, other human service private and public providers, the Citizens Advisory Board and other interested citizens, new and innovative solutions to problems can be found. Solutions would be enriched by encouraging input from medical staff, from other professional and para-professional clinical staff, private mental health providers and the community as a whole.

- **Previous Grand Juries reported problems with recruitment of a Medical Director and psychiatrists to work in the Department.**

In 2011, a new Medical Director was hired for the Department. However, he resigned with less than a year in the position. Clearly, defining the role of the Medical Director and evaluating this position in the organization should precede any new hiring action. The need to reevaluate the position of Medical Director is one of the recommendations found within the 2009-2010 Grand Jury report. Determining the most effective use of this position within the organization remains an important issue.

In general, difficulty in hiring psychiatrists is a recognized problem. The number of psychiatrists available is not adequate to satisfy current needs, and counties in California have difficulty competing with the salaries offered by the Department of Corrections. However, this is not a new problem in California's rural Counties and Butte County has been fortunate over the years in attracting psychiatrists, many of whom have worked with DBH for many years. The current problem seems to be more a matter of retention, as the Grand Jury heard from a number of current and past psychiatrists. Because of this, it is imperative that available psychiatrists be well utilized, reasonably well compensated, and valued for their skills and for the responsibility they accept regarding consumer care.

- **Due to a lack of the availability of psychiatrists, a system of tele-medicine has been implemented.**

While this system appears to have support of some of consumers who use it, it is very expensive and of questionable long-term utility. This leads to a question as to whether or not monies presently expended to support the psychiatry portion of the tele-medicine system would be better utilized to increased on-staff psychiatrist availability.

Tele-medicine was originally envisioned, by some, as a way of serving consumers in remote locations (such as Berry Creek) who cannot readily come to existing facilities. Instead, the tele-medicine system is being used by consumers in a Chico out-patient facility to interact with a psychiatrist in Southern California. Since it is a very expensive service, its use should be limited.

- **The relationship between the DBH and Enloe Hospital was highlighted as a serious issue in the two previous Grand Jury reports and the situation appears to be largely unchanged. Many of the same problems were observed at other area hospitals.**

The 2011-2012 Grand Jury was concerned to learn that the relationship between DBH and Enloe Hospital has not improved from what was documented in the report prepared by the 2009-2010 Grand Jury. Many complaints echoed those heard previously.

DBH requires many persons entering the mental health system, while in crisis, to go through a hospital emergency department to receive a medical clearance prior to being referred to an in-patient facility. The Psychiatric Health Facility (PHF), operated by DBH, is a psychiatric, not a medical facility. It is not able to treat persons with serious medical conditions. There is

some disagreement between Emergency Department (ED) and PHF staffs as to what constitutes a serious medical condition. One area of disagreement concerns levels of intoxication.

There are a significant number of persons who require mental status evaluations by the DBH Mobile Crisis Team (MCT) after being brought to the ER by law enforcement personnel. Such persons have been placed under what is referred to as a “5150” - a reference to the section of the California Welfare and Institutions Code which allows law enforcement officers (and some others) to deem a person a danger to himself and/or others or to be gravely disabled, and provides that such an individual may be held, without consent, for up to 72 hours pending evaluation by appropriate mental health professionals. The possible over-use of this procedure can be a contributing factor to problems within emergency departments.

The Grand Jury requested and received data regarding behavioral health admissions to three local hospitals' Emergency Departments (ED). Comparable data was available for two years, 2010 and 2011. The three Emergency Departments saw 3104 individuals with a psychiatric or substance abuse related diagnosis during the two-year time span. The breakdown by year for the three ED's is 1493 individuals treated for a behavioral health disorder in 2010 and 1611 treated in 2011.

Enloe Hospital, provided data showing the number of persons seen in their ED and evaluated by the Butte County DBH for treatment. The majority of these persons had been detained on a 5150. Over the three years for which Enloe provided data, 2009 through 2011, they reported a total of 1741 persons experiencing a psychiatric or substance abuse crisis entering their ED. Of that number 772 (44.3%) were accepted by DBH for ongoing services. An additional 170 (9.8%) persons volunteered to enter the Enloe Behavioral Health program for treatment. The remainder, 799 persons (45.9%) were released from the 5150 detention by DBH after the completion of a mental status exam.

In addition to the 1741 persons evaluated, an additional 140 persons left the ED prior to seeing a physician or against medical advice. ED staff expressed concern regarding the number of persons leaving against medical advice and believe many of them would, or did, return later in crisis.

Enloe Hospital also provided data regarding the wait time for a person, in a mental health crisis, was in their ED before being discharged. The average wait time over the three-year period was five hours fifty-seven minutes. The ED staff believe this time to be excessive. However, they have little control over the situation as only the DBH Mobile Crisis Team has the authority to release a person from a 5150 detention and this team's availability is limited to daylight hours. On the morning that the Grand Jury met with the ED staff, three persons had been kept overnight waiting to be evaluated by the Mobile Crisis Team.

The hospitals have a variety of problems as a result of persons experiencing a psychiatric crisis being in their emergency departments for extended periods of time. All of the hospitals expressed concern that persons experiencing a medical crisis might not be seen in a timely fashion if their ED beds and staff have been diverted to persons detained on a 5150 hold. Also, persons experiencing a psychiatric or substance abuse crisis may become combative.

Enloe's ED has experienced nine staff injuries over the past three years with several of them requiring extensive convalescent time. This dangerous situation required the Enloe Hospital to provide security personnel on a 24/7 basis for the ED, as well as, additional social workers. This increased the ED's personnel cost for 2011 by \$232,000 for security and \$127,000 for social workers. Additional cost to the Enloe Medical Center ED is the cost of ambulance transfers to/from DBH. The total cost to transport 167 patients in 2009, 178 patients in 2010, and 343 patients in 2011 was \$119,712. Enloe Hospital's total uncompensated cost of treating persons suffering from a psychiatric or substance use crisis was \$1,815,744 over the three-year period 2009 – 2010. It was also interesting to note that the individual patient cost was \$939 per patient if they were discharged directly from the ED and \$2352 per patient if they were transferred to DBH. All of these numbers were provided by Enloe Hospital.

Members of the MCT work only during the normal work day and the Grand Jury was told, were not authorized for over-time. The result is some consumers spend excessive time, sometimes more than 24 hours, waiting for a mental status evaluation. The delay in evaluation, and therefore the delay in release or transfer, of mental health patients was the major concern expressed by all area hospitals visited. Under the current procedures followed in Butte County, only the team from DBH can release a person from a 5150 hold. In other counties, qualified physicians (and others) are authorized transfer and/or release authority. The Grand Jury has been told changes to the current policy of restricting the ability of emergency department physicians to make determinations in 5150 cases are being considered. However, correspondence received by the Grand Jury shows this discussion has been going on for years. Despite several "summits" where problems were identified and solutions discussed the same problems remain. Since 30% to 50% of those who enter EDs under the 5150 are released after evaluation, delegating authority to ED physicians to approve release of certain 5150 cases would eliminate some of the problems caused by the delay in evaluation. The Grand Jury understands that some progress is being made toward giving emergency department physicians this authority.

Depending on circumstances, there can be a number of possible outcomes to an evaluation conducted by the MCT.

- Persons in serious crisis will be referred for in-patient treatment. Such treatment may be at the PHF operated by DBH, or if the PHF is full or not deemed appropriate for the particular consumer, at an out-of-county facility.
- DBH also has a Crisis Stabilization Unit (CSU), called a 23-hour facility, where patients can be taken if it is determined that the crisis situation can be dealt with quickly.
- Some patients are evaluated and assessed to not need further treatment and discharged from the ED without further treatment. In such cases it would be appropriate for consumers to be referred to primary care providers for treatment or scheduled for appointments at the appropriate DBH out-patient facility or with private mental health providers.

Staff in all hospital EDs within Butte County complained that the protocol of laboratory tests required before evaluation of a patient by the MCT is too extensive and therefore unnecessarily costly. The cost of this treatment is billed to the patient or to his or her

insurance company, or to Medi-Cal if the patient is eligible. Understandably, patients who have been required to enter an ED facility pursuant to Section 5150 complain about this billing. Patients with private insurance find that sometimes the insurance companies refuse to pay the charges. Hospitals get paid for some, but not all of the costs incurred under these circumstances.

PHF staff complained that consumers with medical problems such as pneumonia were sometimes transferred from a local ED to the PHF. Persons in both facilities complained that those in the other facility were at times rude, incompetent and uncooperative. The need to make changes and to make this system work better is once again readily apparent to members of the Grand Jury. California State law requires each county to designate a facility for the assessment of an individual's mental status under Section 5150 of the California Code. The Butte County Board of Supervisors has designated the Psychiatric Health Facility (PHF) of DBH to meet this requirement. The designated facility must conduct a mental status exam "as soon as possible after he or she is admitted and shall receive whatever treatment and care his or her conditions requires for the full period that he or she is held" (quote from section 5152 of the California Welfare and Institutions Code). It does not appear that there are any provisions that require a medical workup prior to the assessment of the person's mental status. If during the assessment it is determined the person requires care in a psychiatric or substance abuse inpatient facility, a physical health screening must be provided. The physical exam can be conducted by licensed medical practitioners within DBH or through a memorandum of understanding with a private provider such as a hospital or clinic. It appears that over time in Butte County the order in which these procedures must take place has become confused by DBH and local law enforcement.

DBH currently provides 5150 evaluations through its CSU housed in the same facility as the PHF. It has been reported to the Grand Jury that as a result of budgetary problems within DBH the effective hours of the MCT were reduced to daylight hours only. When evaluations are not conducted at the CSU, all persons under 5150 holds are taken to a hospital emergency department. In other counties in California (Tehama County, for example), there are centralized intake facilities where persons in crisis can be evaluated, regardless of the time of day when the evaluation is needed. Such a center could be staffed by licensed mental health professionals and a nurse practitioner or physicians' assistant, who would conduct the mental status evaluation and give basic medical clearance if necessary. A person determined to have a medical condition requiring immediate treatment could be transferred to an ED.

A central intake facility would best benefit those in mental health crisis and it would best serve the interests of the County's EDs by not placing demands on them to perform functions and services which they are not designated or specifically designed to provide. ED staff would be freed to carryout emergency medical treatment, thereby better serving the public interest.

In-patient treatment is another area in which lack of co-operation between DBH and Enloe is troubling. At present DBH is limited in the number of psychiatric beds available. Pursuant to State requirements, the PHF is authorized to have 16 adult beds. There are currently no in-patient beds in the county for persons under age 18. Consequently, DBH is sending patients to expensive out-of-county facilities even though Enloe's inpatient Behavioral Health facility

is rarely full. A co-operative relationship between DBH and Enloe Hospital would allow consumers to receive treatment closer to home and avoid the use of expensive out-of-county placements.

The establishment of good working relationships, not only with Enloe but with all hospitals in the County would benefit, DBH, the hospitals, consumers and the community as a whole.

- **Communication issues between the management team at DBH and some staff, including the medical staff. One issue discussed was the need for an increase in billable hours by the licensed clinical staff.**

Many on the staff have expressed that their input is not sought or valued in the decision making process. The management style in DBH gives medical and other professional or para-professional employees the impression that their input is not valued. Under the current Director, efforts are being made to solicit input from staff at all levels. The current effort at drafting a Strategic Plan is an opportunity for such input.

A management directive to have clinicians and counselors bill for at least 60% of their time has some staff feeling stressed. It is recognized that most clinicians and counselors are doing sufficient billable work, however, sufficient documentation by staff does not always take place. When Medi-Cal eligible consumers are treated, the billing rate is by the minute. It is very easy for a busy clinician to simply not account for the time spent for example on a ten-minute phone call to a consumer. Problems with billing and treatment planning are magnified for those who do not feel comfortable using the computer system.

Questions about appropriate use of some staff members have been expressed. Many licensed staff are in strictly supervisory or managerial rolls. Even though the need for management and supervision is recognized, it would be beneficial for all licensed professionals to devote a reasonable portion of their duty time to direct consumer contact. Not only would that give management a better understanding of the problems faced by staff, but it would also provide a morale boost to non-managerial/supervisory staff and facilitate the total number of hours available for direct consumer contact.

- **The implementation of the AVATAR computer program is in its third year and still an incomplete process.**

Some recent progress has been made with medical staff increasing use of the portion of AVATAR which enables the e-prescribing of medications. According to a State report prepared in August of 2010, all staff except physicians were using AVATAR for progress notes, treatment plans and assessment. When a counselor or clinician meets with a consumer, the minutes spent must be recorded and the action documented. AVATAR is the means by which this is accomplished. During interviews, the Grand Jury determined it is still the case that some staff are more comfortable and better able to use the system than others. Not surprisingly, those whose general level of computer skill are higher are better able to use the system than those lacking these skills. The full implementation of this system will have the advantage of improving communication and will make processes such as the transfer of consumer records from in-patient to out-patient facilities quicker and less error

prone. This will increase the quality of service provision and will improve billing. DBH is underfunded and capturing the financial resources available to them is essential.

Implementation of the AVATAR system should eliminate other problems observed which relate to intake procedures that vary from site to site and problems involving the transfer of a consumer's records from an in-patient to an out-patient site. It appears, that often, a new intake is done when a consumer transfers from one site within DBH to another. It was noted by the Grand Jury and acknowledged by staff that the clinics run by DBH throughout the County operate as if they were independent entities. This impedes the Department's ability to implement AVATAR and other system wide procedures. The ability for consumer records to be transferred by computer from site-to-site would be more time efficient, cost effective and place less of a burden on staff thereby increasing available clinical hours.

Continued training and supervision of staff will be necessary to bring about full implementation of the AVATAR system. The fact that this system is at times slow and cumbersome to use, especially in clinic sites without adequate high-speed Internet service, does not diminish its importance in supporting the Department's clinical activities. It is essential that it become fully implemented as quickly as possible.

- **The lack of significant programs for Alcohol and Drug Treatment was identified a serious problem.**

There are few opportunities for substance abuse treatment within DBH. It appears that many of those receiving such services have been given a dual diagnosis (psychiatric as well as chemical dependency) and are served by the mental health program. It is unclear how individuals with severe chemical dependency are served within DBH.

In a County where substance abuse has been an issue for many years, there are few facilities and a shortage of treatment options. It appears that there are far fewer resources for substance abuse treatment that there were a decade ago.

When a committee of the Grand Jury visited a facility for the treatment of alcohol and drug addiction in October, they found that the facility, while treating consumers from DBH, had no signed contract for the fiscal year that commenced on the first of July. This agency was awaiting payment for all services that had been provided since the beginning of the fiscal year. Problems such as this make those providing substance abuse services on contract with DBH financially vulnerable. It was later learned that the contract was signed in the months following the Grand Jury's visit to the site.

- **The Grand Jury found that procedures in place for actions following the death of a consumer were inadequate.**

County behavioral health programs usually have in place a "psychological autopsy" process which allows staff to better understand the circumstances of the death, deal with their own feelings and facilitate improvement of clinical practices. If procedures for the staff to review circumstances applicable to the death of a consumer are in place, they are not readily apparent. The form used by DBH in such circumstances is brief and seems to be more

oriented toward providing information which allows for the closing of the chart. Allowing for closure by staff, for review of procedure and practice, and for the opportunity to identify shortcomings should be a formal part of the overall review process.

For the most part the Grand Jury was unable to gather significant information concerning consumer deaths. The Department reported 15 deaths among its consumers in 2009, and 16 in 2010. The consumers involved ranged from those waiting for a first appointment to those who had been under the care of DBH for more than two decades. Several of the deaths were suicides. Other deaths were complicated by chronic illnesses.

- **Many inmates released either from the Butte County Jail or from State Prison back to the County, were identified while incarcerated as having mental health issues.**

Data provided by the Director of Health Services for the County jail shows that approximately one-third of those persons incarcerated, on average, have behavioral health issues. Following release from custody, few procedures are in place to facilitate continued mental health services for inmates who received treatment while incarcerated. Many inmates receiving medication through the jail health services are not discharged with enough medication to meet their needs while waiting to be assessed for DBH services. Consequently, they often appear at a hospital ER having de-compensated psychologically. In the worst case they are re-incarcerated for a crime committed due to their inability to access ongoing services.

Many of these released inmates come to the attention of DBH only because of a developing crisis. There is a need for a system that identifies these persons and attempts to connect them with the appropriate out-patient facility immediately upon release. At present there appears to be limited communication between those who take care of the mental health needs of consumers while incarcerated and those who provide the services after release. In conjunction with law enforcement officials and private providers, DBH must develop a program that can assist such persons. This is another situation where the lack of funding has transferred costs from the appropriate provider, DBH, to other institutions, law enforcement and emergency departments.

CONCLUSION

The Grand Jury recognized the Director of DBH for the positive actions taken in the time she has been in her position. Though serious challenges are yet to be faced, compared to the Department examined two years ago DBH is much improved. Continued improvement is a goal the citizens of the County should expect to be achieved.

FINDINGS

- F1: The hiring of a new Director for DBH has produced some positive results. Many on the staff appreciate her dedication and professionalism and she has represented the County well at the regional and State levels. Her on-going efforts to find solutions to long-term problems within the Department are recognized by the Grand Jury.

- F2: Some recently implemented programs are having positive effects. The WIN program is helping meet the needs of consumers coming out of in-patient placement and in reducing recidivism. The WRAP® program has the support of consumers and staff. CIT is a program designed to provide law enforcement personnel with new levels of knowledge which will assist them in deescalating situations involving consumers with a mental health crisis.
- F3: The utilization of employment programs by consumers is a positive resource providing work experience that often leads to employment in the private sector or within the Department.
- F4: The lack of community based long-term planning has impacted Department programs in a number of ways. Current efforts to develop a strategic plan for the Department are a positive step if all members of the behavioral health profession in the County and the general public are encouraged to participate.
- F5: The continuum of care necessary to meet the needs of consumers is underdeveloped. Long-term planning will assist in identifying gaps in service and prioritize needs.
- F6: Reduced staffing levels have resulted in a fragmented approach to the intake and assessment of consumers at the various out-patient facilities leading to problems in continuity and coordination of care delivered to consumers.
- F7: Due to the difficulty of recruiting and retaining a Medical Director, DBH needs to reevaluate this position so that it can best make use of the number of psychiatrists available.
- F8: There has been a history of staff members, especially medical staff, concluding that their opinions are not always valued in the decision making process.
- F9: Procedures for reviewing circumstances surrounding the death of a consumer, under the care of DBH, are inadequate.
- F10: The relationships with all area hospitals, especially with Enloe Hospital, are dysfunctional and have a negative impact on the delivery of mental health services to consumers. This situation does not adequately serve the best interest of the community.
- F11: The MCT is available only during the normal working day causing long delays in consumer mental status evaluations conducted in EDs. This results in an adverse impact on the hospital EDs ability to respond to the needs of the public.
- F12: The problem of long waits in the EDs for individuals brought in under the 5150 code, even for those determined not to need immediate treatment, could be at least partially solved if Emergency Department Physicians were authorized to release such holds.
- F13: The acute shortage of drug and alcohol programs within DBH makes it difficult for the Department to meet the demand for such services.

- F14: A large percentage of those being released from incarceration, either from the Butte County Jail or from a State prison, have been identified as having behavioral health issues. There is a need to improve the procedure for moving these persons into the existing mental health system and for providing adequate treatment.
- F15: There are serious issues concerning implementation of policies and procedures pursuant to section 5150. The presently dysfunctional working relationships between DBH and area hospitals, as well as in some cases questionable application of the 5150 provisions by law enforcement, are not serving the best interests of either the community or mental health consumers.
- F16: The computer system, AVATAR, which will eventually provide many benefits for DBH, the community and consumers, has been slow in implementation. It has not enthusiastically accepted by all staff impacting the Department's ability to provide and bill for necessary services.
- F17: The lack of County in-patient mental health facilities for youth leads to expensive out-of-county placements that do not always meet the needs of the consumers. Alternative programs such as HAP and TBS may be a partial solution to this problem.
- F18: Adult consumers are being placed in out-of county facilities when at times the in-county facilities, such as Enloe Behavioral Health, are not fully utilized.
- F19: DBH does not effectively utilize resources that can increase public awareness and understanding of its programs in order to encourage and cultivate community support.
- F20: There is need for expanded facilities for the care of geriatric mental health consumers.

RECOMMENDATIONS

- R1: That DBH continue and enhance where possible, programs such as WIN, WRAP® and CIT.
- R2: That with care and appropriate consideration, DBH continue where possible to use consumers in employment situations and provide them with the support and supervision necessary to make such opportunities successful.
- R3: That DBH implement policies that make long term planning a priority. As a part of the planning procedure DBH identify gaps in services, needs for prevention/education, staffing and financial resources.
- R4: That DBH design and implement procedures for conducting a psychological autopsy following the death of a consumer.

- R5: That DBH improve working relationships with area hospitals, especially with regard to the use of emergency departments by those in mental health crisis situations. That DBH review of the function of the Mobile Crisis Team and expand its availability and response capability.
- R6: That DBH, together with area hospitals and the Board of Supervisors, develop a policy that will allow emergency department physicians to release 5150 holds.
- R7: That alternatives for those entering the mental health system in crisis be explored, including the possibility of establishing a central intake facility.
- R8: That as part of an improving relationship between the DBH and Enloe Hospital, opportunities for better use of the Enloe Behavioral Health be explored.
- R9: That opportunities for the expansion of drug and alcohol treatment programs be explored.
- R10: That DBH work with corrections officials and any other involved agencies to establish procedures to insure that those being released from incarceration are connected with out-patient mental health services in a timely manner.
- R11: That DBH and all area law enforcement agencies work together so that policies and practices concerning the application Section 5150 are appropriate.
- R12: That DBH continue efforts to fully implement the AVATAR system, including the training and supervision of all appropriate staff.
- R13: That DBH continue efforts to minimize the need for costly out-of-area placement of youth and adults needing in-patient care. DBH may need to provide the leadership necessary to initiate discussions with nearby counties to establish a facility to provide in-patient treatment for youth.
- R14: That DBH explore, with area hospitals and other entities, the possibility of the establishment of a facility for treatment of geriatric patients with mental health issues.
- R15: That DBH publicize its programs to increase public awareness and support for its work and the services it provides. This should include placing meeting notices in newspapers, on appropriate websites, on community calendars, and utilization of other media as appropriate.

REQUEST FOR RESPONSES

Pursuant to Penal Code sections 933 and 933.05, the Grand Jury requests responses as follows:

The Butte County Board of Supervisors.

Please respond to Finding F12 and Recommendation R6.

Director, Butte County Department of Behavioral Health.

Please respond to Findings F4 through F20, and Recommendations R1 through R15.

Butte County Sheriff.

Please respond to Findings F14 and F15, and Recommendations R10 and R11.

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

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

BIBLIOGRAPHY

- Data runs, e-mail and letters from area hospitals

2011-2012 BUTTE COUNTY GRAND JURY REPORT

BUTTE COUNTY DEPARTMENT OF BEHAVIORAL HEALTH FINANCIAL CHALLENGES

SUMMARY

The 2011-2012 Grand Jury spent a good deal of time studying the finances of Butte County. The total budget for the current fiscal year adopted by the Board of Supervisors is \$420,541,738. One of the requirements placed on the Grand Jury is to review the Annual Butte County Auditor's Report. The current Grand Jury was particularly interested in the county's Health and Human Services (HHS) programs which, for the second time, are being realigned in FY 2012- 2013. These programs are the Department of Public Health, Department of Behavioral Health and the Department of Employment and Social Services. The budgets of these three departments total \$214,000,000 (51% of the total county budget). Their programs have a significant impact on the County as a whole, both economically and in terms of quality of life. Pending changes in the financing of these programs could result in significant impacts. Details of the FY 2012-2013 realignment have not been determined but will likely result in changes in the way in which the State provides financial assistance to the County for services these departments provide. Because of the recession and current budget shortfalls at the State level, it is questionable whether the amount of financial assistance provided will be adequate to meet the needs now and in the future.

The Grand Jury paid particular attention to financial problems which have been on-going in the Department of Behavioral Health. (DBH) This department, with an annual budget of nearly \$52,000,000, accounts for approximately 12.4 % of the County budget. Continuing financial problems in this department adversely affect its ability to deliver services and impacts the finances of other county agencies and organizations.

GLOSSARY

- DBH – Butte County Department of Behavioral Health.
- DESS – Butte County Department of Employment and Social Services.
- DPH – Butte County Department of Public Health.
- CAO – County Administrative Officer.
- FUND BALANCE – The difference between the assets and liabilities of a fund.
- CASH FLOW – Net difference between total cash revenue and total cash expenditures.
- RE-ALIGNMENT– The shifting of responsibility for an array of public service programs from the state to the counties along with an allocation of state tax dollars to fund these programs. This was first done in 1991 and is being done again in 2012.

DISCUSSION

THE COUNTY AUDIT REPORT

The Grand Jury reviewed the Butte County Auditor's Report and the accompanying Independent Auditors Report for the fiscal year ended June 30, 2011. The Grand Jury's review consisted of attending the Audit Committee of Butte County meeting on September 29, 2011 and reviewing the findings and responses to the Independent Auditor's Report dated January 17, 2012.

The Grand Jury did not detect any material accounting exceptions noted in the Independent Auditor's Report that had not been appropriately responded to by the county.

DEPARTMENT OF BEHAVIORAL HEALTH

The major portion of the Grand Jury's time was devoted to reviewing the financing and accounting of the Butte County Department of Behavioral Health (DBH). The DBH budget for FY 2011/2012 is almost \$52,000,000 of which \$285,000 (less than 1%) is contributed by the County. DBH has three ongoing sources of funding. The first is state tax funds with the amount received by the County based on a formula determined at the time of the 1991 realignment of mental health. They are referred to as realignment funds. By law these funds must be placed in a separate fund by the County and have specific rules under which they may be used. The second source of funding is the Mental Health Services Act (MHSA), better known as the "millionaire's tax." This source of funding has specific service areas that are required to be developed to support the recovery of those with mental illness. The third source is federal Medicaid funds known as Short/Doyle Medi-Cal in California. These funds are available on a matching basis from the Federal government for specific types of services. For example, if the county spends one dollar from a State or local source to fund out-patient psychiatric services they can receive a second dollar by billing the resulting units of service provided by the physician to the Short/Doyle Medi-Cal program. The proportion of the match varies by the type of service provided. The county uses State realignment, MHSA and local tax dollars for the match.

The budgeting for the DBH is done at the department level using estimates of revenue from each of the funding sources provided by State agencies and under the guidance of the County Administrative Officer (CAO). After the department has completed the budget it is reviewed by staff within the CAO's office and a recommendation is made to the Board of Supervisors regarding the proposed budget. The CAO and County Auditor track expenditures during the year.

The Grand Jury's investigation of DBH finances revealed a department that has been cash starved for at least the past six years due primarily to the State of California's increased lag time in providing realignment funds and the California Department of Mental Health's tardiness in reimbursing DBH for Short/Doyle Medi-Cal services performed and billed. The problem was compounded by DBH's low productivity rate, delays in submitting billings to the state and audit exceptions in some programs.

The fund balance and cash flow problems began to surface in FY 2006-2007. The total fund balance, for DBH, at fiscal year-end 6-30-2007 was negative \$177,099 and cash flow was negative \$3,275,869. During FY 2007-2008 the State actually withheld reimbursements to counties for an extended period in an effort to alleviate its own cash flow problems. In that year, DBH's negative cash flow peaked at negative \$9,543,985 and the negative fund balance increased to negative \$5,694,106. Contributing to the problem at that time was management's failure to react to the problem in a timely manner.

When management did react, it was to effect a significant reduction in staff in order to decrease expenses. It is the Grand Jury's opinion that excessive reductions were made in clinical staff and contract service providers causing a reduction in service billings and revenue decreases in excess of staff reduction savings. Short/Doyle Medi-Cal is an important source of funding but can only be utilized if billable services are provided. Previous Grand Juries have noted concerns regarding expenditures for administrative needs in the department during times that clinical staff were being laid off or empty clinical positions were not being filled. The problem continues as the Grand Jury noted that DBH still had 25 vacant positions at the beginning of the current fiscal year. In total, 44.75 positions have been eliminated since FY 2007-2008.

In Fiscal Year 2008-2009, the State returned to a more timely payment schedule and, at year end 6-30-2009, the DBH fund balance was negative \$1,157,897 and the cash flow balance was negative \$6,750,574.

In subsequent years management actions taken by County fiscal administrators to overcome the fund and cash flow deficits have been to:

1. Continue to keep pressure on the state through legislative contacts to pay DBH billings in a timely manner.
2. Encourage increased efforts by local DBH staff to process claims faster.
3. Encourage increased productivity of DBH staff in order to increase billable services provided.
4. Require DBH to operate at approximately \$1,000,000 below budget annually.

The county has also taken actions that are counter to efforts to improve the fund and cash flow balances of DBH. The Board of Supervisors has chosen to transfer funds from the DBH 1991 realignment trust fund to the Department of Employment and Social Services (DESS) over much of the life of the trust fund. A history of the transfers that occurred during The Grand Jury's study period is:

\$800,000.00 in fiscal year 2006-2007
\$00.00 in fiscal year 2007-2008
\$00.00 in fiscal year 2008-2009
\$675,000.00 in fiscal year 2009-2010
\$323,000.00 in fiscal year 2010-2011
\$334,022.00 in fiscal year 2011-2012

These transfers have the effect of reducing the Butte County general fund contributions to DESS needed to cover the County's share for DESS services. Realignment legislation provides for

transfers of up to 10% of realignment funds between realigned departments with approval of the Board of Supervisors. These transfers are authorized under the realignment legislation and it is not the Grand Jury's intent to second guess the actions of the administrators in the positions to make these decisions. However, these transfers add to the burden of a severely cash strapped department.

The actions of county administration and more specifically the administration of DBH, have resulted in the DBH fund balance being brought to a positive \$157,130 at fiscal year-end 6-30-2011. The operating cash flow deficit remains at negative \$6,415,116 at fiscal year-end 6-30-2011. Handling the DBH negative cash flow situation under current procedures will take place in relatively small annual increments and therefore will be an ongoing challenge for a of number years to come. An important role of County governments is to manage the cash flow of the programs they choose or are required to provide the public. County behavioral health departments always have high cash flow demands as a result of participating in the Short/Doyle Medi-Cal program. Usually, this is not a problem, as any cost of managing cash flow is an allowable cost in the Short/Doyle Medi-Cal program. As a result of the County of Butte's strong credit rating, it is able to do short term borrowing at a desirable rate of interest so these costs are minimal considering the value of the services provided.

FINDINGS

- F1: DBH is operating on a severely restricted budget.
- F2: Recent Management changes have had a positive impact on operational problems.
- F3: The DBH fund deficit has been eliminated and the fund now carries a positive balance.
- F4: The negative cash flow problem has not improved in the last three years and will present a challenge to the department for an undetermined number of years to come under the current strategy.

RECOMMENDATIONS

- R1: All operational cost savings accrued by operating below budget should be used to reduce the DBH negative cash flow.
- R2: The cash flow of DBH should be met in ways that do not require a disruption or limiting of services necessary to the public.
- R3: No further transfers from the Mental Health Trust Fund to DESS should be made until the staff levels necessary to provide core services within DBH have been met.
- R4: In order to bring down the total community costs of the provision of services to the mentally ill, the Board of Supervisors and the CAO's office should take the lead in bringing together the individuals, departments, hospitals and non-profit organizations needed to solve the problems identified in other areas of this report.

REQUEST FOR RESPONSES

Pursuant to Penal Code sections 933 and 933.05, the Grand Jury request responses as follows:

The Butte County Board of Supervisors

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

BIBLIOGRAPHY

- Butte County Auditor's Report for the fiscal year ended June 30, 2011.
- Independent Auditors Report for the fiscal year ended June 30, 2011.
- Butte County Fiscal Year 2011-2012 Recommended Budget.
- Butte County Fiscal Year 2011-2012 Adopted Budget.

(This page intentionally left blank.)

2011-2012 BUTTE COUNTY GRAND JURY REPORT

INVESTIGATION INTO THE UTILIZATION OF INVOLUNTARY DETENTION UNDER CALIFORNIA WELFARE AND INSTITUTIONS CODE SECTION 5150

SUMMARY

Officers from the Butte County Sheriff's Department are frequently called to respond to situations involving persons in mental health crisis. Options for dealing with such situations are limited. In California, one option is to detain a person who appears to be a threat to either themselves or to others in a supervised and managed 72-hour involuntary hold commonly referred to as a 5150 (Welfare & Institutions Code §§ 5150 et seq.). During the involuntary hold, the person is evaluated by a trained mental health professional. The person may be held for further treatment or released if it is determined that immediate treatment is not required.

This report was initiated in response to complaints received concerning the actions of Butte County Sheriff's deputies in cases where involuntary holds pursuant to Welfare and Institutions Code sections 5150 (hereinafter Section 5150) were initiated. It comes as no surprise that there can be disagreement about how the provisions of Section 5150 are applied. The Grand Jury investigation revealed that by necessity there were judgment calls made by law enforcement officers who responded to mental health crisis calls, and decisions made which can be questioned, but the actions in the situations reviewed fell within the guidelines under which the officers operate.

Problems relating to how persons are detained and evaluated were revealed. It is a matter of record that persons in mental health crisis have often been taken to hospital emergency departments where they have had to wait for an unacceptable number of hours prior to receiving a mental status evaluation by Butte County Department of Mental Health (DBH) employees. The wait time frequently results in changes in demeanor of the individual. Nearly half of those detained on a 5150 application are released after evaluation and are never formally admitted to a designated facility.

When a person is detained and taken to an emergency department there are several State and Federal statutes which come into play. The interaction of these makes for a very complicated scenario. The provisions of Section 5150 specify that a person in crisis may be taken to a facility designated by the county and approved by the State Department of Mental Health as a facility for 72-hour treatment and evaluation. When persons who have been detained on a 5150 hold are taken to licensed general acute care emergency department, as happens frequently in Butte County, two other statutes may come into play. They are California Health & Safety Code Section 1799.111 (Section 1799.111) and the Federal Emergency Medical Treatment and Active Labor Act of 1986 (42 USC Section 1395dd) (EMTALA), also known as the "patient anti-dumping statute." EMTALA basically says that hospitals which participate in the Medicare program and offer emergency services cannot refuse treatment to anyone who arrives at the facility or transfer patients before their emergency conditions are stabilized. Section 1799.111 provides conditions under which a licensed general acute care hospital that is not a county-designated facility pursuant to Section 5150, will be immune from liability for temporarily

holding a person who, as a result of a mental disorder, presents a danger to himself or herself or is gravely disabled while that person is being evaluated and appropriate mental health treatment is being sought. Most counties in California are struggling to develop procedures, under the provisions of this legislation, that will allow community agencies to best serve the needs of those with mental illness.

While hospitals, DBH and law enforcement personnel struggle with the problems resulting from 5150 detentions, steps are being taken to try to reduce the frequency of such detentions. Training is being conducted for the purpose of giving law enforcement personnel additional skills with which to deescalate crisis situations. It is hoped that crisis intervention training being received by law enforcement officer will result in fewer 5150 detentions. This training is a program known as Crisis Intervention Team (CIT) and is a joint program between law enforcement and the Department of Behavioral Health.

Better communication among law enforcement, hospital personnel and employees of the Department of Behavioral Health is necessary. Changes in procedures used, including making better use of electronic technology and employing audio-video recordings, would facilitate communication.

It is imperative that all involved parties, including the Board of Supervisors who have the responsibility for the designation of facilities to receive 5150 detainees, initiate dialog which can lead to protocols which better serve the needs of those in crisis, reduce costs for the institutions involved including area hospitals and county departments, and in general serve the best interests of the community.

GLOSSARY

- CIT - Crisis Intervention Team - A joint program between Butte County Department of Behavioral Health and the Butte County Sheriff's Department which provides training for law enforcement personnel and others who might encounter persons with mental illness. The goal of this training is to enable responders to deescalate mental health crisis situations.
- 1799.111- This portion of California Health and Safety Code gives protections from liability for general acute care hospitals that are not county-designated facilities and which are involved in the treatment of persons detained under section 5150. There are no reported cases by the California Supreme Court, or any California Appeals Court, interpreting the application of section 1799.111 of the California Health and Safety Code or the authority that section grants hospital EDs.
- CSU - Crisis Stabilization Unit. A facility of DBH, also called a 23-hour facility. Those in crisis, with issues that can be dealt with in a short period of time, can be brought to this facility. CSU stays are limited to 23 hours or less as licensing requirements differ when longer admissions are necessary.
- DBH - The Department of Behavioral Health for Butte County.
- ED - the emergency department of a hospital.
- EMTALA -Emergency Medical Treatment and Active Labor Act of 1986 (42 USC Section 1395dd). Federal legislation also known as the "patient anti-dumping statute." This law was enacted to ensure access to emergency service regardless of a patient's ability to pay.

- MCT - Mobile Crisis Team. A team of DBH employees with the responsibility for responding to area emergency departments and conducting mental health evaluations for the purpose of determining if further treatment including inpatient care is needed for persons in a mental health crisis.
- PHF - Psychiatric Health Facility - In Butte County the Department of Behavioral Health operates a PHF and in this document PHF refers to that facility.
- 5150 - California Welfare and Institutions Code sections 5150 through 5157 (5150 et seq.). This portion of California law specifies conditions under which a person deemed to be “a danger to himself or others or gravely disabled” may be taken into custody and placed in a facility designated by the county and approved by the State Department of Mental Health as a facility for 72-hour treatment and evaluation. These code sections can be viewed at the following: www.leginfo.ca.gov

BACKGROUND

There is no specific requirement that the Grand Jury respond to citizen complaints. However, as part of its watchdog responsibilities the Grand Jury has wide discretion to initiate investigations. The Grand Jury received citizen complaints alleging improper use and handling of 5150 cases by the Butte County Sheriff’s Department. This report was initiated in response to those complaints.

APPROACH

- Interviewed complainants
- Interviewed selected witnesses to incidents
- Investigated and visited incident sites
- Reviewed copies of documents and recorded media provided by complainants
- Reviewed copies of documents and reports filed by Butte County Sheriff’s Department Deputies
- Reviewed applicable Sheriff’s General Orders
- Reviewed audio CD’s of 911 Dispatchers and portable recording devices carried by Butte County Deputies related to the incidents
- Reviewed state and federal laws applicable to detention of persons in crisis situations
- Reviewed cases involving detention of persons in crisis situations
- Interviewed mental health workers from other counties and reviewed procedures used in other counties
- Interviewed Deputy Sheriffs involved
- Interviewed Police Officers and Deputy Sheriffs from outside agencies who either responded as back-up or were witnesses to incidents

DISCUSSION

California Welfare and Institutions Code section 5150 states in pertinent part: “When any person, as a result of a mental disorder, is a danger to others, or to himself or herself, or gravely disabled, a peace officer . . . may, upon probable cause, take, or cause to be taken, the person into custody and place him or her in a facility designated by the county and approved by the State Department of Mental Health as a facility for 72-hour treatment and evaluation.” This section requires the person placing the individual into the facility to make an application, in writing, stating the circumstances under which the person’s condition was called to the attention of the officer.

In Butte County, during business hours law enforcement officers can take the distressed individual to the Butte County Psychiatric Health Facility (PHF). This unit, a facility operated by DBH, has been designated by the Butte County Board of Supervisors to meet state regulations requiring a "designated facility" to assess persons placed under a 5150 hold. Only professionals at a designated facility can provide an assessment and make a decision as to whether or not the person meets the criteria for detention under 5150. Persons not meeting the criteria will be released, although on a voluntary basis they may be referred for follow-up care. In the evening or early morning hours, the only option available to law enforcement officers who exercise a 5150 detention is to take the detained individual to a hospital emergency department (ED). Currently, there is no hospital emergency department in Butte County that is a designated facility for 5150 holds. Once in the ED, the detained individual is held for evaluation by a Mobile Crisis Team for DBH.

The Emergency Medical Treatment and Active Labor Act of 1986 (EMTALA), also known as the "patient anti-dumping statute" was enacted by the Federal government to ensure access to emergency services regardless of a person's ability to pay. When a law enforcement officer places a person on a 5150 hold and transports them to an emergency department for a medical evaluation, the EMTALA provisions requiring medical screening appear to supersede the 5150 statutes while that person is in the hospital emergency department. At that point the EMTALA provisions are applied and the provisions of section 1799.111 of the California Health and Safety Code offer some protection from liability. However, the Federal rules do not take into account California 5150 laws creating many difficulties. These include whether or not ED staff can release a person brought in under a 5150 hold or whether or not the person can legally discharge himself or herself after the medical exam (including a mental status exam) if the exam has determined the person not to be a danger to self, others or gravely disabled. EMTALA does allow ED staff to place a medical hold on a person after a medical exam if the exam shows that the person is unable to make a decision regarding his or her own care. For all practical purposes, this allows ED staff to hold the person but requires staff to make arrangements for the detainees’ treatment elsewhere within 24 hours if the hospital does not have the capability to provide the needed treatment. To meet this provision in Butte County, EDs call DBH to request arrangement for necessary treatment or placement of the person in an appropriate facility. If the hospital determines there is no medical need, there is no authorization under EMTALA to hold a person.

Because of the complexity of the interaction of the statutes involved, the exact legal status of a person moving through the system may change. At times the person may be subject to a 72-hour

hold under 5150, subject to a 24-hour hold under EMTALA or free to leave the facility if he or she desires.

The Grand Jury investigation revealed problems regarding availability of DBH employees to conduct timely mental health evaluations at hospital locations. The Grand Jury was told by emergency department staff at hospitals in the county that excessively long waiting periods are common between the time law enforcement officers deliver detained individuals to a facility and the time DBH evaluators arrive to conduct mental status evaluations. A commonly expressed opinion by emergency department managers, and DBH management as well, was that a large number of the persons brought to emergency departments under the authority of 5150 did not meet the criteria for a 5150 hold.

It appears that nearly 50% of those detained by law enforcement are later found not to meet the criteria for a 72-hour detention and are released after receiving a mental status evaluation. Butte County law enforcement personnel did not disagree with the 50% figure. Though this consensus is widely held, data to support it is not tracked and disseminated either by DBH or by the hospitals in the County. Law enforcement officers expressed the view that the long wait time experienced by 5150 detainees between detention and mental health status evaluation, and in some cases the administration of medication, are key factors in the differing perspectives between law enforcement and DBH concerning the degree of mental health crisis experienced by the detainee.

Other counties, Tehama for example, have a central facility, available 24 hours each day, where persons in mental health crisis may be taken for evaluation. In Butte County, the PHF limits the hours it will accept detainees, frequently leaving law enforcement no other option than to deliver the detainee to a hospital emergency department. The officer in the field must decide which facility to use and then leave the detainee for follow-up evaluation by a DBH mental health professional. Hospital personnel have many complaints about the present system. If the County were to establish a functional 24-hour, 7-day a week, centralized intake facility, many of current problems would be eliminated. Another option may be to make one or more of the ED's in Butte County designated facilities for 5150s. The ED's are already functioning in some ways as designated facilities and it would be reasonable for the hospitals to consider requesting that they be formally designated by the Board of Supervisors and the State Department of Mental Health. The legality of the present system may be questioned.

Last year the California Mental Health Directors Association spent half a day discussing the budget impacts of 5150s and EMTALA. The problems encountered in Butte County regarding the impact of 5150s on law enforcement, hospital ED's and County behavioral health programs, are being experienced by all of California's counties. The Behavioral Health Directors were able to identify many of the gaps and contradictions in current California laws that confound attempts to meet the needs of persons in a mental health crisis in a cost-effective manner. Unfortunately it will take some time for the State Legislature to deal with these issues, so County Mental Health Directors were encouraged to bring all affected institutions together in their county and plan workable accommodations. Specifically, they were encouraged to identify problems and come to consensus on solutions that "make sense" within the county. They urged formal and informal agreements be made regarding the solutions. The Grand Jury believes written formal agreements will not only provide solutions that can be evaluated but may help to protect the various entities

legally. The last recommendation, made by the Mental Health Directors, was that affected institutions convene quarterly to review how well the agreements are working and to modify them as necessary. Butte County needs to follow these recommendations and begin work on coming to consensus solutions.

Options giving officers in the field courses of action other than detention have been explored. Approximately two years ago, the Sheriff's Department and DBH instituted the program known as Crisis Intervention Team (CIT). A joint program between DBH and the Butte County Sheriff's Department, CIT provides training for law enforcement personnel and others who encounter persons with mental illness. The objective of this training is to enable responders to deescalate crisis situations. DBH employees and law enforcement officers take this training together, enhancing communication between the two departments. Currently, there are sufficient numbers of CIT certified Sheriff's deputies to support most Sheriff's patrol squads having at least one CIT trained deputy assigned. Other law enforcement agencies in the County have also participated in this training. Each law enforcement agency and emergency response agency within the County could better serve the community if all emergency response personnel in their organization become CIT trained and certified.

The capability of law enforcement to respond to mental health crisis situations could be enhanced by making the DBH Mobile Crisis Team truly mobile. Having members of the team available, on a 24-hour, 7-day a week on-call basis to respond and assist law enforcement in situations where it is known that a person in mental health crisis is involved would enable those responding to better serve the needs of the person in crisis and lead to improved outcomes. In addition, DBH assistance to law enforcement officers faced with potential 5150 cases will further assist officer acquisition of mental health crisis deescalation skills and should result in fewer persons being detained under the provisions of 5150.

Primary factors that apply to law enforcement duty performance in the field:

- Policy and General Orders
- Law enforcement officer state of mind
- Requirements of the law that must be followed by the officer
- Elements of the situation in the field
- Officer Training
- Officer Safety
- Public safety

In analyzing 5150 incidents, the Grand Jury determined actions of Butte County Sheriff's deputies were within the scope of discretion allowed. Judgment calls must be made by officers in the field, and there will always be differing perspectives on the part of those who assess and evaluate decisions made by law enforcement officers. This is particularly true in 5150 cases.

When an individual is detained under provisions of Section 5150 the detaining officer is required to submit an application in writing stating the circumstances under which the person was detained. The Grand Jury investigation determined the Application for 72-Hour Detention and Treatment form (MH-302) is deficient in many respects. The current form severely restricts the law enforcement officer's ability to produce a comprehensive and readable narrative. It was suggested by law enforcement that form MH-302 be digitized and maintained on a computer for

law enforcement use in every 5150 intake facility. Improving the ability of law enforcement personnel who detain individuals under Section 5150, and mental health professionals who conduct mental status evaluations, to communicate is important because they rarely have the opportunity for face-to-face interaction.

Giving law enforcement officers the capability and responsibility to share an audio and visual record of detainee behavior at time of detention with DBH mental health evaluators would improve accuracy of 5150 assessment by mental health evaluators and would improve communication between DBH and law enforcement personnel which for the most part under present policies is nearly non-existent. This record would facilitate a more thorough mental health evaluation and best serve the person in crisis. Additionally, use of audio and visual recording equipment to record detainee behavior should allow a more accurate determination of percentages of 5150 cases that are warranted as compared to those that are not warranted.

FINDINGS

- F1: It is generally agreed among hospital emergency personnel, behavioral health personnel and law enforcement that approximately 50% of those detained under 5150 are released after a mental status evaluation and are never formally admitted to a designated facility for 72-hour treatment and evaluation. The data to verify this general impression should be collected, retained and used to improve policies and procedures of all involved agencies.
- F2: The legal status of person detained under a 5150 hold is often unclear as they move through the system because of the complexity of the various statutes involved.
- F3: The mental status evaluation of many of those detained under 5150 by law enforcement does not take place in a timely manner. Frequently those detained during the late evening and early morning hours have to wait in a hospital emergency department for an extended period of time before the mental status evaluation is conducted. Hours after law enforcement personnel deliver a detainee to emergency departments, a large percentage of those detained are found by mental health professionals not to meet the criteria for further involuntary detention.
- F4: There are no procedures in place for law enforcement officers who detain an individual under 5150 to communicate directly with the mental health professional conducting the mental status evaluation. Communication is limited to brief hand-written comments on a poorly designed application-for-detention form (MH-302).
- F5: Law enforcement lacks capability to video record behavior displayed by 5150 detainees at time of detention, and has limited audio recording capability. Law enforcement's ability and responsibility to complete a video record of detainee behavior and share it with mental health professionals would contribute to a more complete and accurate mental health evaluation of 5150 detainees.

- F6: The lack of a centralized 24-7 designated facility or other 24-hour facility necessitates law enforcement officers having to take detainees to a hospital emergency department. Holding detainees in an emergency department creates many problems for the hospital, the detained individual and DBH.
- F7: The lack of coordinated procedures relating to the various statutes involved when a person is detained under 5150 and the other statutes involved creates a continuing state of confusion and results in unnecessarily high costs to county agencies, area hospitals and to the individuals involved.

RECOMMENDATIONS

- R1: Law enforcement agencies and DBH should work together with area hospitals to develop coordinated policies and procedures, to be utilized and followed by all organizations involved (law enforcement, DBH, and EDs) in detaining, evaluating, and treating those persons in mental health crisis in accordance with California Welfare and Institutions Code section 5150 et seq., California Health and Safety Code section 1799.111, and Federal EMTALA regulations.
- R2: The status of persons detained under Section 5150 needs to be clarified so that at any point in the process it is clear to the detained person, and to the staff, involved exactly what statutes are in play and what exactly is the status of the person. At times, the 72-hour hold may be applicable, at times EMTALA may allow a 24-hour hold and at times, the person may be free to leave if he or she chooses to do so.
- R3: A system should be devised by agencies involved in this process to track the number of 5150 detainees released from an emergency department after a mental status evaluation. Tracking should include, but not be limited to, time and reason for entry, and time and reason for discharge or unauthorized departure. Data should be shared on an ongoing basis with law enforcement, DBH and hospital administrators in order to achieve more effective management of the 5150 process.
- R4: Create one or more 24-hour, 7-day a week, intake facilities where 5150 detainees can receive physical and mental health status evaluations. The existing Psychiatric Health Facility (PHF) could be utilized to accomplish this recommendation.
- R5: Law enforcement, DBH and area hospitals should retain experts to work with them in developing the procedures and protocols for dealing with 5150 holds.
- R6: The existing 5150 application for detention form (MH-302) is inadequate. Involved agencies should computerize and supplement the form to facilitate more effective inter-agency communication.
- R7: Audio-visual capability for each law enforcement patrol should be acquired and utilized by law enforcement to record behavior of all Section 5150 detainees at time of detention.

- R8: All audio-visual recording of persons detained by law enforcement under the provisions of Section 5150 should be shared with responding DBH mental health evaluators and with appropriate hospital personnel who care for the 5150 detainees.
- R9: CIT training for all law enforcement and emergency response personnel, DBH personnel and hospital personnel who have responsibility for response to and management of 5150 cases should be an ongoing priority.

REQUEST FOR RESPONSES

Pursuant to Penal Code Section 933 and 933.05, the Grand Jury requests responses as follows:

Butte County Sheriff's Department
Butte County Department of Behavioral Health

A response to Finding F6 and Recommendations R1 and R4:

Butte County Board of Supervisors

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

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

(This page intentionally left blank.)

2011-2012 BUTTE COUNTY GRAND JURY REPORT

BUTTE COUNTY JAIL BUTTE COUNTY JUVENILE HALL

SUMMARY

One of the requirements placed, by law, on the Grand Jury is that each year it conduct a review of the operations and management of any County custodial facilities. In Butte County the Grand Jury reviews the operations and management of the Butte County Jail and the Juvenile Hall to comply with this law.

The Grand Jury this year found that for the most part these facilities function well and serve the purposes for which they are designed. Only a few fairly minor recommendations are contained in this report. Most of these deal with enhancing safety and security in the facilities.

The Grand Jury recognized that the criminal justice realignment mandated by AB 109 will have significant effects on the operation of the jail. The Grand Jury reviewed the plan which the Sheriff, in cooperation with other County departments, had devised in response to this legislation. In general it was found that Butte County was proactive in developing a plan and that, to the extent it had been implemented at the time of the writing of this report, is meeting the requirements imposed by this legislation. This legislation will place increased responsibility on the County in the coming years. There will be challenges related to the housing of additional inmates in the jail and supervision of those on release programs. Financing will be a challenge as the State may not provide sufficient funding to meet the needs.

The Juvenile Hall was found to be a well-run facility, with programs whose aim is the rehabilitation of detainees. Programs are in place seek to reduce recidivism. The Juvenile Hall has agreements in place with North Valley Boys and Girls Clubs and with the Butte County Department of Education to provide these programs.

GLOSSARY

- AB 109 - Assembly Bill 109 as modified by AB 117. As used in this report all references to AB 109 will include reference to modifications made by AB 117. Legislation passed in 2011, which realigned the custodial responsibilities for inmates between the State and the Counties in California.
- BCJ - Butte County Jail.
- BCJH - Butte County Juvenile Hall.
- CCP - Community Corrections Partnership.
- DBH - Butte County Department of Behavioral Health.
- DRC - Day Reporting Center. A facility developed by the Butte County Sheriff's Department in response to AB 109 mandates.
- Sheriff's General Orders - Compilation of Sheriff's Department policies and the procedures for implementation of those policies.

BACKGROUND

All Grand Juries in California are required by California Penal Code sections 919(a) and 919(b) to make annual inspection of the operations and management of County custody facilities (Butte County Jail and Butte County Juvenile Hall). The Grand Jury toured the facilities and reviewed the adequacy of operational and management policies and procedures.

The Grand Jury reviewed the critical event response procedures pertaining to all in-custody deaths during the period 2007 through 2011.

The Grand Jury reviewed plans for, and to the degree possible, the implementation of programs developed by the Butte County Sheriff's Department in response to the public safety realignment directive contained in AB 109.

APPROACH

- Toured the Butte County Jail (BCJ)
- Toured Butte County Juvenile Hall (BCJH)
- Visited the Boys and Girls Club in BCJH
- Observed educational instruction being given in BCJH
- Toured the newly opened Sheriff's Department Day Reporting Center (DRC)
- Reviewed educational programs within BCJH
- Reviewed inmate grievance procedures within both the BCJ and BCJH
- Interviewed BCJ and BCJH supervisors and management personnel
- Reviewed documents provided by the Sheriff's Department
- Reviewed autopsy records for all inmate deaths during the period 2007 thru 2011
- Reviewed California State Corrections Standards Authority (CSA) biennial inspection results applicable to the BCJ for the last inspection conducted in 2009
- Interviewed contract medical staff personnel within both the BCJ and BCJH
- Attended Community Corrections Partnership (CCP) meetings between County agencies interfacing for the purpose of addressing AB 109 issues.

DISCUSSION

BUTTE COUNTY JAIL

The Butte County Jail is located in Oroville, California near the Butte County Government Center and Superior Court complex. The jail was originally constructed in 1965 with additions in 1968 and 1994. Inmate capacity is 614. The inmate population as of February 2012 was 586. This figure varies daily, but on average is below the total rated capacity, which for safety, allows for the housing of inmates in separate classification groups.

Historically, county jails have held inmates in a variety of categories. These are:

- Pre-trial detainees including those who cannot post bail and those held without bail because of the seriousness of the charges against them.

- Inmates found guilty of a felony calling for a sentence of more than one year and awaiting transfer to a state prison.
- Inmates serving sentences of less than one year for misdemeanor offenses (the majority).

In Butte County an additional category of inmates is those held under a contract with the US Department of Justice. Under this Federal contract, the Butte County Jail houses up to 144 Federal prisoners. This contract provides revenue of about \$3.2 million dollars annually, which helps the County offset the cost of operating the jail.

New requirements have been added to the historic mission of the Butte County jail as a result of enactment of AB 109 in 2011. The primary change is where those convicted of felonies will serve the sentences imposed upon them by the Court. This legislation serves to realign custodial responsibilities between State and County, and requires County Governments to assume various custodial and detainee monitoring functions for adult offenders. AB 109 radically alters how and where, those convicted of a felony will serve the sentences imposed upon them by the Court. Those who are convicted of a felony and sentenced after October 2011 to a sentence less than three years, and meeting certain other criteria, will serve their sentences under the custody and jurisdiction of County authorities as opposed to State Correctional authorities. Those persons who are convicted of specified felonies, such as crimes involving violence or sexual offenses, will still be incarcerated in State operated correctional facilities, notwithstanding the length of their sentence. AB 109 also requires that offenders released from State prison after October 2011 be subject to monitoring for a period of up to three years by the Butte County Probation Department rather than by the California Department of Corrections and Rehabilitation..

In 2009 the California State Legislature created the Community Corrections Partnership (CCP). The original purpose of the CCP was to manage court-related initiatives designed to promote public safety by reducing recidivism among adult felony probationers and parolees. This program was successful in helping to reduce the State prison population. Participant groups are various departments of County Government, including the Probation Department, the Sheriff's Department, the Office of the District Attorney, the Office of the Public Defender, the Superior Court and the Department of Behavioral Health. Under AB 109 the role of local CCP groups was expanded. They were charged with developing plans to accommodate the realignment changes between the State and counties. In Butte County, plans were developed with input from all of these county departments, to accommodate an estimated increase of 240 inmates per year.

The Sheriff proposed a four-point response to the requirements of AB 109:

- Utilization of a more comprehensive pre-trial release program than had previously been utilized.
- Utilization of an evidence based risk assessment system including enhanced supervision in order to safely increase the number of inmates released prior to trial.
- Creation and establishment of an alternative custody program. This program will release inmates under enhanced supervision and include mandatory inmate participation in recidivism reduction classes.
- Establishment of a Sheriff's Department Day Reporting Center.

Increased jail capacity is another identified need. A Jail Needs Assessment, conducted in September, 2006, identified that even prior to AB 109 there was a projected need for jail

expansion to 920 beds. Funding for jail facilities is a problem for most California counties. The Sheriff informed the Grand Jury that funds may be available due to passage of AB 900. Funds available under AB 900 are being sought by a large number of California counties and the fate of an application from Butte County is uncertain.

The ultimate impact of realignment on the County jail is unknown. At the time this report was written, the numbers of inmates redirected to County supervision had been higher than originally projected.

The Grand Jury did find several bright spots in their investigation of the Butte County Jail. One was the Sheriff's Department's response to realignment. The Sheriff's Department and other agencies involved have devised and implemented well-thought-out plans which have put Butte County in the forefront of California counties. The creation of the Day Reporting Center is an example. Using inmate labor, the Sheriff's Department was able to rehabilitate the old Juvenile Hall and transform it into a Day Reporting Center (DRC). Operations began in January, 2012. As of March, 2012 the DRC had 80 inmates enrolled. This is in sharp contrast to the previous work furlough program that historically had an average of 18 inmates assigned. Prior to the establishment of the DRC inmates would have been held in the County jail. DRC managers project they will be able to rapidly expand this program to serve 250 to 300 inmates. This program allows the Sheriff to free valuable jail bed-space, and provide recidivism reduction programs to a targeted inmate population.

Inmates in the DRC program are under alternative custody. Monitoring of most alternative custody inmates is by means of ankle bracelets utilizing either Radio Frequency or Global Positioning System technology. This electronic equipment is leased, and the lease program can accommodate a rapid increase in utilization and the equipment can be upgraded should more sophisticated equipment become available.

The Grand Jury conducted a visit to the County jail and found it to be clean, well maintained and efficiently managed. The staff was enthusiastic, knowledgeable and competent. Treatment of inmates, as observed by the Grand Jury was firm, but respectful and courteous. The medical and mental health needs of inmates were being met as mandated by State standards. These services are provided under contract.

The Grand Jury obtained results of the most recent Corrections Standards Authority (CSA) inspection which was conducted in 2009. As required by California Code of Regulations; Title 15 and Title 24, this State agency monitors all county jails within the State of California for compliance. The CSA inspector noted that "considering the age of the facility" he was "impressed with the overall condition of the jail" and that the physical plant complied with all applicable standards. The CSA also reviewed jail operations, policies, procedures, documents and records. The inspection found that all documentation was complete and conformed to departmental policies and procedures and included all requirements set forth in Title 15. The CSA found "no deficiencies" in their 2009 inspection. Another inspection is scheduled to be conducted in 2012. The inspection results will not be available in time to be included in this report.

The inmate reception area of the jail is the location where inmates are booked. The reception area is divided into sections that segregate compliant and non-compliant inmates. Due to degree

of intoxication or agitation, some inmates may need to be further segregated and placed into more secure areas. Holding or detoxification cells within the reception area must be built to permit regular and periodic observation by officers. One holding cell in the Butte County Jail contained a “restraint chair.” This is a device for the total restraint of inmates who pose an imminent threat either to themselves, other inmates or staff. This is the only option to restrain inmates who are essentially “out of control.” To ensure safe and humane use of the restraint chair, custodial officers must adhere to specific and carefully applied procedures. There have been many incidents and lawsuits related to the use of the chair. History of the restraint chair suggests it be used only when absolutely necessary. The Grand Jury believes that the construction of a “Safety Cell” similar to the one in Juvenile Hall would lessen the need for use of the high-risk restraint chair and provide an interim level of restraint for safely housing inmates who pose a significant level of danger to themselves, staff or other inmates.¹

Another area of concern was the cinder block “privacy wall” in a sobering cell in the reception area. This privacy wall was instrumental in the death of an intoxicated inmate in 2011. Privacy is a major concern for Americans in all elements of life, however, in a custody setting even the basic concept of privacy requires modification. There is little right to privacy when one is incarcerated. Removal of the privacy wall and installation of an alternative means of privacy would facilitate both privacy and safety issues.

The Grand Jury reviewed autopsy and incident reports on all eight in-custody deaths that occurred in the Butte County Jail from 2007 to 2011. While these deaths included suicides, accidental deaths and deaths from natural causes, in none of these cases were the Sheriff’s General Orders violated or the actions of staff determined to be a proximate cause of the incidents.

Butte County Corrections Officers have Peace Officer status under section 830.1(c) of the California Penal Code, and write incident and criminal reports for incidents occurring within the jail. Corrections Officers are generally not called upon to write follow-up first person accounts in a jail death incident. While it is appropriate for a fully qualified Detective who is not a Corrections Officer to write the primary documentation in a jail death, the inclusion of first person accounts by trained corrections personnel is a valuable tool, and should be routinely utilized. Interviews with jail supervisors revealed that critical incident debriefings conducted after a jail death are not mandated in the Sheriff’s General Orders. Critical incident debriefings should be mandated within the Sheriff’s General Orders and all actions taken in response to critical incidents should be compared to the content of Sheriff’s General Orders for the purpose of ensuring they are serving appropriately as the procedural guide for processing critical incidents.

Most jails, including the Butte County Jail, utilize an objective classification system for housing inmates. This is an objective approach, proven to be more effective than the use of officer intuition. Butte County uses a “point system” to determine inmate housing. A number is assigned to each element of classification which includes: gang affiliation, sexual orientation, type and severity of the inmate’s crime, past criminal history and history of incarceration in Butte County (if applicable). Once

¹In 1994 an inmate in a Florida county jail died after spending four hours in a restraint chair. This death was ruled a homicide by the county coroner. Closer to home an inmate died in the Sacramento County Jail in 1995, and a subsequent successful lawsuit found that the restraint chair was a contributing factor in the inmate’s death.

these points are added, the total numerical score determines the best housing option for the inmate. The Classification Officer has the authority to override the point system's housing assignment. Jail supervisors do not track how frequently the officer actually overrides the system. This is a critical factor. Should the frequency of override of the point system approach 50%, it would indicate that the system itself is not applicable to the Butte County Jail. The Grand Jury suggests that jail managers undertake a review of the effectiveness of the current classification system and make adjustments as necessary. Effective assistance may be rendered by the Federal Department of Justice' National Institute of Corrections. They can provide expertise in analysis and implementation of classification systems.

BUTTE COUNTY JUVENILE HALL (BCJH)

The Grand Jury toured the Butte County Juvenile Hall (BCJH). The tour and briefing was conducted by the Superintendent of the BCJH. The Grand Jury was impressed by the staff's interaction with juvenile detainees. The Grand Jury found the BCJH to be a model of successful management and operation by both management and staff. The facility is operated in the best interests of detainees.

The building was opened in 2005. The maintenance and cleanliness of the facility were impressive. The average population is about 50 to 55 juvenile detainees. Juvenile Hall education classes are conducted by outside agencies under the supervision of the Butte County Department of Education. Medical and mental health services are provided by a contractor which also serves the Butte County Jail.

The Boys and Girls Club offers juvenile hall residents innovative ways to transition back into their communities. Since the average length of stay for juveniles is 16 days for boys and 12 days for girls, some are able to take advantage of available Boys and Girls Club programs.

The Grand Jury found the following deficiencies at the Butte County Juvenile Hall:

- Inoperable security cameras on the southwest exterior of the Juvenile Hall limit effective monitoring of the exercise area. Cameras are in place at several locations on the exterior of the building. They are intended to provide a means by which staff could, from inside the facility, monitor the activities of detainees in the exercise area. Since the cameras are inoperable, the exercise area is not electronically monitored.
- A lack of double row security fencing on the south side of the facility makes it possible for the exercise area to be approached from the outside, thus facilitating conditions which could contribute to escape attempts, introduction of contraband or assaults upon inmates. Security fencing would normally consist of two fences with an area in between. This fencing, in conjunction with operable security cameras would make the potential security breaches less likely.
- There is a lack of security at the door to the inmate intake/reception area due to uncontrolled exterior access to that door. There is a need to have fencing around the intake area. Installation of a remotely operated gate is also necessary.

FINDINGS

BUTTE COUNTY JAIL

- F1: The Day Reporting Center established by the Butte County Sheriff is a cost effective response to the AB 109 realignment directive.
- F2: The lack of a safety cell reduces staff options in dealing with combative inmates and could lead to dangerous conditions for inmates and staff.
- F3: The installation of a safety cell would reduce the use of the restraint chair.
- F4: The jail utilizes an objective inmate classification system. The frequency of overrides by classification officers may be an indication that the criteria being utilized are not serving the best interests of jail operations.
- F5: The privacy wall in sobering cell #2 in the intake area of the jail creates a dangerous condition.
- F6: The Butte County Jail has complied with Title 15 and Title 24 of the California Code of Regulations which specify minimum standards for local detention facilities.
- F7: The staff of the Butte County Jail displayed a high degree of knowledge and professionalism in the conduct of their duties.

BUTTE COUNTY JUVENILE HALL

- F8: The lack of adequate perimeter fencing on the south side of Juvenile Hall creates a security risk.
- F9: The lack of fencing and a remotely operated-security gate in the detainee intake/reception area compromises security.
- F10: Inoperable security cameras on the exterior of the facility compromise staff ability to monitor the exercise area.
- F11: The application of bright, clean paint throughout the interior of the Juvenile Hall creates an appearance that overcomes the basic institutional nature of the facility.
- F12: The enthusiasm and dedication of the staff has a positive effect on Juvenile Hall detainees.

RECOMMENDATIONS

BUTTE COUNTY JAIL

- R1: To minimize the use of the high-risk restraint chair, seek funding for and complete construction of an inmate safety cell.
- R2: Review the utilization of the current inmate classification system to determine system adequacy.
- R3: Seek the assistance of the National Institute of Corrections for the purpose of facilitating improvement in the current inmate classification system.
- R4: The fixed privacy wall in sobering cell #2 should be removed, and an alternate means of providing privacy should be made available.

BUTTE COUNTY JUVENILE HALL

- R5: Seek funding for and install appropriate security fencing on the south side of the Juvenile Hall facility.
- R6: Seek funding for and install security fencing and a remotely operated security gate to the detainee reception area.
- R7: Repair and maintain the security cameras mounted on the exterior of the Juvenile Hall facility.

REQUEST FOR RESPONSES

Pursuant to Penal Code sections 933 and 933.05, the Grand Jury requests responses as follows:

A response to Findings F2 and F3, and Recommendations R1 and R4 through R7:
Butte County Board of Supervisors:

A response to Findings F2 through F6, and Recommendations R1 through R4:
Butte County Sheriff

A response to Findings F8 through F10, and Recommendations R5 through R7:
Chief Probation Officer

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

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

2011-2012 BUTTE COUNTY GRAND JURY REPORT

CITY OF OROVILLE

SUMMARY

The 2011-2012 Butte County Grand Jury conducted a follow-up inquiry to the report issued by the 2009-2010 Grand Jury to determine the status of corrective action taken on deficiencies identified, and determined that the issues identified in the earlier report have been dealt with in a satisfactory manner.

During the follow-up inquiry, the 2011-2012 Butte County Grand Jury also determined that with the advent of the new and current City Administrator and City Attorney a completely new focus has come to the City of Oroville and has culminated in a positive pro-active public oriented leadership approach, and that this new approach has resulted in a complete ‘turnaround’ from what previously existed in Oroville City Government.

BACKGROUND

A very detailed investigation of the City of Oroville was conducted by the Grand Jury in 2009-2010 that revealed a number of serious problems in the following categories:

1. Mission Olive Ranch Subdivision:
 - A single-family residence built in a subdivision not zoned for single-family use, with zoning not amended prior to the issuing of a building permit.
 - A building permit issued by a City Administrator who was not authorized to issue such a permit.
2. Safety Code violations in the attic and basement of Oroville City Hall:
 - Concerns about air quality resulting from a study that indicated carbon dioxide levels within Oroville City Hall exceeded maximum acceptable levels.
 - HVAC units located in the attic when they were intended to be roof top units, and sewer gasses not vented through the roof as required by code.
 - Some ineffective fire suppressant sprinklers within City Hall, and no fire suppressant sprinkler system within the City Hall basement.
 - Combustible materials located close to a gas water heater in the basement.
 - Boxes and wires in the basement posing a fire hazard.
 - A non-fire rated assembly door to the basement, and no functioning automatic fire-extinguishing system in the basement.
 - A ladder to the attic that did not have adequate safety rails.
3. Remodel of the Club House at Table Mountain Golf Course:
 - Beginning of construction prior to the time a permit was issued.
 - An inadequate number of fire hydrants and an inadequate water supply line to the Table Mountain Golf Course Clubhouse.
4. Occupancy of the Cleantech Innovation Center near the Oroville Airport:
 - This is a very large building and if not carefully monitored lends itself to occupancy in excess of the number allowed pursuant to Airport Land Use Commission (ALUC) standards for buildings adjacent to airport flight paths.

5. Issues relating to Contracts:
 - Contract submission to the City Council with inaccurate and/or missing information, including at least one instance in which the City agreed it "entered into a Personal Services Contract with an unformed business entity". The phrase "unformed business entity" was used in the Grand Jury report of 2009-2010.
6. Issues relating to City Council meetings:
 - Lengthy and poorly organized City Council meetings due to inadequate information in staff reports.
 - Problems with public access to documents. Members of the public were normally required to go to city hall to get such information.
 - On-going conflict among City Council, Department Heads and other employees.
7. Issues relating to personnel:
 - Personnel policies which were unclear.
 - Problems relating to nepotism.
 - Lack of City issued identification cards for employees.
8. The Local Appointments List was not up-to-date.

Many of these issues were discussed in responses made to the Grand Jury report of 2009-2010 and received by the Grand Jury of 2010-2011. Due to the extent of the problems which had been observed, the fact that the current Grand Jury had questions about the adequacy of the responses, and the fact that there had been significant changes to City Administration in Oroville, the current Grand Jury decided to undertake a new, but follow-up, investigation to determine whether or not the City of Oroville had corrected deficiencies and problems found by the 2009-2010 Grand Jury.

APPROACH

- The 2011-2012 Grand Jury began its inquiry by studying the report of the 2009-2010 Grand Jury and responses thereto prepared by the Oroville City Administrator and City Council.
- An extensive list of materials was prepared and requested. (See Appendix A). The requested materials were provided by the City and were studied by the Grand Jury.
- Members of the Grand Jury observed and assessed an Oroville City Council meeting. The meeting attended had a lengthy agenda which included eighteen items some of which were complex and required considerable Staff input as well as advanced reading and study by City Council members.
- Grand Jury members visited the City of Oroville, met with and interviewed the City Administrator, City Attorney and various members of the City staff.
- Buildings and structures, and relevant documents pertaining to problems identified within those buildings and structures, were examined and inspected by the Grand Jury.

DISCUSSION

1. Mission Olive Ranch Subdivision:

The 2009-2010 Grand Jury identified problems concerning the Mission Olive Ranch Subdivision. The first problem arose when the then City Administrator issued a building permit for construction within the Mission Olive Ranch Subdivision when not authorized to do so. Another problem was that the zoning rules for the Mission Olive Ranch Subdivision prohibited construction of single-family residences and such a residence was constructed without the zoning having been changed.

During discussion with Grand Jury members, the Oroville City Administrator stated that zoning changes had been directed by City Council and put in place, to allow single-family residences within the Mission Olive Ranch Subdivision.

- Grand Jury review of current policies verify that procedures have been put into effect to prevent a recurrence of the issuance of an unauthorized building permit, and to ensure that only authorized City employees issue building permits.
- The 2011-2012 Grand Jury determined that, as of July 6, 2010, the zoning for the Mission Olive Ranch Subdivision had been modified by City Council directive, and that there are no remaining obstacles to the construction of single-family residences within this subdivision.

2. Safety Code Violations in the City Hall, Attic and Basement.

The 2011-2012 Grand Jury determined that problems concerning air quality relating to excess amounts of carbon dioxide within Oroville City Hall, improper venting of HVAC and sewer gas through the City Hall roof, and the presence of combustible roofing material were corrected either prior to or during the 2010-2011 remodel of Oroville City Hall. These corrections were observed and verified by members of the Grand Jury

- The 2009-2010 Grand Jury report indicated that the fire suppression sprinkler system in City Hall was ineffective and that the City Hall basement had no sprinkler system. Members of the current Grand Jury were able to observe the sprinkler system in City Hall and were assured by City employees that it is functional. The installation of the fire suppression sprinkler system in the basement of Oroville City Hall began on March 5, 2012 with an anticipated completion date near the end of April 2012.
- The 2009-2010 Grand Jury had concerns about combustible materials improperly stored in the basement of City Hall. Members of the Current Grand Jury were able to observe that subsequent to the remodel of Oroville City Hall, appliances with open flames and combustible materials previously stored in the basement were removed.
- Further concerns related to the City Hall basement door which was not a fire-rated assembly door. Pursuant to provisions of Table 508.2.5, 2010, California Building Code (See Appendix B), a fire-rated assembly door is not required following installation of a fire suppression sprinkler system within the basement area.
- The 2009-2010 Grand Jury expressed a concern related to short side rails on the ladder going up to the attic creating a safety hazard for City employees. The current Grand Jury determined that the ladder was modified to include appropriate handrails at the top of the ladder to assist maintenance staff in accessing the attic, and that there is a security gate at the bottom of the ladder to keep unauthorized persons from accessing the ladder to the attic.

3. Table Mountain Golf Course Clubhouse Remodel:

In response to concerns about construction commencing prior to the issuance of a permit, policies and procedures have now been put in place to prevent construction prior to the issuance of a building permit.

- It was determined that a ten inch water line and a new fire hydrant were installed during the 2010-2011 time period for the purpose of providing the Table Mountain Golf Course Clubhouse facility with improved and enhanced fire protection.

4. Cleantech Innovation Center.

The 2009-2010 Grand Jury was concerned this facility could easily be occupied by more than the 100-person limit imposed by Airport Land Use Commission (ALUC) standards. This facility is in the flight path of the Oroville airport and is thus subject to limitations as to the maximum occupancy allowed.

- The Grand Jury verified that on May 13, 2010 a Certificate of Occupancy was issued for this facility limiting the building occupancy load to no more than 100 persons collectively at any one time (See Appendix C):
- At the time of the 2011-2012 Grand Jury inquiry, this facility was vacant and administrators in charge have assured the Grand Jury that any future occupants of the building will be made aware of the maximum building load occupancy requirement.

5. Issues concerning contracts:

The 2011-2012 Grand Jury determined the City of Oroville has in place policies and procedures to prevent contracts from being accepted or finalized unless they have been completed correctly and to ensure that required contractor licenses and insurance documents are properly submitted.

6. Issues concerning Council Meetings:

The agenda and staff reports for City Council meetings are now available on the City's website www.cityoforoville.org, thus making them more easily accessible to the public and correcting the previous concern expressed by the 2009-2010 Grand Jury.

- The 2011-2012 Grand Jury observed a City Council Meeting that had a long and complex agenda and found that the Council members were well prepared, having received and studied staff reports prior to the meeting.
- The Mayor did an excellent job of conducting the meeting. Public input was received and the staff was able to answer questions and concerns.
- In contrast to what had been observed by the previous Grand Jury, City Council members displayed courtesy, decorum, maturity and professionalism during interaction between themselves, with their staff and with members of the public.

7. Issues concerning personnel matters:

Numerous findings were made by the 2009-2010 Grand Jury concerning personnel matters. Some of the issues were specifically related to previous administrators who have been replaced. Other issues have been addressed by making policy changes and by emphasizing core values and ethics following the very successful "Goals and Objectives Workshop" which was conducted by and between the current City Administrator, the Current City Attorney and the members of the Oroville City Council during May of 2011. The 2011-2012 Grand Jury was able to observe and conclude that previously identified personnel problems no longer exist and that all concerns have been addressed in a manner that should minimize the likelihood of similar problems in the future.

8. At the time of the 2009-2010 Grand Jury report, the Local Appointments List maintained by the City of Oroville was not up-to-date.
 - Law requires that the Local Appointments List be updated on or before December 31 of each year and that it contain a list of all regular and ongoing boards, commissions and committees that are appointed by the local agency (City or County). State law stipulates what information the Local Appointments List is required to include. (See California Government Code section 54972.)
 - As of December 20, 2011, the Oroville City Local Appointments List was up-to-date.

The 2011-2012 Grand Jury was impressed with the “Goals and Objectives Workshop” which the current City Administrator, current City Attorney and current City Council Members conducted and participated in during May of 2011. This workshop was remarkably applicable for the purpose of facilitating the new management and leadership direction that has been implemented by and within Oroville City Government. The subject matter of the workshop, which focused on defining “Core Values” and emphasizing ethics, is a model to be considered by governmental entities.

The 2011-2012 Grand Jury determined that the City of Oroville budget format is well designed and provides for quick comprehension and ease of reading. The format facilitates comprehensive analysis of the budget data it contains. The City of Oroville has a well-developed Long Range Improvement Program that can become effective should funding become available.

Even though the City of Oroville is contending with a reduction of revenue due to the present economy, the City is applying excellent budget and financial management practices. However, because of the decision of the State Legislature to cease Redevelopment Agency (RDA) funding for California cities, the City of Oroville will be challenged to find new sources of funding to offset the loss of RDA funding.

FINDINGS

- F1: The City Administrator, City Attorney, and other City management staff are performing their duties admirably and in the best interests of the City of Oroville.
- F2: The City of Oroville has corrected deficiencies identified in the 2009-2010 Grand Jury report.
- F3: During Oroville City Council meetings City Council members were well informed, communicated well with one another, were cordial and helpful to the attending public, were engaging and courteous with City Staff, and performed in the interests of the City of Oroville.
- F4: The City of Oroville Goals and Objectives Workshop conducted in May of 2011 sets a high standard and is a model that could be utilized by other governmental agencies.
- F5: City of Oroville administration had a history of failing to update the Local Appointments List.

- F6: A negative financial impact may be incurred by the City of Oroville due to future loss of RDA funding.
- F7: The City has taken action to ensure compliance with the occupancy limit applicable to the Cleantech facility near the Oroville Municipal Airport.

RECOMMENDATIONS

- R1: That the City of Oroville conduct both announced and unannounced inspections of the Cleantech Innovation Center to ensure that all ALUC safety, building occupancy limits and zoning code requirements and regulations are being followed.
- R2: That the Local Appointments List receive an annual review as required by California law, that appointments be made in a timely manner, and that the List be maintained with a higher priority than it has received in the past.
- R3: That not less than every two years the City Administrator, City Attorney and the members of the Oroville City Council conduct a Goals and Objectives Workshop with the same focus on defining 'Core Values' and emphasizing ethics that was applied in the 2011 Workshop.
- R4: That the City of Oroville share its Goals and Objectives Workshop model and method with other governmental entities.

REQUEST FOR RESPONSES

Pursuant to Penal Code sections 933 and 933.05, the Grand Jury requests responses as follows:

Oroville City Council
Oroville City Administrator

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

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

APPENDICES:

Appendix A

Butte County Grand Jury 2011-2012 Follow-up Inquiry Request List, City of Oroville

Appendix B

Table 508.2.5, Incidental Accessory Occupancies, 2010 California Building Code

Appendix C

Certificate of Occupancy, Re: Private Industry Council, Permit No. B1005-005

APPENDIX A

Butte County Grand Jury 2011-2012 Follow-up Inquiry Request List, City of Oroville

2011-2012 Butte County Grand Jury Request List

Inquiry as Regards the City of Oroville, California

October 26, 2011

1. Identify by position and provide a list of key City Staff members, their background and experience, length of tenure in current position and their contact information.
2. Provide names and contact information for City Council members.
3. Provide a copy of the City's budget for FY 10/11 and FY 11/12.
4. Provide the total number of City employees authorized by position
5. Provide the total number of employees currently employed by the City.
6. Provide a list of authorized but vacant positions, inclusive of an explanation as to the reason(s) the position(s) not being filled.
7. Provide a list of the number of City employees in each Department.
8. Provide a list of the number of employees, contract or otherwise, who are not City employees, but are working, or performing tasks/projects, on behalf of the City of Oroville.
9. Identify and provide a list of contract organizations that provide services either to, or on behalf of, the City of Oroville and provide the contact information pertaining to the key personnel of those organizations.
10. Provide a copy of the City's Policies and Procedures Manual (to be returned to the City of Oroville following the conclusion of the work of the 2011-2012 Butte County Grand Jury).
11. Provide a copy of the City's Record and Retention Policy (to be returned to the City of Oroville following the conclusion of the work of the 2011-2012 Butte County Grand Jury).
12. Provide a list of identified current "challenges" facing the City of Oroville.
13. Provide a copy of Organizational Charts/Diagrams that delineate the relationships between City Government entities.
14. Provide copies of City Council Meeting minutes from January 2011 to the present.
15. Provide copies of Redevelopment Agency minutes from January 2011 to the present.
16. Provide copies of all contracts negotiated by the City of Oroville from January 2011 to the present, inclusive of notes or comments that were made pursuant to each of the contract negotiations.
17. Provide a list of major changes in the City's operations or practices in the last 12 months, inclusive of (1) an explanation of what necessitated or caused the changes in operations practices to come about, (2) when such changes were implemented, and (3) the impact of such changes.

Mailing address for the Butte County Grand Jury:

Butte County Grand Jury

Post Office Box 110

Oroville, California 95965

APPENDIX B

Table 508.2.5, Incidental Accessory Occupancies, 2010 California Building Code

**TABLE 508.2.5
INCIDENTAL ACCESSORY OCCUPANCIES**

ROOM OR AREA	SEPARATION AND/OR PROTECTION
Furnace room where any piece of equipment is over 400,000 Btu per hour input	1 hour or provide automatic fire-extinguishing system ^a
Rooms with boilers where the largest piece of equipment is over 15 psi and 10 horsepower	1 hour or provide automatic fire-extinguishing system ^a
Refrigerant machinery room	1 hour or provide automatic sprinkler system ^a
Hydrogen cutoff rooms, not classified as Group H	1 hour in Group B, F, M, S and U occupancies; 2 hours in Group A, E, I and R occupancies.
Incinerator rooms	2 hours and automatic sprinkler system
Paint shops, not classified as Group H, located in occupancies other than Group F	2 hours; or 1 hour and provide automatic fire-extinguishing system
Laboratories and vocational shops, not classified as Group H, located in a Group I-2 and I-2.1 occupancy	1 hour or provide automatic fire-extinguishing system ^a
<i>[SFM] Rooms or areas with special hazards such as laboratories, vocational shops and other such areas not classified as Group H, located in Group E occupancies where hazardous materials in quantities not exceeding the maximum allowable quantity are used or stored.</i>	1 hour
Laundry rooms over 100 square feet	1 hour or provide automatic fire-extinguishing system ^a
Storage rooms over 100 square feet	1 hour or provide automatic fire-extinguishing system ^a
Group I-2 and I-2.1 waste and linen collection rooms	1 hour ^a
Waste and linen collection rooms over 100 square feet	1 hour or provide automatic fire-extinguishing system ^a
Stationary storage battery systems having a liquid electrolyte capacity of more than 50 gallons, or a lithium-ion capacity of 1,000 pounds used for facility standby power, emergency power or uninterrupted power supplies	1 hour in Group B, F, M, S and U occupancies; 2 hours in Group A, E, I and R occupancies. ^a
Rooms containing fire pumps in nonhigh-rise buildings	2 hours; or 1 hour and provide automatic sprinkler system throughout the building
Rooms containing fire pumps in high-rise buildings	2 hours

For SI: 1 square foot = 0.0929 m²; 1 pound per square inch (psi) = 6.9 kPa; 1 British thermal unit (Btu) per hour = 0.293 watts; 1 horsepower = 746 watts; 1 gallon = 3.785 L.

a. [SFM] Fire barrier protection and automatic sprinkler protection required throughout the fire area in I-2 and I-2.1 occupancies as indicated.

508.4 Separated Occupancies. Buildings or portions of buildings that comply with the provisions of this section shall be considered as separated occupancies.

508.4.1 Occupancy classification. Separated occupancies shall be individually classified in accordance with Section 302.1. Each separated space shall comply with this code based on the occupancy classification of that portion of the building.

508.4.2 Allowable building area. In each story, the building area shall be such that the sum of the ratios of the actual building area of each separated occupancy divided by the allowable building area of each separated occupancy shall not exceed 1.

508.4.3 Allowable height. Each separated occupancy shall comply with the building height limitations based on the type of construction of the building in accordance with Section 503.1.

Exception: Special provisions permitted by Section 509.

508.4.4 Separation. Individual occupancies shall be separated from adjacent occupancies in accordance with Table 508.4.

508.4.4.1 Construction. Required separations shall be fire barriers constructed in accordance with Section 707 or horizontal assemblies constructed in accordance with Section 712, or both, so as to completely separate adjacent occupancies.

SECTION 509 SPECIAL PROVISIONS

509.1 General. The provisions in this section shall permit the use of special conditions that are exempt from, or modify, the specific requirements of this chapter regarding the allowable heights and areas of buildings based on the occupancy classification and type of construction, provided the special condition complies with the provisions specified in this section for such condition and other applicable requirements of this code. The provisions of Sections 509.2 through 509.8 are to be considered independent and separate from each other.

APPENDIX C

Certificate of Occupancy, Re: Private Industry Council, Permit No. B1005-005



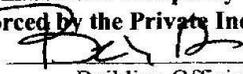
Certificate of Occupancy

The structure or portion of the structure has been inspected for compliance with the requirements of this code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified. Any change to the Certificate of Occupancy will void this certificate. This certificate may be revoked for any violation of said City ordinance and/or Health and Safety Code. This certificate is not transferable.

Name of Business: PRIVATE INDUSTRY COUNCIL
Address: 2015 Challenger Avenue
Permit Number: B1005-005

Owner Name: Slater Land, Howard Slater
 Owner Address: 3753 Morehead Ave., Chico, CA 95928
 Codes In effect: 2007 CA Codes Use Zone: ABP
 Use and Occupancy: Mixed used; A-3/B/S-1 Type of Use: Training, Job Creation and Education
 Type of Construction: VB Fire Sprinklers: Yes No
 Occupancy Load: 100 Required X
 Issued: 4/27/10 Installed X

Special Conditions: Pursuant to the City's Zoning Ordinance and Use Permit No. 09-05, the maximum occupancy of the building shall not exceed 100. This condition shall be enforced by the Private Industry Council, the building operator.



 Building Official

5/13/2010

 Date

The following departments hereby certify the above noted building has been inspected and approved for compliance with all State and City Codes.

Fire Dept	See Fire Clearance from Dean Hill	4/27/10	Public Works Dept	N/A
	Initials	Date		Initials Date
Planning Dept			Parks Dept	N/A
	Initials	Date		Initials Date
Health Dept	N/A		Building Dept	
	Initials	Date		Initials Date

(This page intentionally left blank.)

2011-2012 BUTTE COUNTY GRAND JURY REPORT

CITY OF GRIDLEY

SUMMARY

The previous Grand Jury (2010-2011) issued a report dealing with certain areas within the City of Gridley. The current Grand Jury received subsequent complaints, including some indicating responses to the previous Grand Jury report were inadequate. This report is concerned almost entirely with areas not addressed in the previous report.

The 2011-2012 Grand Jury investigation revealed some City Council members lacked adequate knowledge of Gridley Municipal Code, and that past incomplete or incorrect administrative actions have caused the present City Administrator and City staff to have to seek remedies for problems created in the past. Less than thorough communication to the public concerning City Council study sessions conducted during special meetings held prior to regular City Council meetings has led to an incorrect public perception that such study sessions were not open to the public when in fact such study sessions have been open to the public and not in violation of the Brown Act.

Some portions of the Municipal Code under which the City operates are less than adequate with excessive requirements, while other portions of the Municipal Code are lacking requirements that could best serve the interests of the City and its employees. The property asset inventory requirements within Gridley Municipal Code are nearly unworkable as written. Procedures and documents that have never been properly approved and adopted by the City Council hinder good government practice. Properly adopted documents, with clearly cited dates of adoption and dates of revision, are essential to good governance.

The City of Gridley has a population of over 6,000 with an annual budget of nearly 22 million dollars. A budget that is clear and easily understood aides in good governance. The current City Administrator and City staff have spent much time and effort in attempting to reconstruct and adjust to budget inter-fund transfer actions that have occurred in the past. A lack of training on an accounting computer system and insufficient communication regarding inter-fund transfers has impeded the understanding of staff regarding budget changes effecting departments.

Present City administration has effectively served the interests of the City. The leadership style of the administration is a factor in low employee morale. Changes need to be made in order for the City to be “the small town that loves company” and its employees and its community.

BACKGROUND

The previous (2010-2011) Grand Jury received and investigated complaints concerning government operations in the City of Gridley, the majority of which were different from complaints received by the 2011-2012 Grand Jury. Primarily based upon new complaints received, the 2011-2012 Grand Jury decided to conduct a new investigation into the operations of Gridley City Government.

The scope of this inquiry was broad and included interviews with complainants, the Gridley City Administrator, City Council members, and a number of past and present employees of the city. The Grand Jury requested and inspected a large number of documents during the course of this investigation.

Historically, and up to the present, inadequate and improper record and document management has been a serious impediment to carrying out efficient City government operations. The need for City of Gridley administration to adhere to legal requirements for proper management of records and documents is essential, and must begin immediately.

PROCEDURES FOLLOWED

The following areas were reviewed:

- Special Study Sessions held by City Council and the City Administrator
- City's internet website regarding posting notice of Study Session agenda and Special Meetings
- Business Improvement District (BID)
- Redevelopment Agency (RDA) Meetings
- Records and document retention and destruction
- City employee morale
- City's personnel policies
- Vacancy of the Public Works Director position
- An outstanding AT&T bill
- Eagle Meadows Maintenance Assessment District fund excess
- City's Budgeting and Financial Management
- City's waiver of collection and assessment fees
- City's claim for reimbursement from the Federal Emergency Management Agency (FEMA) and the United States Department of Agriculture (USDA)
- Gridley sewage sludge problem alleged to have come from client connected to the City's sewage system

To conduct its multifaceted inquiry the 2011-2012 Butte County Grand Jury members reviewed a variety of documents and legal codes, including:

- Federal grant documents concerning claims to Federal Emergency Management Agency (FEMA) and United States Department of Agriculture (USDA)
- City employee time sheets concerning hours applied to the FEMA and USDA claims
- City of Gridley 2030 General Plan budget information
- Gridley City Council agendas and minutes
- Gridley Redevelopment Agency agendas and minutes
- Correspondence and complaint letters
- Fiscal reports, budgets, invoices, audit reports and receipts
- United States Code (U.S.C.)
- Code of Federal Regulations
- United States Internal Revenue Code
- City of Gridley contracts

- Gridley Municipal Code
- California Government Code
- City of Gridley 2030 General Plan
- City of Gridley Engineer Report
- The City of Gridley internet web site

Grand Jury members interviewed the following:

- Complainants
- Gridley Council Members
- Gridley City Administrator
- Past and present City of Gridley employees

In addition, Grand Jury members visited the following locations, facilities and events:

- Stapleton-Spence Rio Pluma processing plant (Rio Pluma) wastewater discharge section
- Rio Pluma and City of Gridley sewage system connection point at the north end of Fairview Drive south of the Rio Pluma facility
- Eagle Meadows Subdivision development complex
- Heron Landing Subdivision development complex
- City of Gridley waste water treatment complex
- Gridley City Council meetings
- City of Gridley Special Study Session
- Gridley City Hall and Staff Sections

DISCUSSION

CITY COUNCIL

Some Council members are observably more attentive, knowledgeable and pro-actively involved than others. While attending regular City Council meetings, Grand Jury members observed some Council members did not question staff on the content of staff reports prior to voting on an agenda item to which the staff reports applied. Overall, the current members of the City Council do function together effectively serving the management, direction and multi-faceted interests of the City.

During interviews with City Council members, it was determined that City Council members lack awareness of Gridley Municipal Code, section 2.03.050, *Powers and Duties of the City Administrator*, which requires annual asset inventories of City property.

The Grand Jury identified unrealistic duty requirements within Gridley Municipal Code, section 2.03.050, *Powers and Duties of the City Administrator*, which require the City Administrator and staff heads to “annually inventory and appraise the value of all real estate, buildings, furnishings and fixtures, supplies and moveable property of every kind and nature belonging to the city....”

Also during interviews with City Council members, it was noticeable that certain Council members were not fully aware of Gridley Municipal Code, section 2.03.060, *Relationship*

Between City Council and Administrative Services, which specifies the operational relationship between City Council members and the City Administrator.

STUDY SESSIONS

The Grand Jury received complaints that Study Sessions conducted before the start time of regular council meetings and attended by members of the City Council and the City Administrator, were in violation of the Brown Act. It is not clear to the public that Study Sessions are open to the public. The Grand Jury determined, as currently conducted, Study Sessions held before regular Gridley City Council meetings are not in violation of the Brown Act.

Even though Study Sessions before regular Gridley City Council meetings are not being conducted in violation of the Brown Act, because public notice agenda postings have allowed for perception of a Brown Act violation, future agenda postings should be worded in a manner that will clearly communicate to the public that all Study Sessions are open to public attendance.

REDEVELOPMENT AGENCY MEETINGS

Another complaint received concerned Redevelopment Agency (RDA) meetings held by the City Council wherein minimal RDA business occurred. The complaint alleged there were meetings held for the sole purpose of making it possible for City Council members to receive reimbursement for RDA meeting attendance.

The Grand Jury observed some RDA meetings convened consisting of nothing more than a reading of the previous RDA meeting minutes and a short verbal report. Such meetings, as limited as they were, met the requirements of applicable California Code for convening and conducting RDA meetings. As a result of the dissolution of the State Redevelopment Agencies by the California State Legislature in 2011, the issue has become moot.

CITY ADMINISTRATION

The current City Administrator assumed his duties and responsibilities toward the end of 2008. He inherited many problems and has worked to overcome them. Some of the problems have not been completely resolved.

The Goals and Objectives Workshop model utilized by the City of Oroville in May of 2011 could be very beneficial in facilitating improved administration within the City of Gridley.

The Grand Jury received a number of complaints concerning the management and leadership of the City Administrator. From a management standpoint, the City Administrator has been proactive and in various areas effective in serving the interests of the City of Gridley. From a leadership standpoint, the City Administrator needs to facilitate more positive and effective communication between himself and employees under his supervision in order to eliminate low morale.

Destruction of Records

An area of complaint concerned the destruction of City Records. California Government Code section 34090 specifies the legal requirements for retention and destruction of records and documents of municipalities. To facilitate administrative efficiency and enhance 'best practices' management, well-managed municipalities publish, keep up-to-date, and utilize their own records retention and destruction policy document.

The Grand Jury was informed the City Administrator had directed the destruction of approximately forty banker boxes of City records and documents, and a document titled *City of Gridley Records Retention Policy for City Administration* had been used as a guide for the destruction.

When the Grand Jury made its original request for documents, the City Administrator responded that Gridley had no record and retention policy document. Subsequently, the Grand Jury obtained a copy of a document titled *City of Gridley Records Retention Policy for City Administration*. The Grand Jury was informed the document had been created in the year 2000. There is no documentation indicating this policy document was ever presented to or approved by the City Council. It was confirmed that the City Administrator had directed retention and destruction of City records and documents utilizing this record and retention policy document even though it was not officially approved by the City Council.

Property Asset Inventory

Gridley Municipal Code requires the City Administrator and City department heads to conduct annual property asset inventories of all City assets and retain on file a copy of the property asset inventory.

Item D of Chapter 2.03.050, titled Custodian of City Property reads as follows:

...immediately upon taking office and annually thereafter, inventory and appraise the value of all real estate, buildings, furnishings and fixtures, supplies and moveable property of every kind and nature belonging to the city; and to require each officer or department head to inventory the same or any portion thereof and maintain a perpetual inventory. One copy of such annual inventory shall be filed with the City Council and one with the City Clerk.

The City was unable to provide the Grand Jury with current records and files of property asset inventories. There was no record of the City Administrator having conducted a required initial inventory after assuming his duties, or as required on an annual basis thereafter. Nor, as required, had he directed department heads to conduct inventories. Interviews with City Council members revealed they were not aware of the property asset inventory requirements of the Gridley Municipal Code.

The Grand Jury is concerned that property asset inventories have not been conducted and that no inventory records are on file. However, as currently written the property asset inventory requirements of the Gridley Municipal Code are unrealistic. While it is necessary for any governmental entity to maintain control and accountability of its assets, compliance with this code section as written would require an excessive amount of time and effort on the part of the

City Administrator and department heads. This provision of the Municipal Code should be reviewed for adequacy by the City Council following adjustment for reasonable compliance by the City Administrator and City staff.

LEADERSHIP

Personnel Matter

The City is experiencing low morale among some employees. Nevertheless, City employees remain dedicated to serving the City and to performing their duties to the best of their abilities.

During interviews, employees who expressed and evidenced low morale noted the causes as unfair treatment, unwillingness to listen, being “talked down to,” and fear of reprisal.

In order to improve morale, the City Administrator will need to engage actively in an ongoing effort to improve awareness of his own communication style, personality type and attributes, and the communication style, personality type and attributes of each employee under his supervision.

A specific focus on the following will be beneficial to improvement of City employee morale:

- Recognition by supervisors of positive duty performance by individual City employees.
- Implementation of an official employee recognition program that includes Employee of the Month or similar programs.
- Enhancement of mutual respect derived from cultivating the pride and dignity of City employees.
- Completion of timely annual goal oriented employee performance evaluations that identify and record employee accomplishments and achievements.

Application of a performance evaluation program within the City would, if well managed, contribute to improved City employee morale. Performance evaluations on a recurring scheduled basis, including face-to-face interaction between supervisors and employees, can be a valuable tool in building and sustaining positive morale.

The Grand Jury was informed performance evaluations are not being done unless prompted by a merit increase.

The City has a policy document titled *City of Gridley Personnel Rules*. There is no information within the document of City Council approval, nor are there any effective dates regarding its inception or updating.

Paragraph 2.40, “Performance Review Date” within the *City of Gridley Personnel Rules*, stipulates that various categories of City employees are to receive performance evaluation reports within specified periods. Subparagraph C within paragraph 2.40 cites “*Annually for employees in the last step of the pay range at least thirty (30) days before the employee’s anniversary of the last merit advancement date.*”

City of Gridley Personnel Rules refer to “department heads” having responsibility for conducting performance evaluations. However, there is no requirement specified for department heads to receive performance evaluations from their immediate supervisor, the City Administrator.

Reviewing, updating and formally adopting personnel rules should be a priority of the Council. Upon clarification and formal enactment of modifications, City administration should be responsible for ensuring the personnel rules are followed.

Vacancies

During the Grand Jury inquiry, the Public Works Director position was vacant and the City Electric Superintendent gave notice of his intent to retire during 2012. At the time of the Grand Jury inquiry, the City Administrator had assumed the duties of Public Works Director.

Grand Jury inquiry revealed options concerning the position of Public Works Director are being considered, and that the City will not be recruiting for the position until a decision is made.

An option being considered is the consolidation of the positions of Director of Public Works and Electric Superintendent with the title of Utility Director, with the Utility Director also serving as liaison representative to the Northern California Power Association of which the City of Gridley is a member. Such a consolidation of positions could result in a significant financial saving for the City.

BUDGET AND FINANCIAL MANAGEMENT

The Grand Jury reviewed the City of Gridley budget and the City’s financial management practices with a specific focus on the following areas.

The 2030 General Plan Update

The Grand Jury reviewed the allocation of funds for the Planning Department budget, including expenses, for the 2030 General Plan update and noted the following:

- The present Finance Officer attempted to reconstruct the Planning Department budget from 2006-2008 that was under the administration of the previous Finance Officer. The present Finance Officer was able to determine there was a misallocation of funds into the Planning Department budget.
- The current City Administrator and City Finance Director have attempted to reconstruct circumstances surrounding the Planning Department allocation of funds issue and have taken action in the 2011-2012 budget to resolve the issue by making an inter-fund loan of \$845,841 from City of Gridley Capital Funds.
- After a complete review of fund allocations into the Planning Department budget, it has been determined that the total cost of the 2030 General Plan update was \$588,963.

Eagle Meadows Assessment District No. 2

In 2004, the City established the Eagle Meadows Assessment District to construct, operate and maintain various public improvements within the Eagle Meadows subdivision. Complaints to the Grand Jury alleged assessments in excess of actual expenses had been levied against Assessment District properties.

The Grand Jury found:

- Over a multi-year period, the City of Gridley over-assessed property owners within the Eagle Meadows subdivision Assessment District.
- The Finance Officer developed an over-assessment property owner reimbursement plan that includes Gridley City Council approved Resolution No. 2011-R-045, *Removing the 2nd 2011-12 Maintenance Installment Levied on the Assessment District No. 2 (Eagle Meadows) from Butte County 2011-12 Tax Rolls*. [See Appendix A]

Outstanding AT&T Bill

During the course of its investigation, the Grand Jury became aware of an outstanding and disputed AT&T bill. Inquiry into the subject revealed:

- On July 21, 2008, the City of Gridley entered into a written agreement with AT&T to have existing AT&T aerial facilities placed underground at an estimated cost to the City of \$55,831. This amount was paid by the City of Gridley to AT&T on July 25, 2008 with City Check No. 071838. [See appendices B and C]
- On February 23, 2010, long after work was completed, the City of Gridley received an additional billing, without description or explanation, of \$135,228.32, far above the initial agreed upon cost. [See Appendix D]
- The City made efforts to resolve the issue of the outstanding AT&T bill. A June 21, 2011, letter to AT&T addressed “To Whom It May Concern” lacks a tracking identification number within the body of the letter. [See Appendix E]
- At the time of the writing of this report, the City of Gridley had received no response from AT&T on this issue.

Reserve Funds

The City does not have a General Fund reserve for contingencies. However, the City of Gridley has City Hall, equipment, and electric reserve funds

Budgetary Communication

Presently within City of Gridley budgeting and financial management practices, City Council approved budget allocations are at times changed within departmental budgets. Staff within the departments may or may not be notified of the changes affecting balances within their department or of the reasons for the changes. A method for systematically communicating departmental budget changes and reasons for such changes to department staff has not been implemented.

Financial Management Training

The City of Gridley utilizes an accounting software program called *Multiple Operations Management Systems* (MOMS). No MOMS desk manuals are available for staff, and some staff appear to have limited knowledge of how to access information from the MOMS system. This necessitates staff in the Finance Department to run reports on behalf of those with limited knowledge. Training on new modules is available if staff travels to Fremont, California.

The Grand Jury has a concern that City employees may have difficulty accessing timely budget information and knowing exactly what reports to request from the Finance Department in order to acquire the information they need.

Waiver of Fees

The Grand Jury received a complaint that the current City Administrator granted a waiver of 2006 electric and water impact fees for the business Mary's Gone Crackers. The Grand Jury determined:

- In 2006, an agreement to provide Mary's Gone Crackers with electric and water impact fees (not sewage) was never approved by City Council.
- Under the previous City Administrator and previous Finance Director, the City never established within the City finance and accounting system a fee collection accounting code for Mary's Gone Crackers to collect electric and water impact fees.
- Because of the failure of the City Council and the business to complete a contractual agreement in 2006, the City had no basis for collection of 2006 electric and water impact fees from Mary's Gone Crackers.

An additional complaint received by the Grand Jury was in 2010 the City Administrator waived sewer capacity fees for the business Mary's Gone Crackers without City Council approval. The Grand Jury determined:

- The City of Gridley and Mary's Gone Crackers were signatories to a City Council approved agreement for waiver of sewer capacity fees for Mary's Gone Crackers that required the business to hire 10 additional full time employees for the time period April 1, 2009, through and including June 30, 2010, in order to receive the sewer capacity connection fee waiver.
- Mary's Gone Crackers met the requirements of the agreement for waiver of sewer capacity connection fees, and the waiver was granted pursuant to the agreement.

The agreement between the City and Mary's Gone Crackers was approved by affirmative vote of four City Council members during a regular City Council meeting conducted on June 21, 2010, as recorded in Consent Calendar item G. 15, *Council approval of Agreement with Mary's Gone Crackers regarding payment of sewer capacity fees.*

Redevelopment Agency Funding Loss

In mid-2011, the California Legislature adopted Assembly Bill 1X 26 effecting Redevelopment Agency (RDA) funding. In late December 2011, the California Supreme Court upheld Assembly Bill 1X 26 in *California Redevelopment Association v. Matosantos*. The City will be challenged to find alternative sources of funding for projects previously paid for with RDA funds.

CLAIMS FOR REIMBURSEMENT FROM FEDERAL AGENCIES

Federal Emergency Management Agency (FEMA):

In the winter of 2005-2006, the City of Gridley experienced storm damage that necessitated repairs. The City obtained financial assistance from FEMA for storm damage repair work that was accomplished by City Public Works Department employees. A complaint received by the Grand Jury alleged that in 2008, in order to receive financial reimbursement for labor costs associated with 2005-2006 storm damage, the City submitted false information to FEMA based upon fabricated employee time sheets.

The Grand Jury could find no tangible or reliable evidence that the City submitted false information to FEMA in order to receive reimbursement for labor costs associated with storm damage repair work performed by City employees.

U.S. Department of Agriculture (USDA):

In 2006, the City began planning for an upgrade of the City's Waste Water Treatment Plant. In 2009, the City received USDA financial assistance in the form of a loan grant for the upgrade.

The Grand Jury received a complaint alleging City employees were not involved with planning and design work for the upgrade, therefore, the City did not qualify for and should not have applied for or received unused USDA loan grant monies.

The Grand Jury determined that the City of Gridley contract engineer, as a representative of the City, as well as City Public Works Department personnel were involved with issues pertaining to the planning and design of the City of Gridley Waste Water Treatment Plant upgrade. The City Administrator appropriately served the interests of Gridley in seeking and receiving monies that remained within the USDA loan grant.

SLUDGE PROBLEMS

The Gridley sewer system has a sludge problem alleged to be related to the Stapleton-Spence Rio Pluma processing plant (Rio Pluma). Prior to 2011, the Rio Pluma processing plant violated its wastewater discharge agreement by discharging excess agricultural sludge into the City sewer system. Rio Pluma reimbursed the City approximately \$200,000 for the cost of the cleanup caused by the excess sludge discharge.

During 2011, the City again identified a buildup of sludge in its sewer system. The City is attempting to identify the source of the current buildup of sludge. However, without an adequate quantity of properly placed sludge flow measuring/monitoring units, the City has not yet determined with certainty the specific source of the sludge.

By action of the City Council, a bid, not to exceed \$84,228 was awarded to the firm Synagro for sludge dredging. [See Appendix F]

GRIDLEY BUSINESS IMPROVEMENT DISTRICT

Even though the 2010-2011 Butte County Grand Jury conducted an inquiry into the Gridley Business Improvement District, the 2011-2012 Grand Jury sought to conduct a new investigation into the following:

- The management of financial interface between the Business Improvement District (BID) and the City of Gridley.
- Internal Revenue Service (IRS) status of the BID as either a profit or non-profit entity.
- Corporate or suspended corporate status of the BID as recorded within the Office of the Secretary of State of California.
- Whether or not the current Mayor of the City of Gridley is involved in a conflict of interest due to the Mayor's concurrent service as both Mayor and as salaried Executive Director of the BID.

Upon review, the following was determined:

- Financial management and interface between the City and the BID has been conducted in compliance with Chapter 5.48 of the Gridley Municipal Code titled *Gridley Business Improvement District*.
- As of May 16, 2012, the BID was listed within the Office of the California Secretary of State as being in a “suspended status.”
- Following its request for reinstatement as a corporate entity, the BID is awaiting reinstatement of its corporate business status by the Office of the California Secretary of State.
- The BID had no record on file of Internal Revenue Service (IRS) notice, or IRS correspondence stipulating non-profit status of the BID pursuant to section 501(c)(6) of the United States Internal Revenue Code.
- It is possible for members of the public to conceptualize a “perception of conflict of interest” relative to the current Mayor of the City of Gridley serving concurrently as both Mayor and as Executive Director of the BID (a salaried position). However, the Grand Jury has determined that as long as the present Mayor exercises recusal from any, and all, actions and decisions made in concert with the vote of the City Council of the City of Gridley relative to the BID, there is no conflict of interest.

GRIDLEY ANIMAL CONTROL

The Gridley Animal Control Department comes under the supervision of the Gridley Chief of Police, and under a joint agreement is responsible for services in both the City of Gridley and the City of Biggs. Annually, the animal control facility processes approximately 450 animals.

Gridley Animal Control has an excellent working relationship with other animal control departments. When needed, this relationship consists of both giving and receiving assistance for supplying of animal food and the placement of animals for adoption.

Staff at Gridley Animal Control has firsthand knowledge of many animals within Gridley city limits, and can often call owners to quickly reunite them with their animals. Animal Control staff direct calls concerning large animals to Butte County Animal Control.

Through the initiative of the present Animal Control staff, the Animal Control facility includes excellent procedures and physical arrangements for cages, dog runs, animal bedding, exercising, feeding inclusive of dietary requirements that are written on cages, etc., that provides animals being housed within the facility with more than adequate care.

There is a five-year plan to build a new Animal Control facility. However, until funds become available the current Animal Control facility will remain in use unless otherwise directed.

The department utilizes two local veterinarians to give shots, de-worm, and perform heartworm tests, at a reduced cost. The veterinarians also perform emergency services as needed.

For protection and safety within the Animal Control facility, all cages and runs are clearly marked with information about each animal. For example, if the animal is a biter that animal's cage contains a written warning.

Gridley police officers are trained on how to process and care for animals in the absence of Animal Control staff.

The Gridley Animal Control Department is well managed by enthusiastic and dedicated staff.

FINDINGS

- F1: Some City Council members lacked knowledge of the contents of Municipal Code section 2.03.050 *Powers and Duties of the City Administrator*.
- F2: Some City Council members lacked knowledge of the contents of Municipal Code section 2.03.060 *Relationship between City Council and Administrative Services*.
- F3: Study Sessions are not closed session meetings and as currently conducted are not in violation of the Brown Act.
- F4: The City has met the requirements of applicable California Code for convening and conducting RDA meetings.
- F5: The current City Administrator inherited many problems when he assumed the duties of City Administrator. The City Administrator has been pro-active and in various areas effective in serving the interests of the City of Gridley.
- F6: The Goals and Objectives Workshop model utilized by the City of Oroville in May of 2011 could be very beneficial in facilitating improved administration within the City of Gridley.
- F7: The Grand Jury is concerned that records and document destruction was carried out without "the approval of the legislative body (City Council)" and without "the requisite written consent of the city attorney," as specified within California Government Code section 34090-34095.
- F8: There is no record of the City Administrator having conducted an initial property asset inventory, or annual property asset inventories. The Grand Jury determined there were no annual City property asset inventory records within the files of the City Clerk or within City Council files. As long as Chapter 2.03 of Gridley Municipal Code titled *City Administrator* remains unchanged, the City Administrator and City department heads are required to complete and record for file annual property asset inventories of all City properties for which they have responsibility.
- F9: Morale is low among some employees. Yet despite low morale, City employees remain dedicated to serving the City and to performing their duties to the best of their abilities.

- F10: Operational efficiency and employee morale are negatively impacted by a lack of effective communication.
- F11: If the City Administrator would increase and improve awareness of his own communication style, personality type and attributes, and increase and improve his awareness of the attributes of employees under his supervision, he would strengthen his leadership skills and improve employee morale.
- F12: Timely City employee annual performance reviews should be conducted. Recognition by supervisors of positive employee job performance through the use of goal oriented annual performance employee reviews would assist in raising employee morale and establishing a record of employee accomplishments and achievements.
- F13: The *City of Gridley Personnel Rules* document contains no dates of inception or approval by City Council, nor does it contain dates of revision and approval by City Council of revisions it may have undergone. Section 2.40 of the *City of Gridley Personnel Rules* is lacking, as it does not require the City Administrator to write annual performance reviews on staff heads under his supervision.
- F14: The City Public Works Director position was vacant during the period of the Grand Jury inquiry, and the current Electric Superintendent has given notice of his intent to retire. Decisions regarding recruitment options for the positions should consider the best use of financial and staff resources.
- F15: The Finance Officer has developed a property owner over-assessment reimbursement plan which includes City Council passed Resolution No. 2011-R-045, removing the second 2011-12 Maintenance Installment Levied on the Assessment District No. 2 (Eagle Meadows) from Butte County 2011-12 Tax Rolls. The City should complete its property owner reimbursement plan.
- F16: The City has made efforts to resolve the issue of the outstanding AT&T bill. However, the June 21, 2011, letter sent to AT&T requesting a response needed a tracking identification number within the body of the letter and should have been addressed to a specific AT&T point of contact representative by name, title, or both instead of being addressed "To Whom It May Concern."
- F17: The City does have City Hall, equipment and electric reserve funds. However, the City does not have a General Fund reserve for contingencies and it would be prudent for the City to establish such a fund.
- F18: When changes to budget information occur, limited communication concerning changes is provided to City staff. When inter-fund withdrawals or deposits occur which effect budget balances within departmental budgets, information which will provide a clear and comprehensive explanation of the reasons for the changes should be provided to department heads in an expeditious and timely manner.

- F19: Some staff are limited in operational knowledge of the *Multiple Operations Management System* (MOMS) and require training in order to maximize effective use of the system. City department heads and Finance Department employees can better serve the City if they receive additional MOMS training.
- F20: Due to the failure of the City Council and Mary's Gone Crackers to complete a contractual agreement in 2006, and the City's failure to establish an impact fee collection finance code, the current City Administrator acted correctly by not attempting to collect 2006 water and electric impact fees.
- F21: That on behalf of the City of Gridley, a waiver of Mary's Gone Crackers sewer capacity fees was, with approval of City Council, carried out by the City and the responsible party for the business Mary's Gone Crackers pursuant to the signing of an agreement on December 20, 2010.
- F22: That with the advent of the loss of Redevelopment Agency tax increment funds, the City will be challenged to find alternative sources of funding for projects previously paid for with RDA funds.
- F23: No tangible or reliable evidence was found that false information was submitted to FEMA.
- F24: The City appropriately sought additional monies that remained within the USDA loan grant.
- F25: The City has been attempting to identify the cause of the current buildup of sludge within the City's sewer system. However, without adequate quantity and proper placement of sludge flow measuring/monitoring units, the City is unable to determine with absolute certainty the specific sources of the sludge in the City's sewer system.
- F26: That adequate quantity and proper placement of sludge flow measuring/monitoring units can be implemented by the City to identify sources (s) of sludge flow into the City sewer system.
- F27: No improper management of the financial interface between the Gridley BID and the City has been found. The Gridley BID is awaiting reinstatement of its corporate business status by the Office of the California Secretary of State. The Gridley BID had no record on file of Internal Revenue Service (IRS) notice, letter or correspondence granting it a non-profit status. As long as the Mayor exercises recusal from all City Council proceedings, actions and decisions relating to interface between the City and the BID, the Grand Jury finds no discernible conflict of interest.
- F28: The Gridley Animal Control Department is well managed by enthusiastic and dedicated staff.

RECOMMENDATIONS

- R1: That City Council members study and become thoroughly knowledgeable of the “Powers and Duties of the City Administrator” as specified within Gridley Municipal Code, section 2.03.050.
- R2: That City Council members thoroughly read and comprehend all staff reports and supporting documents prior to voting on an agenda item.
- R3: That in all special meeting public notice postings that include study sessions, the City clearly communicate study sessions are open to the public.
- R4: That the City Administrator continue to apply the successful management practices applied to solving problems and directing actions that have benefited the City of Gridley, and continue to endeavor to solve the remaining problems inherited at the time of assuming his duties.
- R5: That the City Administrator and City Council annually conduct a core values and ethics “goals and objectives workshop” as modeled by the Goals and Objectives Workshop conducted by the City of Oroville in May 2011.
- R6: That all members of the City Council, the City Attorney, and the City Administrator become thoroughly knowledgeable of and familiar with the legal requirements for records and documents retention and destruction as specified within California Government Code sections 34090-34095, and that all records and document retention and destruction actions taken in the future be in compliance with applicable laws.
- R7: That the records and document retention and destruction policy created in about the year 2000 titled *City of Gridley Records Retention Policy for City Administration*, or its equivalent, be approved by vote of the City Council.
- R8: That City Council conduct a thorough review of the Gridley Municipal Codes with a special focus on identifying unrealistic requirements such as the asset inventory requirements in section 2.03.050.
- R9: That at a minimum annual leadership instruction, inclusive of ethics training, be given to all supervisory level personnel. Specifically, training in awareness of both the supervisors’ and staff’s personality types and styles of communication, to develop and enhance effective and open communication.
- R10: That supervisory staff complete timely annual goal oriented employee performance reviews that identify and record employee accomplishments and achievements.
- R11: That the *City of Gridley Personnel Rules* policy document be officially adopted and approved by the City Council.

- R12: That Section 2.40 of the *City of Gridley Personnel Rules* policy contain a provision which requires an annual written performance evaluation review of all department heads by the City Administrator.
- R13: That the cover page of the *City of Gridley Personnel Rules* policy contain the ‘effective date’ of authorization, and that all future updates or revisions to the *City of Gridley Personnel Rules* policy be cited on the cover page, or at a minimum within the contents portion of the document.
- R14: That as soon as possible the City of Gridley select an option under consideration that will either fill the vacancy of the Public Works Director position or otherwise ensure that the duties and responsibilities of the Public Works Director position are accomplished on a day-to-day basis.
- R15: That for purposes of workforce management, increased efficiency and reduced cost to the City, the City Council with staff advisement consider creating a Utility Director position incorporating the positions of Director of Public Works and Electric Superintendent, with the Utility Director serving as liaison representative to the Northern California Power Association (NCPA) of which the City of Gridley is a member.
- R16: That before the 2012-2013 budget is adopted, the City Administrator and the Finance Officer follow through on actions taken in the 2011-2012 budget to resolve the Planning Department budget allocation issue as it relates to the 2030 General Plan update by making appropriate inter-fund budget transfers.
- R17: That the City research, reconstruct, and attain an accurate record of the events, inclusive of expenditures and inter-fund transfers, that have either contributed to or caused the ongoing allocation of funds issue pertaining to the Planning Department budget.
- R18: That the property owner reimbursement plan for the Eagle Meadows Maintenance Assessment District be implemented by summer of 2012, and that past and present Eagle Meadows subdivision owners be notified by the City of Gridley with an explanation of the details of the reimbursement plan.
- R19: That in order to best serve the public, the plan for reimbursement of Eagle Meadows Maintenance Assessment District overcharged assessment fees be a product of very close coordination between the City Council, City Attorney, City Administrator and City Finance Officer.
- R20: That the City continue, and intensify, efforts to obtain an adequate response from AT&T, which will allow the City to determine a course of action to bring the outstanding AT&T bill issue to a conclusion.
- R21: That the City not address its correspondence seeking information from AT&T “To Whom it May Concern,” but instead address correspondence to a specific named point of contact.

- R22: That the City establish a General Fund reserve for contingencies with a goal of containing and maintaining not less than an amount which would cover contingency cost expectations based upon previous annual General Fund expenditures.
- R23: That the City Administrator establish and implement procedures that will inform City staff of reasons for inter-fund transfers and changes in budget allocations as they occur.
- R24: That department heads and Finance Department staff receive additional MOMS training.
- R25: That prior to providing utility connections and services to businesses, the City properly formalize all connections and services agreements, and create and enter the proper billing codes into the City financial management system.
- R26: That the City identify, evaluate and apply available alternative funding sources to offset RDA funding losses.
- R27: That the City install a technologically appropriate and efficient sludge flow measuring/monitoring unit with backup at the juncture of the City's sewer system waste water intake point and the waste water outlet point of any party suspected of discharging sludge into the City sewer system.
- R28: That in the event the City determines the offending party responsible for excessive sludge discharge into the City sewer system, the City seek full reimbursement of all costs incurred by the City.
- R29: That the Gridley BID continue to pursue reinstatement of its corporate status with the Office of the California Secretary of State.
- R30: That the Gridley BID expeditiously submit a request to the Internal Revenue Service for a copy of the letter or document which grants the Gridley Business Improvement District non-profit status in compliance with section 501(c)(6) of the United States Internal Revenue Code.
- R31: That as long as the Mayor of the City of Gridley is concurrently serving as both Mayor and as the paid/salaried Executive Director of the Gridley BID, the Mayor avoid all proceedings, actions and decisions relating to interface between the City and the Gridley BID.

REQUEST FOR RESPONSES

Pursuant to Penal Code sections 933 and 933.05, the Grand Jury request responses as follows:

City of Gridley City Council
Gridley City Administrator

A response to Finding F27 and Recommendations R29, R30 and R 31 only, from the following:

Gridley Business Improvement District

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

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

BIBLIOGRAPHY

City of Gridley Organization Chart

City of Gridley Personnel Rules (not approved by City Council, but used by the City)

City of Gridley Records Retention Policy for City Administration (not approved by City Council, but used by the City)

2011-2012 Gridley City Council minutes

2011-2012 Gridley Redevelopment Agency minutes

City of Gridley 2010-2011 and 2011-2012 Fiscal Year Budgets

City of Gridley Contracts negotiated from January 2011 thru April 2012

United States Code (U.S.C.), sections 5121 - 5207

United States Code of Federal Regulations, sections 206.200 - 206.253

United States Internal Revenue Code section 501(c)(6)

California Government Code sections:

1090-1091

19992.8-19992.14

34090-34095

36500-36550

36621-36628.5

36700-36703

54950-54963

60200-60204

Gridley Municipal Code (Gridley, CA Code of Ordinances):

Section 1.09 et seq.

Section 2.03 et seq.

City of Gridley 2030 General Plan
USDA Bid and Approval documents
FEMA Grant documents
City of Gridley Engineer Reports
City of Gridley Resolutions
Articles of Incorporation of Gridley Business Improvement District
Gridley Business Improvement District membership list

APPENDICES

Appendix A

City of Gridley Resolution No. 2011-R-045, Regular City Council Meeting, 7:00 P.M.,
November 21, 2011

Appendix B

Copy of Written Agreement page 10, City of Gridley Mayor's signature

Appendix C

Copy of Check No. 071838

Appendix D

Copy of Additional AT&T Billing Amount

Appendix E

City of Gridley letter to AT&T, dated June 21, 2011

Appendix F

City of Gridley Resolution No. 2011-R-045, Regular City Council Meeting Agenda,
Item 9. "...Bid for Sludge Dredging..." Regular City Council Meeting, 7:00 P.M.,
November 7, 2011

APPENDIX A

City of Gridley Resolution No. 2011-R-045, Regular City Council Meeting, 7:00 P.M.,
November 21, 2011

MAINTENANCE INSTALLMENT LEVIED ON ASSESSMENT DISTRICT NO. 2
FROM BUTTE COUNTY 2011-12 TAX ROLL"

Administrator Hickey stated that he recently requested the Finance department perform a review of the Eagle Meadows assessment district. The Finance Director informed him that there is a surplus of \$128,521. As history, it appears that the first three years that the City collected assessments, there was nothing charged off to those funds. Typically a subdivision comes in and the intent is to put in the infrastructure, the parks, etc. This maintenance district was established around 2004-2005 and in 2006, the housing market dropped. The assessments were figured based upon the improvements going in rather quickly, or at least within a couple years, and not taking this long. During the first several years, there were no funds expended, so the funds accumulated. To correct this, approval of this resolution will allow the City to go back to the County and pull back the second assessment, which would be about \$250 per parcel. With the new park now in and seeded, it will be operational by spring. The City needs to determine between now and summertime, the cost of maintaining the park. It would be reasonable to review the cost around June/July and determine if there is any excess being assessed. If so, that amount would be subtracted from the next assessment. At that point, we should be back to where we need to be in accordance with the resolution.

Motion to approve Resolution No. 2011-R-045 made by Vice Mayor Garner, seconded by Councilman Boeger

ROLL CALL VOTE

Ayes: Garner, Boeger, Mota, Fichter

Motion passed, 4-0

APPENDIX B

Copy of Written Agreement page 10 City of Gridley Mayor's signature

I. Attorney's Fees.

If any action is brought to adjudicate the rights granted in this Agreement or to enforce any of the terms of this Agreement, the prevailing party shall be entitled to an award of reasonable attorney's fees in an amount to be determined by a court or a tribunal of competent jurisdiction.

The duly authorized representatives of Applicant and AT&T have executed this Agreement by affixing their signatures on the dates indicated below.

By: 
Printed Name: Jersey Ann Eubank
Title: Mayor
Date Signed: July 24, 2008

PACIFIC BELL TELEPHONE COMPANY
By: _____
Printed Name: M. P. Addiego
Title: Area Manager, Sierra C&E
Date Signed: _____

APPENDIX D
Copy of Additional AT&T Billing Amount



CITY OF GRIDLEY
BRAD WILKIE
985 KENTUCKY STREET
GRIDLEY CA 95948

Page 1 of 2
Account Number 816 100-9136 036 6
Billing Date Feb 23, 2010
Web Site att.com

Monthly Statement

Bill-At-A-Glance

Previous Bill		.00
Payment		.00
Adjustments		.00
Balance		.00
Current Charges	135,228.32	
Total Amount Due	\$135,228.32	
Amount Due in Full By	Mar 22, 2010	
FINAL BILL		

Billing Summary

Questions? Visit att.com	Page	
Plans and Services	1	135,228.32
Payment Arrangements	1 888 827-3237	
Total Current Charges		135,228.32

Plans and Services

Additions and Changes to Service

This section of your bill reflects charges and credits resulting from account activity

Item No.	Description	Quantity	Monthly Rate	Amount Billed
Activity on Feb 19, 2010				
1	CONTACT BRAD WILKIE 530-846-5695 BILLING THROUGH JAN 2010 PROJECT 5942332	1		.00
2	REIMBURSEMENT OF AT&T MATERIAL AND LABOR COSTS ASSOCIATED WITH THE AERIAL TO UNDERGROUND CONVERSION AND THE RELOCATION OF AERIAL FACILITIES ON AND ADJACENT TO HIGHWAY 99 FROM MAGNOLIA STREET TO STANDISH LANE	1		191,050.32
3	ADJACENT TO HIGHWAY 99 FROM MAGNOLIA STREET TO STANDISH LANE	1		.00
4	PRE-PAYMENT	1		55,831.00CR
Total Additions and Changes to Service				135,228.32

Taxes

5 Federal	.00
6 State and Local	.00
Total Taxes	.00

Total Plans and Services 135,228.32

News You Can Use

MUNICIPAL CHARGES

Beginning November 1, 2009, you may have seen increases in the amount of Special Municipal Charges billed on your account. We wish to clarify that the "Special Municipal Charge to cover settlement paid to municipalities for past gross receipts taxes imposed" was to recover a one-time charge to AT&T, but the recovery of that charge from customers is being spread out over time to minimize customer impact. That charge will remain in effect until the past tax payments to your municipality have been fully recovered. Missouri law and company tariffs authorize phone companies to pass through government charges and assessments to customers. Should you have any questions please call 1 800 559 7928.

News You Can Use Summary

- MUNICIPAL CHARGES
- AT&T CREDIT CARD
- SMB PHONE SYSTEM
- COLLECTION POLICY
- EREPAIR

APPENDIX E

City of Gridley letter to AT&T, dated June 21, 2011



City of
Gridley

685 Kentucky Street

Gridley, CA 95948

June 21, 2011

AT&T
PO Box 90246
Arlington, TX 76004

Re: Dispute of Amount Due on Account Number 816-10D-9136 036 6

To Whom It May Concern,

I have and continue to vehemently dispute the bill of \$131,899.32! Since I first became aware of this amount, I have called your 1-888-827-3237 telephone number to dispute this charge as it clearly is in error and little or no substantiation has been provided as I have requested.

By way of background, on July 21, 2008, the City entered into an agreement with AT&T regarding the undergrounding of certain utilities. The experienced and knowledgeable technicians and engineers for AT&T determined the cost to be an estimated \$55,831— an amount that was promptly paid by the City (check # 071838) on July 25, 2008. The work was then accomplished. Nothing unusual or out of the ordinary was noted in the accomplishing of the work in question. The City then received a bill on February 23, 2010, for an ADDITIONAL ONE HUNDRED THIRTY-FIVE THOUSAND TWO HUNDRED TWENTY-EIGHT DOLLARS AND THIRTY-TWO CENTS (\$135,228.32)! I have attempted, to no avail, to get documentation and rationale to support this additional billing. I have to wonder what happened that AT&T went from a \$55,281 cost estimate to \$191,059! And I should add that the City was not made aware of this until we received the final, one-page bill in February 2010.

As I have stated, despite my requests for some justification for this outrageous bill, I have been unable to get a complete accounting and rationale for the entire amount billed to the City. I need to know how AT&T erred on their estimation so badly as to justify this outrageous amount after the fact and why they did not communicate any issues or concerns during the project that would justify any increase let alone this amount. Without adequate documentation addressing the above points, the City cannot accept this invoice and vigorously disputes this bill.

Very truly yours,

Rob Hickey
City Administrator

Cc: AT&T
P.O. Box 5001
Carol Stream, IL 60197-5001

APPENDIX F

City of Gridley Resolution No. 2011-R-045, Regular City Council Meeting Agenda, Item 9.
“...Bid for Sludge Dredging...” Regular City Council Meeting, 7:00 P.M., November 7, 2011

- ★ 9. Council discussion and action regarding award of bid for sludge dredging of the wastewater plant polishing (finishing) pond

Administrator Hickey stated that this past summer, staff noticed an unexpected accumulation of sludge in the finishing pond at the waste water treatment plant. We are working to identify the cause, remedy the situation and minimize the possibility of it happening in the future. HydroScience, the engineering firm, has suggested we have the accumulated sludge removed. A notice for separate sealed bids was published with two responses received; Delta Oilfield Services, Inc. in the amount of \$79,270 and Synagro – WWT, Inc. for \$84, 228. Delta Oilfield faxed and emailed their bid to the City and was deemed “non-responsive” because it was not sealed as required. Synagro’s was received sealed and deemed “responsive”. This is an unexpected expense and is therefore not budgeted. Although funds are available, they need to be appropriated by Council.

With brief discussion, motion to reject Delta Oilfield as non-responsive, award bid to Synagro for a not to exceed amount of \$84, 228 and appropriate \$85, 000 for professional services into account 650-4651-3600 made by Councilman Boeger, seconded by Vice Mayor Garner

ROLL CALL VOTE

Ayes: Garner, Boeger, Mota, Fichter

Motion passed, 4-0

10. Council approval of Gridley Boat Launching Facility PG&F Contract for Electric Service

City Engineer Bruce Nash explained that the improvements taking place at the City boat launch require an extension to the electrical service. There is going to be a restroom with interior and exterior lighting, new lift station, fish cleaning station and area lights. The service would be extended from East Gridley Road down the east line of the treatment plant, then

(This page intentionally left blank.)

2011-2012 BUTTE COUNTY GRAND JURY REPORT

RECREATION AND PARK DISTRICTS

SUMMARY

The Grand Jury chose to review the smaller recreation districts within the County, most of which had not been reviewed thoroughly for many years.

This report deals with four of the recreation and park districts in Butte County:

- Paradise Recreation and Park District (PRPD)
- Durham Recreation and Park District (DRPD)
- Richvale Recreation and Park District (RRPD)
- Feather River Recreation and Park District (FRRPD)

The Grand Jury chose to report on these Recreation Districts because of the fact that three had not been reviewed for a number of years. One district, Feather River Recreation and Park District, had been reviewed in 2005-2006 & 2006-2007 but it was included because of continued complaints about its operation and because of a concern that issues raised in the earlier reports had not been satisfied.

Paradise and Durham, two of the smaller districts, were found to be well managed with boards and staff dedicated to serving the communities in which they work. Both are challenged financially because of the reduction of funding from the State. Richvale, the third district, relies on volunteers and community donations and has no staff or facilities. Feather River continues to be plagued by various issues. Decisions made in the past are the subject of concern to the public and the Grand Jury. New management will be challenged with finances and regaining the public trust.

GLOSSARY

- Assembly Bill 1234 (October, 2005) - Ethics Training for Local Officials - Set requirements for local officials (including the Boards of Park and Recreation Districts) to undergo some sort of Ethics Training. Details in Appendix A.
- CAPRI - California Association for Park and Recreation Indemnity - CAPRI is a self-insurance program that combines the resources of member districts to gain the operational base necessary to provide insurance on a volume basis while allowing flexibility in meeting the unique coverage requirements of the participants.
- CARPD - The California Association of Recreation and Park Districts is an organization representing special recreation and park districts throughout California.
- ERAF - Education Revenue Augmentation Fund - In 1992, the State began requiring a shift of property tax revenue, formerly going to special districts (and cities and counties) to meet the obligations of Proposition 98, for the funding of education.
- LAFCO – Butte Local Agency Formation Commission - A state-mandated local agency that oversees boundary changes to cities and special districts, the formation of new agencies including incorporation of new cities, and the consolidation of existing agencies. The broad

goals of the agency are to ensure the orderly formation of local government agencies, to preserve agricultural and open space lands, and to discourage urban sprawl.

- LIBOR - The LIBOR rates, which stand for London Interbank Offered Rate, are benchmark interest rates for many adjustable rate mortgages, business loans, and financial instruments traded on global financial markets.
- Proposition 1A – Under Proposition 1A of 2004, the State no longer has authority to permanently shift city, county, and special district property tax revenues to schools, or take certain other actions that affect local governments

BACKGROUND

This report deals with four recreation districts in Butte County. Three of the districts are challenged because of reductions to finances imposed by the State in past years. The fourth district, Richvale, is unique in that it relies on community donations and receives no tax revenue. Since 1992 tax revenues due to the districts have been redirected to the State of California under ERAF obligations and in the 2009-2010 State budget are subject to other losses because of the action of the State in borrowing tax revenues from local agencies. In spite of these revenue losses the districts have continued to serve their communities.

Recreation and Park and Districts have several sources of operating income. The primary source of operating income for most Recreation and Park Districts comes from property taxes, assessment fees, and impact fees. The next major source of income for Recreation and Park Districts is grant funds (governmental and private). In addition, Recreation and Park Districts receive operating income from user/service fees and other sources such as interest on bank accounts and returns on investments. Districts may also generate operating income by arranging for loans.

In recent years the funding for all special districts, including park and recreation districts has been reduced because of the serious budget shortfalls incurred by the State. Some of the State actions seriously affecting the budgets of districts are noted below:

- In 1992, the State of California found itself in a serious deficit position. To meet its obligations to fund education at specified levels under Proposition 98, the State enacted legislation that shifted partial financial responsibility for funding education to local government (cities, counties and special districts). The State did this by instructing county auditors to shift the allocation of local property tax revenues from local government to “Educational Revenue Augmentation Funds” (ERAFs), directing that specified amounts of city, county and other local agency property taxes be deposited into these funds to support schools. In fiscal 2010-11, the annual impact, statewide, of the ERAF shift is a shortstopping of some \$7.5 billion from cities, counties, special districts and the citizens those entities serve. In addition, the FY2010-11 budget includes the shift of \$350 million from redevelopment agency revenues, on top of a \$1.7 billion taking in FY2009-10. Since their inception, the ERAF shifts have deprived local governments of nearly \$97 billion. Counties have borne some 73 percent of this shift; cities have shouldered 16 percent. The local Park and Recreation districts are subject to a reduction in funding as a result of these shifts. The impact of ERAF on one of the local districts (DRPD) is shown in detail in Appendix B.

(Source for ERAF information is a fact sheet prepared by the League of California Cities Aug. 10, 2010)

- As part of the 2009/2010 California State budget package, the State suspended the provisions of Proposition 1A passed in 2004. Suspending the effects of this proposition enabled the State to borrow 8% of property tax revenue raised from local county, city and special districts. The State is required to repay this borrowing plus interest by June 30, 2013. The local Recreation and Park Districts were subject to a reduction in funding as a result of this borrowing and the State has not yet repaid this loan.

Another of the sources of revenue for Recreation and Park Districts is in the form of grants. Grants are usually applied for and received for special projects. Many of these grants come from the State, usually from sources of money dedicated to a specific purpose. As the State becomes more and more strapped for cash, money from grants is less available. Grants from private sources are available but cannot be relied on as a regular source of income.

As funding from other sources has become limited, the Recreation and Park Districts have been forced to increase fees for their programs and services. The Districts attempt to offer programs at a reasonable cost and have, in some cases, set up scholarship programs to enable participation in programs, especially children's programs at reduced cost or without cost.

PARADISE RECREATION AND PARK DISTRICT

APPROACH

The Grand Jury interviewed the General Manager, conducted a comprehensive tour of the Terry Ashe Recreation Center, and reviewed a number of documents and resources. A detailed list of documents is given in the Bibliography at the end of this report.

DISCUSSION

The Paradise Recreation and Park District (PRPD, or District) provides recreation services to over 41,000 residents of Paradise, Paradise Pines, Magalia, Butte Creek Canyon, and Concow areas of Butte County. PRPD was incorporated in 1948, and encompasses approximately 169 square miles. The recreation area includes 75 partially or fully developed acres and 350 acres of unimproved open space.

The Grand Jury review reveals the District uses appropriate methods to determine the need for funding, park land, recreational facilities, and recreational programming for the benefit of the community. The District has sufficient land holdings to accommodate future needs. Long term planning and negotiations have resulted in the purchase of eleven (11) new acres to be developed. This purchase is in an area that is currently not served with a park and also in a growing area of Paradise.

PRPD's Annual Marketing Report states that over 8,200 people have signed up and paid fees for program participation in the past year. This figure does not include the numbers who utilize the

local park without participating in PRPD activities. Activities are available for all ages from toddlers to seniors.

PRPD has committed partnerships with local schools and has helped fund two gymnasiums, eight tennis courts and several ball parks. It is mutually beneficial to both PRPD and the schools to share these facilities. The Town of Paradise is also an important partner with Community Block Grants and development of the Rails to Trails program.

The Paradise Recreation and Park District is in cooperative agreements with the following community organizations providing facilities and programming:

- Odyssey Production, Inc.
 - Ropes Course (over 15 year partnership with PRPD)
- Concow Swim Pool
- Paradise Unified School District
 - Paradise High School
 - All-Weather Track
 - One Lighted ballpark
 - Tennis Courts (8)
 - Pine Ridge
 - Multi-purpose facility
 - Intermediate School
 - Multi-purpose facility
- Paradise Bow Hunters
 - Archery Range
- [Paradise Horsemen's Association](#)
 - Horse Arena
- Do-It-Leisure
- Paradise Museum Memorial Park
- Paradise Little League
- Paradise Piranhas Swim Team
- Paradise Ridge Youth Soccer Club
- [Paradise Symphony Orchestra](#) – (over 50 year partnership with PRPD)
- Gold Nugget Museum
- Honey Run Covered Bridge
- Centerville School and Museum

PRPD will develop and start a program, the soccer program for example, and support it towards self-sufficiency. PRPD will often help a community group or non-profit organization take over and run a program. The District has done this with an art program and symphony as well.

Due to the reduction of available funds, the Children's Program is no longer free but there are funds available to cover the cost of participation. A Youth Program Scholarship Endowment funds forty children in the day camp program.

A seasonal activities guide covers the information on activities, registrations, facility rentals and happenings in the PRPD. Their website is easy to navigate and user friendly.

The General Manager is a long time employee who started as an intern from Chico State and has advanced to his present position. The style of management utilized by the manager contributes to the efficient and business like operation of the District. The Manager demonstrates enthusiasm and dedication.

The Grand Jury notes the following:

- PRPD belongs to California Association of Park and Recreation Insurance (CAPRI), a self-insurance program. PRPD Board members have attended training sessions provided by CAPRI. PRPD staff members have received awards from CAPRI for their attention to safety.
- PRPD is a member of the Butte County Special Districts Association. Board members and the manager have participated as members of the Executive Board. In the past, PRPD Board members have served on LAFCO.
- PRPD is a member of the California Association of Recreation and Park Districts (CARPD). Staff and board members attend the annual conference where they receive continuing education and training in the management and operation of recreation facilities and activities.
- PRPD employs a full time accountant who works with the Butte County Auditor on the District's financial matters.
- Staff and Board are well prepared for Board meetings allowing the meetings to run efficiently.
- The District has comprehensive minutes that are written in a professional manner and accurately and historically document the District's business. The minutes are "tracked" to help prevent unauthorized changes and allow for easy reference.
- Policies regarding safekeeping and destruction of documents are extensive with checks and balances. The Board approves all document destruction.

Construction and remodeling projects are ongoing. The kitchen has been renovated as well as other rooms at the Terry Ashe Recreation Center with Town support, Development Impact fees, PRPD reserves and three grants from the California Department of Parks and Recreation. The District utilizes existing staff for construction projects whenever possible. There is a new electronic sign at the District Office along with new retaining walls and landscaping.

PRPD reported Total Revenues for the fiscal year ending June 30, 2011 of \$2,847,873. For the same fiscal year PRPD reported Expenditures \$3,158,754. PRPD used \$310,881 to cover the shortage of operating income from its starting balance at the commencement of the fiscal 2010/2011 year of \$2,644,645. PRPD has no long term debt. At the end of the year PRPD carried over \$2,333,764 into the 2011/2012 fiscal year.

Finding future funding and alternative revenue sources will be a priority of PRPD. The funding challenges faced by the District include the following:

- From 1996 through 2008, PRPD lost over 4.7 million dollars in property taxes to the ERAF. This was approximately 26.16% of the District's annual revenue. The continuing impacts of ERAF will challenge the ability of park and recreation districts to maintain their infrastructure and services.
- Redevelopment grant funding has been available in the past. This fund will no longer be available and will have a further impact on the PRPD finances.

- As part of the 2009/2010 California State budget package, the State suspended the provisions of Proposition 1A, passed in 2004 and intended to protect local (county, city and special district) property tax from being taken by the state. Suspending the effects of this proposition enabled the State to borrow 8% of property tax revenue raised from various sources. The amount of this borrowing pertaining to PRPD was \$107,968.
- In addition to ERAF, Proposition 218 (revenue limitation) approved by the voters in 1996, has restricted the PRPD's ability to impose, increase, and extend taxes, assessments, and fees. Any new, increased, or extended taxes, assessments, and fees subject to the provisions of Proposition 218 require voter approval before they can be implemented. Additionally, Proposition 218 provides that these taxes, assessments, and fees are subject to the voter initiative process and may be rescinded in future years by the voters.

Current PRPD policies provide for background checks on “all prospective employees or volunteers having supervisory or disciplinary authority over minors....” **All** employees and volunteers of the PRPD may come in close proximity with minors or have contact with minors and accordingly should be fingerprinted and have background checks. The Grand Jury finds the present policy to be narrow and would like to see it broadened to include background checks on **all** employees, volunteers, and Board members.

ETHICS TRAINING

The 2010/2011 Grand Jury questionnaire asked if PRPD was in compliance with the ethics training requirements of AB 1234. (See Appendix A.) As of November 15, 2010, PRPD reported to the Grand Jury that they were in compliance.

The 2010/2011 Grand Jury's final report contained a requested response to the recommendation that PRPD *develop and adopt a plan to ensure continued compliance with the ethics training requirements of AB1234.*

Minutes of the July 12, 2011, Board Meeting reflect that PRPD Board of Directors adopted Resolution #11-07-1-372 approving the Ethics Training Plan as presented and directed staff to incorporate the plan into the PRPD Personnel Rules, Rule 22, Code of Conduct 2201 Ethical Responsibilities and the PRPD Administrative By-laws, Section 9 Code of Conduct, Code of Ethics.

Even though the District had complied, PRPD failed to make a formal response to this recommendation to the 2010/2011 Grand Jury. Thus, it is noted in the Report on Responses to the 2010-2011 Grand Jury Report that they failed to respond.

FINDINGS

- F1: PRPD does have a plan for the future with the necessary guidance allowing the Board and Manager to serve the best interest of the community.
- F2: There is a history of the PRPD initiating new activities then allowing community groups to continue them into the future. This allows for the maximum use of assets and minimization of costs.
- F3: There is a stable, working relationship between the Board and the Manager.
- F4: PRPD is a member of the California Association of Recreation and Park Districts (CARPD). Board members and staff have benefitted from attending their conferences for training, received award recognition and served as CARPD Executive Board members.
- F5: PRPD has established policies and procedures for the training, management and supervision of employees and volunteers.
- F6: PRPD has managed well in response to funding losses and State budget cuts. The District has no long term debt.
- F7: Development of new activities and park facilities is a priority for PRPD.
- F8: PRPD publications, media outreach and website enhance their ability to communicate with the public.
- F9: The present policy limits background checks to employees or volunteers having supervisory or disciplinary authority over minors. Grand Jury finds this policy to be inadequate.

RECOMMENDATIONS

- R1: That PRPD adopt a policy that **all** employees, volunteers and Board members be fingerprinted and background checked.

REQUEST FOR RESPONSES

Pursuant to Penal Code sections 933 and 933.05, the Grand Jury requests responses as follows:

Paradise Recreation and Park District Board of Directors

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

DURHAM RECREATION AND PARK DISTRICT

APPROACH

The Grand Jury interviewed the General Manager and reviewed a number of documents and resources. A detailed list of documents is given in the Bibliography at the end of this report.

DISCUSSION

The Durham Recreation and Park District (DRPD, or District) service area is located south of Chico and contains the communities of Durham, Dayton, and Nelson. The District shares boundary lines with the Chico Area Recreation District on the north and the Glenn County line on the west. The District was incorporated in 1947 to maintain the Durham Community Park. DRPD encompasses approximately 220 square miles and serves an estimated population of 6,000. The boundaries are the same as the Durham Unified School District. Its five recreation areas include 36.5 acres of fully or partially developed areas or park, a swim center, tennis courts and the Durham Memorial Hall. The District shares the Midway Park facility with the Durham School District.

Facilities within the geographic area of the DRPD, including those within the community of Durham and surrounding areas, are owned and operated by the DRPD, and other local entities such as the Butte-Glenn Community College District and the Durham Unified School District. The most prominent amenity in the Durham area is Butte Community College, which provides 234 acres of recreational land, with facilities that include sport courts and athletic fields.

Durham Community Park is a 24 acre park established when land was set aside for a community park in 1918, and since that time the park has served as the community's central meeting place. Features include a picnic and barbeque area, playgrounds, two basketball courts, horse arena and recreational building. The oak trees in the park at times can create a safety hazard. DRPD is seeking grant funds to cover the estimated \$100,000 necessary to hire an arborist.

In addition to Durham Community Park, the District facilities include:

- Dwight Brinson Swim Center
- Louis Edwards Park
- Ravekes Park
- Midway Park
- Nelson Park
- Durham Memorial Hall.

DRPD works cooperatively in partnership with Durham schools for use of many facilities. These facilities include soccer fields, court sports and 25 acres for baseball. They also have a joint use agreement for indoor facilities. Indoor facilities include two gymnasiums, two multi-purpose rooms and classrooms. DRPD has several joint-use agreements with various organizations and entities. CAL FIRE, the Sheriff's office, Enloe Hospital, and California State Parks utilize the District's pool for water rescue training. Also, the District participates in joint

programming with the Chico Area Recreation and Park District (CARD) for volleyball and basketball. An agreement between the Methodist Church in Durham and the DRPD exchanges landscaping and minor maintenance assistance for use of the Church's facilities. DRPD has additional joint-use agreements with Little League, Swim Team, and American Legion. DRPD uses interns from the Department of Recreation at California State University, Chico, for help with their activities.

The DRPD Master Plan was developed in 1992 to cover the years 1992 – 2007. The Master Plan was developed with the help of the community with a committee and a survey. The University Research Foundation and the Department of Recreation and Park management at California State University, Chico prepared the Master Plan.

DRPD belongs to California Association for Park and Recreation Insurance (CAPRI).

The DRPD website provides contact information and information on seasonal activities and events, registrations, facility rentals and happenings in the DRPD. Their website is easy to navigate and user friendly.

DRPD reported total revenues for the fiscal year ending June 30, 2010 of \$565,977. For the same fiscal year DRPD reported expenditures of \$547,434. DRPD added \$18,543 to its starting balance for fiscal year for a total carryover of approximately \$1,045,824. DRPD has no long term debt.

Finding future funding and alternative revenue sources will be a priority of DRPD. The funding challenges faced by the District include the following:

- From 1992 through 2011 DRPD lost over 2.8 million dollars of its revenue, to the ERAF – Property Tax Shift losses. (See “District Funds Lost to ERAF” Appendix B.) Annual ERAF shifts continue to impact the ability of park and recreation districts to maintain their infrastructure and services.
- As part of the 2009/2010 California State budget package, the State suspended the provisions of Proposition 1A, passed in 2004 and intended to protect local (county, city and special district) property tax from being taken by the State. Suspending the effects of this proposition enabled the State to borrow 8% of property tax revenue raised from various sources. The loan has not yet been repaid by the State.
- Proposition 218 – (revenue limitation) - approved by the voters in 1996, will restrict the DRPD's ability to impose, increase, and extend taxes, assessments, and fees. Any new, increased, or extended taxes, assessments, and fees subject to the provisions of Proposition 218 require voter approval before they can be implemented. Additionally, Proposition 218 provides that these taxes, assessments, and fees are subject to the voter initiative process and may be rescinded in future years by the voters.

Current DRPD policies state that “Volunteers will be fingerprinted when deemed necessary by the District manager.” Job descriptions are well developed and include background checks as a requirement of pre-employment. It is unclear whether or not all employees and volunteers receive a background check. **All** employees and volunteers of the DRPD may be in close proximity with minors or have contact with minors and accordingly should be fingerprinted and

have background checks. The Grand Jury finds this policy to be narrow and would like to see it broadened to include background checks on **all** employees, volunteers and Board members.

The Grand Jury notes the following:

- DRPD belongs to California Association of Park and Recreation Insurance (CAPRI), a self-insurance program. DRPD staff members have received awards from CAPRI for their attention to safety.
- DRPD is a member of the California Association of Recreation and Park Districts (CARPD). Staff and board members attend the annual conference where they receive continuing education and training in the management and operation of recreation facilities and activities.
- Board meeting packets are well prepared. Financial statements are included in the back up material for Board meetings which allows the Board to make informed decisions.
- Committee reports are included in Board packets and provide adequate financial information.
- The current manager served as a Board member before becoming the manager. The manager is knowledgeable about the funding challenges facing the DRPD.

ETHICS TRAINING

The 2010/2011 Grand Jury questionnaire asked if DRPD was in compliance with the ethics training requirements of AB 1234. As of November 15, 2010 DRPD reported back to the Grand Jury that they were in compliance.

The 2010/2011 Grand Jury's final report contained a requested response to the recommendation that DRPD *develop and adopt a plan to ensure continued compliance with the ethics training requirements of AB1234.*

DRPD failed to make a formal response to this recommendation to the 2010/2011 Grand Jury. Thus, it is noted in the Report on Responses to the 2010-2011 Grand Jury Report that they failed to respond.

The Grand Jury found that DRPD has no policy in place and has not taken action to *develop and adopt a plan to ensure continued compliance with the ethics training requirements of AB1234.*

FINDINGS

- F1: DRPD Master Plan was last updated in 1992. The DRPD needs to have a current plan for the future in order to enable the Board and Manager to serve the best interest of the community.
- F2: The use of interns from California State University, Chico, allows the DRPD to provide activities while making the best use of their financial resources.
- F3: There is a stable relationship and good communication between the Board and the current Manager.
- F4: DRPD has adopted policies and procedures for the training, management and supervision of employees and volunteers.

- F5: DRPD has a cooperative relationship with the Durham Unified School District.
- F6: DRPD has coped well with state budget cuts. The district has no outstanding loans.
- F7: DRPD media outreach and website enhance their ability to communicate.
- F8: Current DRPD policies state “Volunteers will be fingerprinted when deemed necessary by the District manager”. It is unclear whether or not all employees and volunteers receive a background check. Grand Jury finds this policy to be inadequate.
- F9: DRPD is to be commended for committee reports and easy to read financial statements provided at each Board meeting.
- F10: DRPD needs to develop and adopt a plan to ensure continued compliance with the ethics training requirements of AB1234.

RECOMMENDATIONS

- R1: That DRPD adopt a policy that **all** employees, volunteers and Board members be fingerprinted and background checked.
- R2: That DRPD develop and adopt a plan to ensure continued compliance with the ethics training requirements of AB1234.
- R3: That DRPD update their Master Plan as soon as possible.
- R4: That DRPD continue to seek funding to help with the tree trimming in Community Park and to enhance the District in other ways.

REQUEST FOR RESPONSES

Pursuant to Penal Code sections 933 and 933.05, the Grand Jury requests responses as follows:

Durham Recreation and Park District Board of Directors

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

RICHVALE RECREATION AND PARK DISTRICT

APPROACH

The Grand Jury interviewed three members of the Board of Directors and attended a board meeting. A Board member conducted a tour of the Leslie Thengvall Walking Trail at Richvale Elementary School. A number of documents and resources were reviewed. A detailed list of documents is given in the Bibliography at the end of this report.

DISCUSSION

Richvale Recreation and Park District (RRPD, or District) is generally located in southwestern Butte County, west of State Highway 99, and between the City of Biggs to the south and the unincorporated community of Durham to the north. The western boundary line is Butte Creek, which also forms the Butte County line. The District consists of approximately 36,480 acres (approximately 57 square miles) and includes the unincorporated community of Richvale.

Although the RRPD has no facilities of its own, it has historically held a long-term lease and shared-use agreement with Biggs Unified School District (BUSD) to provide recreational facilities on two acres owned by the school. The agreement did not include the exchange of funds, but consisted of the RRPD providing maintenance, specialty projects, and improvements to the facility. The lease and agreement have lapsed and, due to staffing changes at BUSD, has not yet been formally renewed. While the RRPD is working towards renewing the lease, any plans to offer more programs are on hold. The RRPD Board assured the Grand Jury that they were working to complete a new version of the lease. The Grand Jury has verified parties are close to agreeing on finalizing the terms of the lease and executing the agreement. Until this lease is renewed, the RRPD will be limited on the scope of activities they will be able to offer.

The growth of the community served by the District is presently stagnant due in part to building limitations related to lack of an effective sewage disposal system allowing for expansions. The current need for additional park space is limited, and plans to improve and expand facilities are not available. However, to address existing and future needs of the District, a long range plan should be developed with anticipation of future growth.

For the last seven years the Board has contemplated, as reflected in the minutes, and budgeted for general maintenance of the fence around the tennis courts. The Grand Jury tour found the tennis court fence to be in need of maintenance.

At the end of fiscal year 2008/2009, RRPD was reporting Total Operating Revenues of \$7,046, Total Operating Expenses of \$3,888, and Net Assets of \$89,876. As of June 30, 2009, RRPD had no debt. More current financial information was not available.

The majority of revenue received by RRPD is from donations and interest earned on accounts. An organization, the Richvale Hunting Area, Inc. (<http://RichvaleHuntingArea.com>), has been a consistent and substantial supporter of the RRPD. Richvale Hunting Area, Inc. is a California non-profit corporation formed by area farmers to benefit the Richvale community and has contributed over \$100,000 to the RRPD over the years-

Expenses for the District are primarily related to contract services for the park. Having no employees limits the District's ability to take advantage of grant funds that might be available. The Board of Directors oversees District operations. Independent contractors maintain the park. Opportunities for cost avoidance are minimal since the District has no employees and all services are performed by volunteers or by independent contractors. Opportunities to use interns would be limited. The District does not have master or capital improvements plans.

The District is governed by a five-member Board of Directors elected by the community. At the time of the first Grand Jury visit in November of 2011, two Board positions were vacant. In February, the Board of Supervisors appointed one new Board member. Agendas are posted on local bulletin boards, including the Post Office, and at the Richvale Elementary School Recreation Room. Meetings are held in the early morning at the Richvale Café where anyone interested is able to join the discussion at any time. According to the Butte County Registry, RRPD meeting dates vary. The Grand Jury is of the opinion the District should have regularly scheduled meetings.

Board records and minutes are currently maintained manually and not in accordance with any defined policy. There are no reliable historical records of past events, operations and activities of the District. The Grand Jury finds this to be contrary to good business practices for the RRPD.

Communication with the District is by cell phone. The Board President responds to messages as necessary.

ETHICS TRAINING

The 2010-2011 Grand Jury questionnaire asked if RRPD was in compliance with the ethics training requirement of AB1234. RRPD reported that they were not current with the ethics training requirements of AB1234 as of November 15, 2010, but had achieved compliance by March 15, 2011.

The 2010-2011 Grand Jury's final report contained a requested response to the recommendation that RRPD *develop and adopt a plan to ensure continued compliance with the ethics training requirements of AB1234.*

RRPD failed to make a formal response to this recommendation to the 2010-2011 Grand Jury. Thus, it is noted in the Report on Responses to the 2010-2011 Grand Jury Report that they failed to respond.

The Grand Jury found that RRPD has no policy in place and has not taken action to *develop and adopt a plan to ensure continued compliance with the ethics training requirements of AB1234.*

FINDINGS

- F1: Because it has no facilities of its own, the RRPD is limited in the services it can provide.
- F2: The lease agreement with the Biggs Unified School District needs to be finalized.
- F3: The District utilizes volunteers and community members in an efficient manner to assist the District in maintaining facilities and providing activities. Contributions made by Richvale Hunting Area, Inc., have been vital to the District's operation.
- F4: The Board should adopt a long range plan in anticipation of potential future growth.
- F5: The lack of written policies and procedures with respect to maintenance and safekeeping of District records, including minutes of board meetings, is contrary to good management procedures.
- F6: The Board has no policy for ensuring those volunteers and others who under the jurisdiction of the District come in contact with minors have been subject to an appropriate background check.
- F7: The ability for the community to communicate with the District is limited.
- F8: The District makes good use of volunteers.
- F9: The District has no set meeting date and time.

RECOMMENDATIONS

- R1: RRPD needs to develop proper written procedures, including updated bylaws, for recordkeeping, maintenance and storage of minutes and other pertinent documents.
- R2: RRPD develop and adopt a plan to ensure continued compliance with the ethics training requirements of AB1234.
- R3: Undertake a study leading to a long term Master Plan.
- R4: Complete negotiations and execute lease agreement with BUSD in a timely fashion.
- R5: RRPD adopt a policy that **all** employees, volunteers and Board members be fingerprinted and background checked.
- R6: RRPD set and maintain meeting dates and times.

REQUEST FOR RESPONSES

Pursuant to Penal Code sections 933 and 933.05, the Grand Jury requests response as follows:

Richvale Recreation and Park District Board of Directors

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

FEATHER RIVER RECREATION AND PARK DISTRICT

APPROACH

The Grand Jury interviewed two Board members, the current General Manager, and complainants. Grand Jury members attended a number of Board meetings. The Grand Jury conducted a comprehensive tour of the Gymnastics Center and reviewed a number of documents and resources. In addition, Grand Jury members conducted an unscheduled visit to the main office. The 2005-2006 and 2006-2007 Butte County Grand Jury Final Reports were reviewed. A detailed list of documents is given in the Bibliography at the end of this report.

DISCUSSION

Feather River Recreation and Park District was the subject of two previous Grand Jury reports. These reports were highly critical of the District in a number of areas. The current Grand Jury investigation found many of the same issues. This report will be concerned with only the problems of the District which were found to be the most pressing.

The Feather River Recreation and Park District (FRRPD, or District) was organized in 1951 and spans approximately 631 square miles (403,770 acres) in the southeast portion of Butte County. It is the largest recreation service provider in Butte County and serves the southeastern portion of the County, extending to the County borders to the south and east. The City of Oroville is located within the District's boundaries, and although it makes up only two percent of the land area in the FRRPD, it contains nearly 28 percent of the population served by the District. The City owns and operates its own recreation facilities and parks. There are no other incorporated communities within the District. The lands within the District, outside of the City, are rural and include the unincorporated communities of Pulga, Cherokee, Thermalito, Brush Creek, Berry Creek, Feather Falls, Palermo, Wyandotte, Hurleton, Forbestown, Clipper Mills, Rackerby, Bangor, and Honcut. FRRPD owns and maintains 117 acres of parks. Riverbend Park, consisting of 56 acres, was acquired by FRRPD with funds from the relicensing of the Oroville Dam.

District facilities include:

- Bangor Park
- Bedrock Park & Amphitheater
- Feather River Parkway
- Forbestown Park/Community Center
- Martin Luther King Park
- Gary Nolan Sports Complex
- Municipal Auditorium
- Nelson Sports Complex
- Palermo Park
- Riverbend Park
- Wyandotte Park
- Feather River Gymnastics Center

Because of FRRPD's extensive boundaries, locating facilities in outlying areas would be difficult due to maintenance feasibility issues. Therefore, reliance upon local schools, State and Federal recreation sites, and privately developed recreation areas will continue to be necessary to meet the needs.

The FRRPD strives to provide recreational programming for all ages, abilities, and cultural groups. A diverse programming schedule includes camps, after-school programming, toddler activities, youth and adult classes and sports programs, computer and dance classes, and senior leisure programs. In addition, FRRPD conducts many family-oriented and community-wide special holiday events.

FINANCE

A primary area of concern for the FRRPD is that of its financial health. FRRPD has obligated itself to the following:

- A \$1,000,000 revolving line of credit with Bank of the West dated May 2006 and maturing June 1, 2016. In January 2007 this line was revised upward to \$2,000,000. The interest rate on this loan is LIBOR - .5%. The default interest rate is 3% higher or LIBOR + 2.5%.
- A \$500,000 10 year term loan dated May 2009 with U. S Bank payable at \$15,500 per quarter on the 15th day of the last month of each quarter and maturing in May 2019. The interest rate on this loan is 4.5% fixed and the default rate 5% higher or 9.5%
- A \$350,000 ten year term loan with the City of Oroville dated August 2010. This loan is secured by a deed of trust on the Feather River Gymnastics Center. The interest rate on this loan is 5%. The Grand Jury did not see any reference to a default rate. The loan is payable at \$3,712.29 per month.
- A \$3,120,000 commercial real estate loan secured by a deed of trust on the Feather River Gymnastics Center. The interest rate on this loan is 6.5% and the default interest rate is 11.5%. This loan is repayable as follows:
 - 36 monthly payments of \$23,261.88 beginning 9-19-2010.
 - 83 monthly payments of \$42,586.21 beginning 9-19-2013
 - 1 principal payment of \$444,163.44 on due 8-19-2020.

All of the loan agreements contain covenants and conditions (positive/negative) imposed by their lenders. If any of the covenants and conditions is broken, the lender involved could declare its loan to be in default and pursue the default remedies provided in its loan agreement. The outstanding debt of the FRRPD creates some difficult and unique financial problems for the District to resolve.

FRRPD reports Total Operating Revenues of the fiscal year ending June 30, 2010, of \$3,133,573. For the same fiscal year FRRPD reported Total Liabilities of \$1,879,499. The Gymnastic Center was purchased subsequent to June 30, 2010. Currently, the total outstanding long term liabilities of FRRPD are in excess of \$4,500,000. The current budget for FRRPD estimates revenues for the current fiscal year of \$3,246,344. The current operating budget indicates estimated operating revenue for fiscal year 2011/2012 is \$3,246,344. This budget allocates 18% of the operating revenues to the payment of debt service.

Some of the past decisions have been seriously questioned by members of the public attending Board meetings and writing letters to local newspapers or to the District itself. However, the past cannot be undone. It is time for the District, with expert help, to restructure its financial position to improve its long-term financial stability-and at the same time meet the needs of the patrons of the District which it serves. The District needs expert financial advice to ensure that it can continue to meet its financial commitments, to maintain park facilities and meet obligations for ongoing operations.

Board members and the public have questioned accounting procedures. The Grand Jury is concerned when only one employee is intimately familiar with the accounting system.

MANAGEMENT

The District has taken a move forward with the hiring of the present General Manager. Since his hiring last year he has taken a number of steps with the goal of improving the operations of the District. However, the management of the District will require further expertise and assistance, particularly in the area of finance, to overcome its present challenges.

Board turmoil has been another on-going issue in the past years. A lack of trust, parties finding and expressing fault instead of focusing on solutions, and Board recall efforts have not resulted in a positive public perception. The present constituted Board must move forward, past the issues which have plagued the District.

Several years ago, the City of Oroville, as reviewed in the 2009-2010 Grand Jury report, had management and public trust issues somewhat similar to those presently being experienced by FRRPD. A goals and objectives workshop fashioned similar to the one conducted by the City of Oroville in May of 2011, would be a tool to facilitate a clear direction for this District. Reaching out to City of Oroville management and arranging for a similar workshop would be a positive step for the District. This would also be a way of building a good relationship with the City Administration.

Personnel records for the District have not been maintained to standards in accordance for best practices for such an organization. Current requirements placed on an employer having 12 or more full-time employees and more than 50 part-time employees and volunteers, for records to be maintained up to standards without the guidance of someone trained and up-to-date on regulations is nearly impossible. The over 180 laws administered by the United States Department of Labor (www.dol.gov/opa) are complex and time consuming. Even though finances are a challenge, the need to secure good human resource management advice should be a priority.

The Grand Jury reviewed several employee files. These files were kept in the General Manager's Office. The Grand Jury noted inadequacies in the files it reviewed. The employee checklist is outdated and does not properly reflect the current or required information on file for the employee. The Personnel Record Policy should provide for a procedure whereby the reviewing party signs and dates, verifying their review. Personnel records need to be reviewed by at least one authorized person other than the employee involved.

Current FRRPD hiring policies are outlined in the FRRPD Employee Handbook. Background checks are addressed in SECTION 3: SELECTION AND HIRING OF EMPLOYEES 3.2 Post-Offer, Pre-Employment Background Checks. It is unclear whether or not all employees and volunteers receive a background check. **All** employees and volunteers of the FRRPD may be in close proximity with minors or have contact with minors and accordingly should be fingerprinted and have background checks. The Grand Jury finds this policy to be narrow and would like to see it broadened to include background checks on **all** employees, volunteers and Board members.

No job descriptions were found in the policy manuals forwarded to the Grand Jury for employees or volunteers.

Complaints have been received concerning the legal costs incurred by the District. Costs have been high. However, a review of the billing records did not reveal any specific areas of concern. Citizens of the district should be aware that every time an inquiry or complaint is received, costs to the district to respond are incurred. Statements from legal counsel are properly documented as to costs. While the total cost of attorney fees is public information, the individual breakdown of costs is not public information when it involves litigation. The Board and management need to work more efficiently with legal counsel to reduce costs.

The Grand Jury found that in the past Board members have not been given adequate information in their Board packets. Months have gone by with no financial reports at Board meetings. Board members were given only the agenda for closed session with no other supporting information. Improvements have been made with respect to the information given to Board members prior to meetings. This information is vital if the Board is to be prepared, ask questions and have open communication.

In an attempt to satisfy the public and to become more publicly transparent the District website now includes approved Board minutes, budgets, agendas, and Policy and Procedure Handbooks in addition to the Summer Activity Guide, programs available, job openings, pool information and the recreation guide.

Currently, there is only one person on the staff of FRRPD with a degree in recreation. An organization of this size devoted to recreation should consider having more staff with the appropriate professional training or experience in the operation of recreation programs.

ETHICS TRAINING

The 2010/2011 Grand Jury questionnaire asked if FRRPD was in compliance with the ethics training requirements of AB 1234. FRRPD reported that they were not current with the ethics training requirements of AB1234 as of November 15, 2010, but had achieved compliance by March 15, 2011.

The 2010/2011 Grand Jury's final report contained a requested response to the recommendation that FRRPD *develop and adopt a plan to ensure continued compliance with the ethics training requirements of AB1234.*

FRRPD failed to make a formal response to this recommendation to the 2010/2011 Grand Jury. Thus, it is noted in the Report on Responses to the 2010-2011 Grand Jury Report that they failed to respond.

The Grand Jury found that FRRPD has no policy in place and has not taken action to *develop and adopt a plan to ensure continued compliance with the ethics training requirements of AB1234.*

FINDINGS

- F1: The Board and Management of FRRPD have not given proper priority to the resolution of their financial issues.
- F2: The personnel records of the District have not been properly maintained. The District needs professional help in organizing these records and making a plan so that they are maintained in the future.
- F3: The Board and management have lost the support and trust of the people of the District. The contentious interaction at some Board meetings between Board members, management and some members of the public are detrimental to the District.
- F4: The cost of legal services provided to the District has been high. These costs are driven partly by the dysfunctional nature of the proceedings which have taken place in the past.
- F5: FRRPD is working on becoming more transparent to the public through the use of their website.
- F6: No job descriptions are included in the Policy and Procedure Manual.
- F7: The Grand Jury is concerned when only one employee is fully trained in the use of the accounting system.

- F8: FRRPD has no clear policy regarding background checks for employees and volunteers.
- F9: FRRPD has not developed or adopted a plan to ensure continued compliance with the ethics training requirements of AB1234.

RECOMMENDATIONS

- R1: With the highest priority, the Board and Management must address financial issues threatening the future of the District. The District should seek and follow expert advice getting its financial affairs in order.
- R2: The District should seek professional help in setting up a plan to maintain personnel records to comply with all State and Federal laws dealing with employment.
- R3: The Board and Management must make regaining public trust a priority. Reaching out to City of Oroville management and participating in a workshop (See City of Oroville Report) might be a positive first step. Proper preparation for board meetings including the current easily read agendas, properly prepared financial documents and other pertinent information on action items is essential.
- R4: The Board and Management should review its use of legal counsel to make the best use of the financial resources available.
- R5: The District needs to establish employee and volunteer job descriptions and include them in the Policy and Procedure Manual. Descriptions should include updates on background checks required according to District policy.
- R6: FRRPD adopt a policy that **all** employees, volunteers and Board members be fingerprinted and background checked.
- R7: FRRPD develop and adopt a plan to ensure continued compliance with the ethics training requirements of AB1234.

REQUEST FOR RESPONSES

Pursuant to Penal Code sections 933 and 933.05, the Grand Jury requests responses as follows:

Feather River Recreation and Park District Board of Directors

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

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

BIBLIOGRAPHY

- 2011 Board of Directors list including position, date of election and term expiration.
- List of current employees noting their initial date of employment and job title.
- Minutes of all meetings for the past four fiscal years.
- Copy of the District's Mission Statement.
- Policy, procedure and personnel manuals applicable to the District's employees during the last four fiscal years. (Personnel Management Manual) – (if available)
- District Master Plan – (if available)
- Basic financial statements for the past four fiscal years (2007 through 2010) provided by the Butte County Auditor's office.
- Paradise Recreation and Park District website - www.paradisepdpd.com.
- Paradise Recreation and Park District Winter/Spring 2012 Activities Guide.
- Butte County website – County Registry. – [www.buttecounty.net/Clerk of the Board/Registry](http://www.buttecounty.net/Clerk_of_the_Board/Registry).
- CAPRI website - www.capri-jpa.org.
- Ethics Training website - www.fppc.ca.gov/index.
- Butte County General Plan 2030 website – www.buttegeneralplan.net.
- Butte LAFCO (Local Agency Formation Commission) Municipal Service Review/Sphere of Influence Reports (for each district) - website – www.buttelafco.org.
- Durham Recreation and Park District website - www.durhamrec.com.
- Feather River Recreation and Park District website – www.frrpd.com
- Feather River Recreation and Park District Recreation Guide Spring/Summer 2012
- California Association of Recreation and Park Districts website – www.carpd.com

APPENDICES

Appendix A

AB 1234

Appendix B

District Funds Lost to ERAF

APPENDIX A

AB 1234 - California Assembly Bill 1234 - Ethics Training for Local Officials - On October 7, 2005, the Governor signed Assembly Bill No. 1234. AB 1234 requires that if a local agency provides any type of compensation, salary, or stipend to, or reimburses the expenses of a member of its 'legislative body' (as that term is defined in California Government Code Section 54952), that local agency's officials must receive training in ethics. There are numerous training options, including training conducted by commercial organizations, nonprofits, or even an agency's own legal counsel. In addition, interested parties have collaborated to create an on-line training program that will allow local officials to satisfy the requirements of AB 1234 on a cost-free basis. The training may be accessed at www.fppc.ca.gov/index and at the end of the training a certification of completion must be printed. The free online training offered is a self-serve training program. It is the participant's obligation to print a certificate and provide it to the appropriate agency.

APPENDIX B
District Funds Lost to ERAF

DURHAM RECREATION AND PARKS DISTRICT FUNDS LOST TO EDUCATION REVENUE AUGMENTATION FUND (ERAF)				
Provided by the Durham Recreation and Parks District				
Year	1% of Taxes	Amount Withheld	Additional Amount Withheld	Amount Returned
92-93		\$21,608.00		
93-94	\$235,615.96	\$96,329.00		
94-95	\$261,165.37	\$106,775.00		
95-96	\$269,583.98	\$110,235.00		
96-97	\$277,637.14	\$114,884.00		
97-98	\$294,686.01	\$122,886.00		
98-99	\$303,571.04	\$127,160.00		
99-00	\$326,107.85	\$131,635.28		\$9,606.37
00-01	\$322,674.36	\$134,863.90		
01-02	\$325,411.61	\$137,963.07		
02-03	\$345,085.90	\$145,796.06		
03-04	\$587,200.26	\$157,510.04		
04-05	\$405,874.21	\$171,231.68	\$20,150.20	
05-06	\$438,062.73	\$184,911.38	\$20,150.20	
06-07	\$476,097.85	\$200,332.98		
07-08	\$513,277.89	\$214,810.24		
08-09	\$538,171.17	\$225,224.63		
09-10		\$234,438.14		
10-11		\$238,444.93		
	\$5,920,223.33	\$2,877,039.33	\$40,300.40	\$9,606.37

The information in this table was supplied by the DRPD Manager. This information has been kept for the past 19 years on a bulletin board in the District office showing the current and cumulative totals of the funds taken from the District. The first column is the fiscal year. The second column denotes the 1% from County property taxes that DRPD should have received each year. The third column indicates the amounts withheld for ERAF each year by the State, which DRPD was entitled. The fourth column shows additional amounts withheld in those years for ERAF. The last column notes the only funds reimbursed under ERAF.