

*Calaveras County 2012-2013 Grand Jury  
Final Report*



On the Cover  
are  
Wild California Bush Lupins

Photographer  
Patricia Kindlosson Enloe

Member of 2012-2013  
Calaveras County Grand Jury

# CALAVERAS COUNTY GRAND JURY

BOX 1414  
SAN ANDREAS, CALIFORNIA 95249

June 5, 2013

The Honorable John E. Martin  
Calaveras County Superior Court  
891 Mountain Ranch Road  
San Andreas, CA 95249

Dear Judge Martin:

The 2012-2013 Civil Grand Jury, in accordance with Penal Code Section 933(a), respectfully submits its Final Report to the Calaveras County Superior Court.

This jury has gone about its work enthusiastically, with good humor and an amazing ability to support each other through many unexpected difficulties. Some have been specific to their tasks as Jurors while others were personal. It has been a unique experience for us all. 19 diverse Calaveras County individuals, chosen by lottery, have become colleagues, investigators, report writers and friends all in the space of one year.

This could not have been accomplished without the help of our County's elected and appointed officials. To those officials who spent many hours helping us with our work, Janis Elliot, County Counsel and Barbara Yook, District Attorney, we would like to say a special thank you. They were both counselors and teachers. We want to thank Karen Osborn and the staff in County Administration who kept us off of all the complex logistical rocks, as well as the staff in the Superior Court who helped us remain clear of the legal ones.

It has been my honor and privilege to serve as Foreperson to this Jury, and I want to thank all the jurors who made my job not only possible, but also fun, and very rewarding. To those of you who hardly complained at all as you took on extra work, or continued to return to the task during especially difficult times in your lives, I'm proud to have been a part of your jury.

I want to sincerely thank you, Judge Martin, for the guidance, support and courtesy extended to us, the Grand Jury, and to me as foreperson during our term of service.

Sincerely

A handwritten signature in cursive script, reading "Nancy Barton". The signature is written in black ink on a white background.

Nancy Barton, Foreperson  
Calaveras County Grand Jury

**FILED**

JUN 13 2013

Clerk of the Court  
Superior Court of California  
County of Calaveras

By: *[Signature]*, Deputy

2012-2013 **CALAVERAS COUNTY GRAND JURY**

**FINAL REPORT**

The 2012-2013 Calaveras County Grand Jury approved this Final Report

S/: *Nancy Barton*  
Nancy Barton, FOREPERSON

Date: JUNE 12, 2013

I accept this Grand Jury Report for the year 2012- 2013 for filing and certify that it complies with Title V of the California Penal Code.

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

Date: JUNE 13, 2013

Any persons interested in receiving a copy of this 2012-2013 Grand Jury Final Report may do so by contacting the Calaveras County Administrative Office. A copy of the Final Report is available for viewing at the main Calaveras County Library in San Andreas and at all County branch libraries.

The Final Report will be available to the public on June 29, 2013 via the local newspaper with the largest distribution in Calaveras County and will be published on the Grand Jury website:

<http://www.co.calaveras.ca.us/cc/Departments/GrandJury.aspx>

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## **GRAND JURY INFORMATION**

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

A Grand Jury is a judicial body composed of a set number of citizens. Ancient Greece exhibited the earliest concepts of the Grand Jury System. Another reference can be found during the Norman conquest of England in 1066. There is evidence that the courts of that time summoned a body of sworn neighbors to present crimes which had come to their knowledge. In 1066 the Assize of Clarendon appears to be the beginning of the true Grand Jury system. At that time juries were established in two types: Civil and Criminal. Toward the end of the United States Colonial Period, the Grand Jury became an important adjunct of government: Proposing new laws, protesting abuses in government, and influencing authority in their power to determine who should and should not face trial. Originally, the Constitution of the United States made no provisions for a Grand Jury. The Fifth Amendment, ratified in 1791, added this protection.

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

The California Constitution, Article 1, Section 23, states, "One or more Grand Juries shall be drawn and summoned once a year in each County." In California every county has a civil Grand Jury. Criminal Grand Juries are seated as necessary.

A civil Grand Jury's function is to inquire into and review the conduct of county government and special districts. The Grand Jury system in California is unusual in that Federal and County Grand Juries in most states are concerned solely with criminal indictments and have no civil responsibilities.

Grand~ Jurors are citizens of all ages and different walks of life bringing their unique personalities and abilities. Grand Jurors are selected from the Department of Motor Vehicles and Voter Registration files. In some counties citizens may request to be on the Grand Jury. Jurors spend many hours researching; reading, and attending meetings to monitor county government, special districts, and overseeing appointed and elected officials.

A final report is created after many hours of fact-finding investigations conducted by the Grand Jury. This report can disclose inefficiency, unfairness, wrongdoings, and violations of public law and regulations in local governments. The report can also recognize positive aspects of local government and provide information to the public. The Grand Jury makes recommendations for change, requests responses, and follows up on responses to ensure more efficient and lawful operation of government.

### **CALAVERAS COUNTY GRAND JURY**

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

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

### **RESPONSIBILITIES OF THE GRAND JURY**

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

The Grand Jury is authorized to inspect and audit the books, records, and financial expenditures of all agencies and departments under its jurisdiction, including special districts and non-profit agencies, to ensure funds are

properly accounted for and legally spent. In Calaveras County the Grand Jury must recommend an independent Certified Public Accountant to audit the financial condition of the County.

### **RESPONSE TO CITIZEN COMPLAINTS**

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

The Grand Jury investigates the operations of governmental agencies, charges of wrongdoing within public agencies, and the performance of unlawful acts by public officials. The Grand Jury cannot investigate disputes between private parties nor any matters in litigation.

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

### **FINAL REPORT**

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

<http://calaverasgov.us/Departments/AG/GrandJury.aspx>

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

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

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

A Citizen's Complaint Form may be requested by calling 209-754-5860. The form is also available at all county libraries and for download on the Grand Jury website at

<http://calaverasgov.us/Departments/AG/GrandJury.aspx>

Completed forms may be mailed to the above address or faxed to the Grand Jury at 209-754-9047.

## **MEMBERS OF THE 2012-2013 CALAVERAS COUNTY GRAND JURY**

**Nancy Barton, Foreperson**  
**Marcy Crawford, Foreperson Pro Tem**  
**Marianne Schurawel, Recording Secretary**  
**Monique Johnson-Wolfe, Correspondence Secretary**  
**John Darroch, Sergeant-at-Arms**

<b>Fred Arbogast</b>	<b>Patricia Enloe</b>	<b>Pete Snow</b>
<b>Lawrence Barretto</b>	<b>Sonia Gomez</b>	<b>David Traynor</b>
<b>Ron Braidman</b>	<b>Jim LeRoy</b>	<b>Ann Wathen</b>
<b>Joyce E. Dunham</b>	<b>Scott Short</b>	<b>Kris Wilmot</b>
	<b>Terry Smith</b>	

## 1. ASSEMBLY BILL 109 AND THE COMMUNITY CORRECTIONS PARTNERSHIP

### REASON FOR INVESTIGATION

Pursuant to Penal Code Section 925 which states in part "...investigations may be conducted on some selective basis each year." the Grand Jury decided to investigate how Calaveras County's Community Corrections Partnership Committee is functioning under the new Assembly Bill 109.

### GLOSSARY

**AB 109** - - - - - **Assembly Bill 109** (see Appendix A)

**BI** - - - - - **Behavioral Intervention Incorporated**

**BOS**                    **Board of Supervisors**

**BROWN ACT** - - - - - Also referred to as the "open meeting law" which guarantees the public's right to attend and participate in meetings of local legislative bodies.

**CCP** - - - - - **Community Corrections Partnership**, a committee mandated by Assembly Bill 2031, which amends Penal Code 1230, 1230.1 and 6025 created to build a county implementation plan for the new law.

**COURAGE TO CHANGE** - - - One of the "evidence based" programs used in the Calaveras County Probation Department.

**CPOC** - - - - - **Chief Probation Officers of California**

**CPO** - - - - - **Chief Probation Officer**

**CRIMINOGENIC NEEDS** - The factors influencing areas of offender's current behavior, values, and attitudes which can be changed.

**DPO** - - - - - **Deputy Probation Officer**

**DRC** - - - - - **Day Reporting Center**, the location offender's will report to on a scheduled basis for activities such as drug testing, behavioral counseling and other services.

**EMP** - - - - - **Electronic Monitoring Program**, the use of an ankle bracelet which records the location and in some cases the consumption of alcoholic beverages by the offender wearing it.

**"EVIDENCE BASED PROGRAMS"** - - - - - Programs that can show evidence of accountability and effectiveness in a quantitative way.

**NON-NON-NON** - - - "non-serious, non-violent, non-sex" offender's referred to in AB 109

**PRCS** - - - - - **Post-Release Community Supervision**, a term specifying not only the "offenders" who are returning from state prison but also a descriptive phrase for the separate programming designed to help these individuals *not* re-offend.

**2011 PUBLIC SAFETY REALIGNMENT** - - - - - A descriptive phrase referring to AB 109 and subsequent amending legislation collectively.

**PSRP** - - - - - **Public Safety Realignment Plan**, the official term for the county plan for implementation of AB 109, required by the state.

**RECIDIVISM** - - - - - The act of repeating an undesirable behavior, it is also used to refer to the percentage of former prisoners who are rearrested.

*The definition of recidivism accepted by the Chief Probation Officers of California (CPOC) is the percentage of **new convictions, not rearrests**. Specifically this refers to the population of former state prisoners being returned to counties under AB 109.*

**ROBERT'S RULES OF ORDER** - - - - - A book which defines the most commonly adopted parliamentary procedures for the running of a deliberative assembly.

**SCRAM** - - - - - An ankle monitor that registers alcohol in the offender's system

**SB** - - - - - **Senate Bill**

**SO** **Sheriff's Office**

**SUPERVISING AGENCY for PRCS** - - - - - The Probation Department petitioned the Board of Supervisors to be named the sole "Supervising Agency" for the PRCS population.

**SWORN OFFICER** - - - - - Within a Law Enforcement agency this refers to someone with the power to arrest, not a civilian

**TERMS AND CONDITIONS** - - - - - A label used to describe the specific, limiting, and individual requirements for behavior imposed upon an offender when he is placed on Probation. (This is in reference specifically to the PRCS population.)

**BACKGROUND**

Assembly Bill 109 (AB 109) is the cornerstone of California's solution for reducing the number of inmates in the state's 33 prisons to 137.5 % of design capacity by June 27, 2013, as ordered by the Three-Judge Court and affirmed by the U.S. Supreme Court.

AB 109 and amending legislation which followed is collectively being called the "2011 Realignment Legislation Addressing Public Safety" or just "Realignment". It was hoped that this Bill would alleviate state prison over crowding by altering both sentencing and post-prison supervision for the, "non-serious, non-violent, non-sex" (**non-non-non**) offenses and offenders. This legislation affects two major groups. First, offenders convicted of qualifying felonies are now incarcerated in county jails instead of in state prisons. Second, and perhaps more importantly, released felons who previously have been placed on state parole but now qualify as so-called, "non-non-non" offenders are returned to the supervision of county probation departments under, "Post Release Community Supervision" ("PRCS")

*Additional information on the definition of the "non-non-non" offender is notable. This classification, as practiced, only refers to the offender's **most recent offense**. As Implemented, past felony convictions, regardless of severity, are not considered. (Penal Code 17.5) (see Appendix A)*

Public safety was a major concern for the state in designing this new bill, hence the name, “Public Safety Realignment”. The state put another condition on counties who received state funding through this bill. While keeping the public safe, the county must offer evidence-based programming as part of the PRCS. Programs that are designed to change an offender's outlook, approaches, and skills thereby reducing the probability that he will re-offend. In designing AB 109 the State of California linked state funding with a reduction in the percentage of new offenses. If offenses go up, funding will go down.

### **CREATING THE COMMUNITY CORRECTIONS PARTNERSHIP (CCP)**

In 2009 the California Community Corrections Incentives Act, (SB 678) in preparation for AB 109, established a Community Corrections Partnership (CCP) in each county. Penal Code 1230 specified that its Executive Committee (**each member having an equal vote**) was to be comprised of:

- **Chief Probation Officer** (mandated to be the committee chair)
- **Chief of Police** (Calaveras County has only one incorporated city, Angels Camp, therefore this county only has one Police Department.)
- **Sheriff**
- **District Attorney**
- **Public Defender** (In Calaveras County this is a contracted position)
- **Presiding Judge of the Superior Court** (or his or her designee)
- **A representative from either the County Department of Social Services, Mental Health, or Alcohol and Substance Abuse Programs, as appointed by the County Board of Supervisors.**

As an initial step the CCP of each county was first required to create a county plan. This would specify how the county intended to implement the new law. Bringing together probation, law enforcement, social services, behavioral health and other agencies was intended to keep the plan balanced, with respect to the twin goals of protecting the public and rehabilitating the offender.

While many counties within the state began to convene their CCP and devise their “county plans” in 2009, Calaveras County did not. On June 17, 2011, Calaveras County held its first CCP meeting.

Initially these meetings were cooperative, dignified and unstructured. No procedural rules or contingency protocols were decided upon by the voting members during that first or subsequent meetings. Procedural rules might cover situations such as: managing disagreements should they arise or if one of the voting members wished to name a designee to vote in his absence.

No standard meeting protocol was followed, such as “Robert's Rules of Order”. Agendas were minimal and not detailed. Initially, limited compliance was paid to the Brown Act (the “**open meeting law**”) although they are now appear to be diligent about compliance.

Minutes of those early meetings were complete, listing attending members, recording fairly accurately the essence of each meeting. The minutes were then amended and approved by the CCP at the following meeting. Gradually as the year progressed, meeting minutes became less complete leaving the record of previous meetings vague. The minutes did not clearly reflect the essence of business that had been concluded. Sometimes minutes were not amended or approved for several months at a time, due either to a lack of preparation or the lack of voting majority to approve them. Later, audio recordings were made of each meeting, intending that transcription would be completed at a later date. Some of the CCP meetings have never been transcribed so they have still not been approved by a committee vote.

Much time was lost rehashing issues from previous meetings and arguing over funding, philosophical differences, or points of view. Some meetings saw a deterioration of respectful behavior to the level of open hostility, raised voices, and a comment by a department head who is also on the Executive Committee, "It's my way or the highway". Finally, a facilitator was hired to run the meetings and help design a county plan. Meetings became more organized under her supervision. A county plan was drafted for the CCP fulfilling the facilitator's job. She was paid \$25,000. Then the facilitator left.

Without a facilitator, disorganization and upheaval returned to the meetings. There were still disagreements on elements within the plan but time was so short by now that the committee voted to accept the plan as written and perhaps make changes down the road. On April 13, 2012, the Board of Supervisors was presented with and passed the Calaveras County 2011/2012 Public Safety Realignment, Preliminary Plan. Calaveras County was one of the last counties in California to do so.

***Broadly, the Calaveras County Plan specifies three general components:***

**LAW ENFORCEMENT** One change for law enforcement Law Enforcement is housing a Sheriff's Deputy at the Probation Department to support field supervision of the PRCS offenders. The deputy also serves as liaison between Probation, the Sheriff's Office and the Angels Camp Police Department. The County Plan outlines programs to help the PRCS offenders transition from the jail setting to the programs they will receive outside of jail through Probation. Law Enforcement is to meet with the other members of the CCP to help create "Terms and Conditions" which will govern each offender's probation. The plan does not specify any new programs or additional personnel to aid Law Enforcement with protecting the public.

**PROBATION DEPARTMENT** Once the offender arrives back in the county from state prison, they will report to the Probation Department where he will be fitted with an Electronic Monitor for 30 days. Then evidence-based Programming such as the Courage to Change program, drug testing, counseling and regular meetings with Probation Officers (PO's) will be part of the plan. These services will be provided for the offender in a "one-stop-shop" called the Day Reporting Center (DRC).

The "***Courage to Change***" program is designed to change an offender's outlook, approaches and skills thereby reducing the probability that he will re offend.

**MEASURES AND OUTCOMES** The Calaveras County Plan states, on page 10, "***During the first three months of the Plan's implementation, the CCP will meet on a bi-weekly basis to review progress, identify and resolve implementation challenges, disseminate best practices, and make recommendations for modifications to the Plan and approach.***" This plan, intends that the first year be spent measuring its success in reaching process goals:

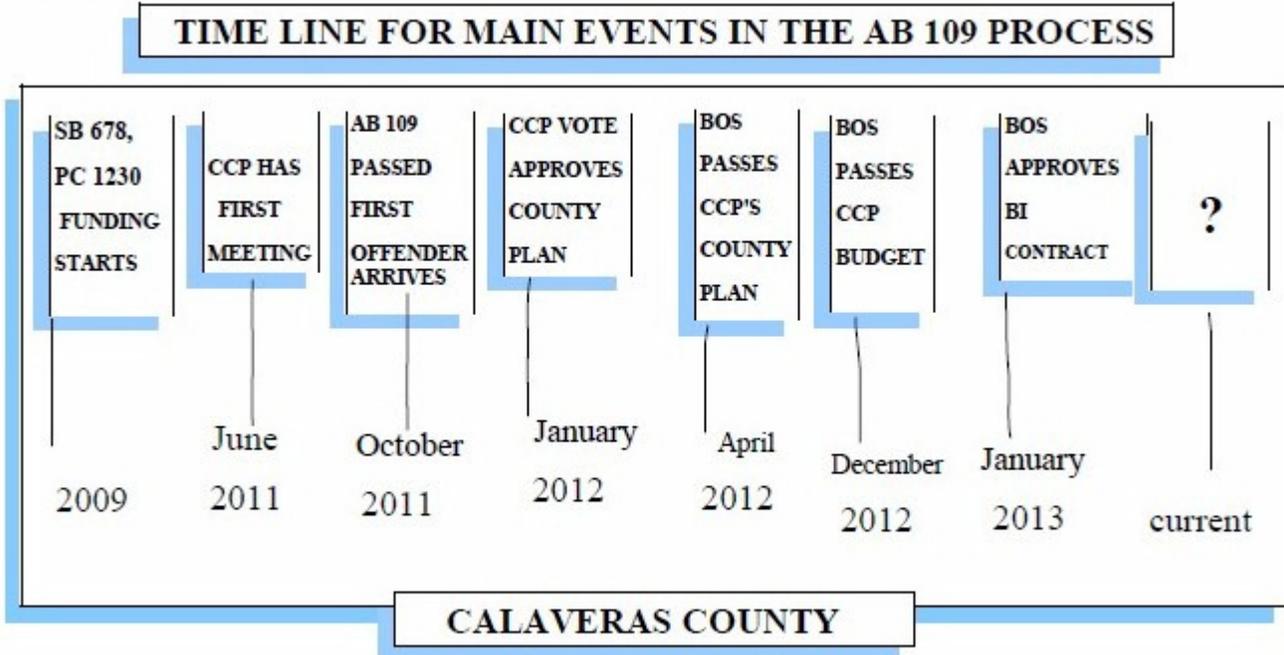
- Hiring staff
- Training staff
- Implementation of curriculum
- Developing tracking methods
- Conducting community outreach

The CCP is encouraged, in the County Plan, to share all information in the interest of program improvement.

After completion of the county plan the next step was to locate a likely building to serve as the Day Reporting Center (DRC). PRCS offenders would report to this location for their programs. After months of evaluating locations an existing building in Calaveras County Government Center was settled upon. At the same time CCP meetings were trying to deal with budget issues.

Budget issues created more hostility between committee members.

Needing a neutral facilitator, and more expertise with drafting budgets that would meet the state's requirements, the CCP decided to hire an Administrative Analyst. Her office was placed in the Probation Department instead of a neutral environment. This analyst was instrumental in the completion of a budget which was presented to the Board of Supervisors just before the new year 2013. A company called Behavioral Interventions (BI) was hired to run the DRC on a day to day basis.



### WHERE THE COUNTY IS NOW

The first offender arrived 6 months before the Plan itself was approved by the Board of Supervisors (BOS). By the time the BOS had passed the budget and the contract with BI the PRCS offender population had been in Calaveras County for 1 year and 3 months. The County Plan was not being followed during this time because the CCP was still working on the plan, the budget, the BI contract and trying to find a facility suitable for a DRC.

Some problems facing the CCP:

- Currently a CCP meeting is held to discuss the “Terms and Conditions” for each offender prior to release from State Prison. The Calaveras County Plan calls for information sharing meetings to be held once a month to discuss the status of each individual within the program. This is a meeting intended for partners to become aware of how each offender is progressing and to assure that no offender falls through the cracks. A meeting such as this is paramount to public safety.
- Every PRCS offender is fitted with an Electronic Monitor (EM) upon returning to Calaveras County after release from state prison. It is intended for this monitor to remain on for the first 30 days of supervision. Several Deputy Probation Officers (DPOs) explained to the Grand Jury during interviews that this Electronic Monitoring was largely to see where the PRCS offender “settles out”. However, the meaning of that term was never defined in any concrete way. It is unclear what the benefits of the monitoring are if the offender lives out of cell phone range, chooses not to keep the EM charged, or if the offender removes the monitor. The Grand Jury was told that self removal of the monitor was considered a **technical violation** which would result in the offender receiving a verbal reprimand, or an essay writing assignment. (Both results were explained to the Grand Jury as examples of evidence-based practice.) When an offender removes an electronic monitor a compliance search may be

scheduled at the discretion of the Chief Probation Officer. That search is then scheduled for a time when the Law Enforcement team is available to provide safety support for Probation Staff. However, the Law Enforcement teams are not always notified by the Probation Department when an offender removes their own monitor.

- During interviews with CCP participants the Grand Jury was made aware of incidents such as a sworn member of a county department requested evidence from the Sheriff's evidence room during off hours without following proper procedures. When this situation was brought up during a public CCP meeting, in an attempt to discover why Sheriff's Department procedures were not followed, supervisory staff for that sworn member's department denied knowledge of the incident.

## PROCEDURES

- The Grand Jury attended meetings of the CCP
- The Grand Jury visited Tuolumne County's DRC and spoke with their Chief Probation Officer and representatives of the BI staff contracted to that county.

The Grand Jury obtained and reviewed the following:

- Assembly Bill 109 (see Appendix A)
- Assembly Bill 117, (see Appendix A)
- Assembly Bill 2031 (see Appendix A)
- Penal Codes Sections 1230, 1230.1, 6025 (see Appendix A)
- Senate Bill 678 (see Appendix A)
- The Stanford Law School Criminal Justice Center's report titled, "Realigning the Revolving Door?" An Analysis of California Counties' AB 109 Implementation Plans, as well as other papers involving research that Stanford Criminal Justice Center is carrying out on various aspects of the new law.
- The Grand Jury acquired all existing minutes of the CCP from its inception to the present. For meetings that didn't have minutes, audio tapes were obtained.
- The Calaveras County Realignment Plan, as adopted by the Board of Supervisors on April 10, 2012
- County Realignment Plans from San Joaquin, Tuolumne, Amador and Los Angeles Counties
- Copies from the Calaveras County Probation Department of:
  - COMPAS assessment tool
  - Violation Response Matrix
  - Post Release Community Supervision "Terms and Conditions" form
  - The Calaveras County PRCS Offender Fact Sheet

- Probation Department's Policies and Procedures Manual for use with PRCS, was requested by the Grand Jury. Some of these policies and procedures were received. The Grand Jury was told that others were “under construction” and might be available in two or three months. When the Jury requested the “*working practices*” in lieu of formal policies, (citing the fact that the PRCS program had been in place for over a year at this point) the Grand Jury was told that the Probation Department did not have time to produce these for us, that perhaps time **might** be available during the first week in February, 2013. At the time of the writing of this Grand Jury report, all the requested information had not been received. The Grand Jury was given, in some cases, numerous references to internet articles and “YouTube” videos dealing with topics such as “Evidence Based Practice”, and “criminogenic needs” instead of defining or describing how tasks are practiced in the Calaveras County Probation Department.
- The statistics for the Courage to Change Program, for the year 2009 through 2012, (*number of participants, graduates, and drop-outs*) were requested from the Probation Department. The numbers provided were confusing. Clarification was received after the writing of this report, but is being noted.

The Grand Jury interviewed the following:

- Members of the CCP, including all the voting Executive Members with the exception of the Public Defender, Judge designee and Behavioral Health
- Members of the Law Enforcement Community
- Employees of the Probation Department who are involved with the PRCS population.

## DISCUSSION

The task of implementing AB 109 is a big job. As one witness told the Grand Jury, “AB 109 is very complex with many moving parts.”

It appears that Calaveras County was not prepared for the reality of AB 109, and as a result, was one of the last California counties to adopt a realignment plan. The CCP had only been meeting for four months by the time the first PRCS offender arrived in the county. Six months after that, the Board of Supervisors was presented with a county plan. Eight months later, the Board of Supervisors received a budget to pass and shortly thereafter a contract for the BI Corporation. The DRC is still in the very early stages of construction.

The bi-weekly CCP meetings dealing with measures and outcomes as called for in the Calaveras County Plan were to begin on October 1, 2011. ***They have never taken place!*** The “monthly intelligence meetings” of the Criminal Justice Partners, the County Plan specified, have been held only once. These meetings are essential to enhancing public safety. Since December of 2012, there were no meetings of the CCP until March 6, 2013.

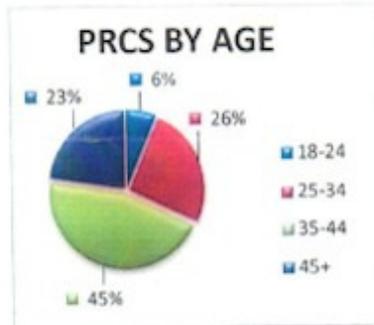
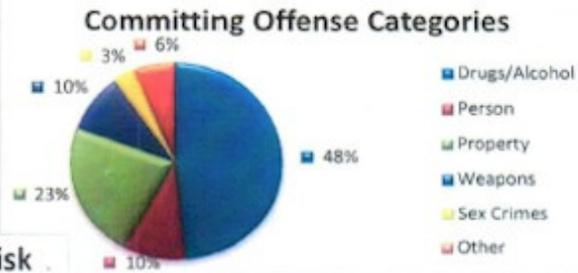
Almost a year has gone by since the county plan was approved by the board of supervisors. During interviews with CCP partners one common thread appeared. The Probation Department, as the “Supervising Agency” does not always share data with the other CCP ***partners***. An initial meeting between the Probation Department and some CCP members is held to tailor Terms and Conditions for each returning offender that will soon be released from state prison. There have been no regular meeting after that initial meeting for sharing information between the Probation Department and the other CCP ***partners*** even though the Calaveras County Plan calls for it.

Each member of the CCP is responsible for ***protecting the public*** as well as ***rehabilitating the offender***. The CCP voting ***partners*** feel they should have access to all the data throughout the process. Information such as the number of technical violations, searches, or in-house sanctions should be forthcoming, without being expected to explain their need for this information. The Calaveras County Plan anticipates the need for transparency and cooperation between CCP partners when it states in its section titled, “Information Sharing Among CCP Partners” “... the need to

**CALAVERAS COUNTY  
PROBATION DEPARTMENT'S  
OFFENDER FACT SHEET**

**31 OFFENDERS HAVE BEEN UNDER SUPERVISION AS OF NOVEMBER 30, 2012**

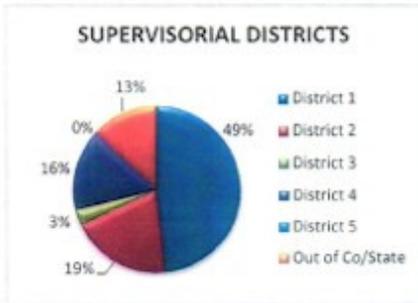
**GENDER**  
Male=87%  
Female=13%



**ARRESTS/VIOLATIONS since 10/11**

Technical Violations	43
# of Arrests/Citations	10
Convictions:	4
Misdemeanor	3
Felony	1

Sex Crimes	1
Hit & Run w/injury	1
Elder Abuse	1
Vandalism	1
Weapons	3
Auto Theft	1
Burglary	1
Theft	1
Drugs	13
DUI	2
Rec Stolen Property	3
Evade/Att. To Flee	2
Assault w/force/great bodily injury	1
<b>Total</b>	<b>31</b>



**PRCS OFFENDER FACTS AND STATISTICS  
FROM OCTOBER 2011 TO PRESENT**

collect and analyze data from the inception of the program forward, to serve as an input into the CCP's process for *continuous program improvement.*” Also in the same section the following are listed among the “**process goals**”:

- Creating data tracking methods (software and other)
- Developing methods for increasing CCP member collaboration and information sharing
- Developing protocol for mediating conflicts between CCP partnership conducting community outreach regarding approaches and anticipated outcomes

The first year of “Post Release Community Supervision “ has been completed in Calaveras County.

This Offender Fact Sheet was provided to the Grand Jury by the Calaveras County Probation Department. As of the writing of this Grand Jury report, the Grand Jury has been unable to verify all of this data.

**FINDING 1  
CCP Agendas, Minutes & Meetings**

Meeting Agendas have not been detailed enough to preview what will be covered. Introductions, Old Business, New business, and Adjourn is enough to satisfy the Brown Act, but is not useful to a productive meeting.

Minutes have sometimes been presented at CCP meetings in a timely fashion and reflected the essence of the previous meeting. However, many times committee members are asked to amend and approve several sets of minutes at a time. The minutes may be more than a few months old. Some minutes don't exist. The only evidence of those meetings are three or four hour audio recording. This situation has caused certain

controversial issues to be brought up again and again at subsequent meetings because no records of previous solutions were available.

The purpose, frequency and scheduling of meetings are not determined through any formal process voted upon by the CCP. The Calaveras County Plan specified that, "During the first 3 months of the PRCS, CCP meetings will be held bi-weekly to review progress, identify and resolve implementation challenges... make recommendations..." This has never been done. Only one "Monthly Intelligence Meeting" has been held. No CCP meetings have been held since December of 2012, though a meeting has been scheduled as this Grand Jury Report was being written.

### **RECOMMENDATION 1**

Agendas should be comprehensive enough to outline the meeting's intended content.

Minutes are the historical record of the meeting and must convey an accurate account of what happened. Comprehensive and complete minutes should be made available *before* the following meeting. This allows meeting participants to review and make corrections to them, saving time in two ways. One, minutes can be amended and approved by a vote more quickly. Two, assuring an accurate record of each meeting will reduce repeated discussions on issues already settled at a previous meeting.

The job of the CCP is ongoing. Meetings should be held at predetermined times decided on in advance by a formal vote during an official meeting, not by one person alone.

### **RESPONSE REQUESTED 1**

Community Corrections Partnership  
Chief Probation Officer

### **FINDING 2**

**CCP Parliamentary Procedures & Mediation** CCP meetings have been disorganized, unfocused, repetitious and hostile at times. No formal structure such as "Robert's Rules of Order" has been followed. Consequently, no process for mediating disagreements between members exists. Misunderstandings, disagreements (sometimes loud), lack of compromise, unresolved differences in philosophy, insults, eye rolling and derisive laughter have rendered meetings inefficient and frequently unproductive. *It should be said that these meetings would have been totally non productive had it not been for the long cooperative working association between many of the members of the CCP*

### **RECOMMENDATION 2**

The CCP should choose and adopt a formal system of parliamentary procedures. Thesesystems make organization easier during meetings, formalize discussions and help with mediating disagreements.

Considering the current state of discord, it may also be necessary to choose a neutral moderator to run meetings under the chosen parliamentary system. And additional attention to common courtesy when talking to and with fellow committee members would not be out of order.

### **RESPONSE REQUESTED 2**

Community Corrections Partnership  
Chief Probation Officer

### **FINDING 3**

**Respecting other county departments** Each county department has its own policies and procedures. Departments are frequently required to work together towards a common goal. It is necessary to respect each other's policies and procedures for public and staff safety.

**RECOMMENDATION 3**

For one department to enter another and obtain materials without following proper procedures within that department is not only disrespectful, it may be dangerous to public or staff safety. It should not happen again.

**RESPONSE REQUESTED 3**

Probation Department  
Sheriff's Department

**FINDING 4**

**Working together as equal partner to meet the goals specified by the Calaveras County Plan** Neither AB 109, any of the amending Bills or the Calaveras County Plan specified a rank ordering within the CCP beyond that of Probation being named the chair (which is a parliamentary specification). Therefore, each voting member has one vote and each vote has an equal weight. The Calaveras County Plan calls for, "... the need to collect and analyze data from the inception of the program forward, to serve as an input into the CCP's process for *continuous program improvement*." In the same section of the Calaveras County Plan, the following are listed among the process goals: creating data tracking methods (software and others) and developing methods for increasing CCP member collaboration and information sharing.

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

**RECOMMENDATION 4**

The Calaveras County Plan calls for information sharing between the Community Corrections Partnership Members. All of the voting Executive Members must have access to complete data of the Post-release Community Supervision Offenders. All voting Executive Members of the CCP should decide together when and what formal processes need to be developed to achieve this goal immediately. Definitions of terms used must be clear and agreed upon formally, so information, either good or detrimental can't be hidden or fall through the cracks.

**RESPONSE REQUESTED 4**

Community Corrections Partnership  
Chief Probation Officer

**FINDING 5**

The Calaveras County Plan specified on page 5 that the **"Criminal Justice partners made up of Probation, Sheriff, District Attorney, Angels Camp Police, Parole, and California Highway Patrol, will meet monthly (or as needed) with appropriate treatment providers to discuss problematic offenders and what strategies will best address the offender's anti-social behaviors."** This meeting was held only once and never repeated. However, the need for this kind of meeting is crucial to public safety as well as the success of reducing new offenses. All CCP voting *partners* feel they should have access to all the data as the process of Post-Release Community Supervision unfolds. Information such as :

- a. The number and type of technical violations
- b. Searches and the results thereof
- c. In-house sanctions

**RECOMMENDATION 5**

Only one meeting of this type was held. These meetings should resume immediately and be held at prearranged regular intervals. Those intervals should be determined by a vote of the CCP. Members attending should come prepared to share all information from their individual departments concerning current offenders in PRCS. Information should freely be shared among the voting partnership, without partners being expected to answer the question, "Please explain your need for this information."

**RESPONSE REQUESTED 5**

Community Corrections Partnership  
Chief Probation Officer

**BIBLIOGRAPHY**

- 85th Annual Meeting, State Bar of California, Program 61, “AB 109: Realignment-One Year Later” Sponsored by the Criminal Law Section and the Family Law Section, October 12, 2012
- Calaveras County 2011/2012 Public Safety Realignment, Preliminary Plan, Presented by the Calaveras County Community Corrections Partnership, January 13, 2012
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- “Evaluating the Impacts of California's Criminal Justice Realignment”, A description of research being conducted by Stanford Law School students enrolled in Professor Petersilia's “Advanced Criminal Law: A Policy Practicum”, December 1, 2011
- “Realigning the Revolving Door?, An Analysis of California Counties' AB 109 Implementation Plans, Stanford Law School, Stanford Criminal Justice Center, January 2012
- Tuolumne County Public Safety Realignment Act AB 109, Implementation Plan

**APPENDIX A**

Assembly Bill 109, 2011 Public Safety Realignment is the cornerstone of California’s solution to reduce overcrowding, costs, and recidivism.

Last year, Governor Edmund G. Brown Jr. signed Assembly Bill (AB) 109 and AB 117, historic legislation that will enable California to close the revolving door of low-level inmates cycling in and out of state prisons. It is the cornerstone of California’s solution for reducing the number of inmates in the state’s 33 prisons to 137.5 percent design capacity by May 24, 2013, as ordered by the U.S. Supreme Court.

**Assembly Bill 117 Chapter 39 17.5**

(5) Realigning low-level felony offenders who do not have prior convictions for serious, violent, or sex offenses to locally run community-based corrections programs, which are strengthened through community-based punishment, evidence-based practices, improved supervision strategies, and enhanced secured capacity, will improve public safety outcomes among adult felons and facilitate their reintegration back into society.

(6) Community-based corrections programs require a partnership between local public safety entities and the county to provide and expand the use of community-based punishment for low-level offender populations. Each county’s Local Community Corrections Partnership, as established in paragraph (2) of subdivision (b) of Section 1230, should play a critical role in developing programs and ensuring appropriate outcomes for low-level offenders...”

Penal Codes 1230, 1230.1 and 6025 Specify the structure of the Community Corrections Partnership Committee, this committee is created to implement Assembly Bill 109 on the county level.

Assembly Bill 2031 An act to amend Sections 1230, 1230.1, and 6025 of the Penal Code relating to probation. Existing law authorizes each county to establish a Community Corrections Performance Incentives Fund to receive state moneys to implement a community corrections program consisting of a system of felony probation supervision services to, among other things, manage and reduce offender risk while under felony probation supervision and upon reentry from jail into the community.

**◆ RESPONSE TO 2012-2013 GRAND JURY INTERIUM REPORT REGARDING  
AB 109 AND THE COMMUNITY CORRECTIONS PARTNERSHIP**

**FINDING 1**

**CCP Agenda & Minutes** Meeting Agenda's have not be detailed enough to preview what will be covered. Introductions, Old business, New business, and Adjourn is enough to satisfy the Brown Act, but is not useful to a productive meeting.

Minutes have sometimes been presented at CCP meetings in a timely fashion and reflected the essence of the previous meeting. However, many times committee members are asked to amend and approve several sets of minutes at a time. The minutes may be more than a few months old. Some minutes don't exist. The only evidence of those meetings are three or four hour audio recordings. This situation has caused certain controversial issues to be brought up again and again at subsequent meetings because no records of previous solutions were available.

The purpose, frequency and scheduling of meetings are not determined through any formal process voted upon by the CCP. The Calaveras County Plan specified that, "During the first 3 months of the PRCS, CCP meetings will be held bi-weekly to review progress, identify and resolve implementation challenges... make recommendations..." This has never been done. Only one "Monthly Intelligence Meeting" has been held. No CCP meeting have been held since December of 2012, though a meeting has been scheduled as this Grand Jury Report was being written.

**RECOMMENDATION 1**

Agendas should be comprehensive enough to outline the meetings intended content.

Minutes are the historical record of the meeting and must convey an accurate account of what happened. Comprehensive and complete minutes should be made available *before* the following meeting. This allows meeting participants to review and make corrections to them, saving time in two ways. One, minutes can be amended and approved by a vote more quickly. Two, assuring an accurate record of each meeting will reduce repeated discussions on issues already settled at a previous meeting.

The job of the CCP is ongoing. Meetings should be held at predetermined times decided on in advance by a formal vote during a official meeting, not by one person alone.

**RESPONSES TO FINDING 1**

**RESPONSE FROM THE COMMUNITY CORRECTIONS PARTNERSHIP CALAVERAS COUNTY**

The CCP agrees with the Finding and Recommendation. Recommendation 1 has been implemented.

**RESPONSE FROM THE INTERIM CHIEF PROBATION OFFICER**

"I agree with the Grand Jury's finding 1 and has begun implementing the recommendation."

**FINDING 2**

**CCP Parliamentary Procedures & Mediation** CCP meetings have been disorganized, unfocused, repetitious, and hostile at times. No formal structure such as "Robert's Rules of Order" has been followed. Consequently, no process for mediating disagreements between members exists. Misunderstandings, disagreements (sometimes loud), lack of compromise, unresolved differences in philosophy, insults, eye rolling and derisive laughter have rendered meetings inefficient and frequently unproductive. *It should be said that these meetings*

*would have been totally non productive had it not been for the long **cooperative** working association between many of the members of the CCP.*

## **RECOMMENDATION 2**

The CCP should choose and adopt a formal system of parliamentary procedures. These systems make organization easier during meetings, formalize discussions and help with mediating disagreements.

Considering the current state of discord, it may also be necessary to choose a neutral moderator to run meetings under the chosen parliamentary system. And additional attention to common courtesy when talking to and with fellow committee members would not be out of order.

## **RESPONSES TO FINDING 2**

### **RESPONSE FROM COMMUNITY CORRECTIONS PARTNERSHIP**

**The CCP agrees with Finding 2.** The recommendation of adoption of parliamentary procedures has not yet been implemented. The CCP would like to thoroughly research types of parliamentary procedures in order to adopt a procedure that will be best suited for CCP meetings. "... Parliamentary procedures will be formally adopted by CCP Executive Committee members no later than the regularly scheduled July 2013 CCP meeting." The CCP is deferring implementation of the recommendation "to choose a neutral moderator to run meetings" until further analysis has been completed. "The Chief Probation Officer (CPO) recently retired, and an Interim CPO assumed the role of chair of the CCP. With the possibility that the change in the role of chair and the adoption of formal parliamentary procedures might result in a more collaborative atmosphere, Executive Committee members have chosen to postpone the use of a neutral moderator to facilitate meetings. In the event that future meetings continue to face a state of discord among members, then a neutral moderator . . . will be sought . . . The timeline for determining the need for a neutral moderator will not exceed six months from the date of the publication of the Grand Jury report."

### **RESPONSE FROM THE INTERIM CHIEF PROBATION OFFICER**

"I agree with the finding." The recommendation of adoption of parliamentary procedures will be implemented no later than the regularly scheduled July 12, 2013 meeting. The choice of a neutral moderator will be postponed to allow for further analysis. A timeline for deciding on a neutral moderator will be made within six months from the date of the Grand Jury's report.

## **FINDING 3**

**Respecting other county departments** Each county department has its own policies and procedures. Departments are frequently required to work together towards a common goal. It is necessary to respect each other's policies and procedures for public and staff safety.

## **RECOMMENDATION 3**

For one department to enter another and obtain materials without following proper procedures within that department is not only disrespectful, it may be dangerous to public or staff safety. It should not happen again.

## **RESPONSE TO FINDING 3**

### **RESPONSE TO FINDING 3 FROM THE INTERIM CHIEF PROBATION OFFICER**

"I agree with the finding" that members of the various county government departments must respect each other's policies and procedures. However, the report and this finding are not specific enough to identify the incident(s) alluded to, or the agencies and personnel involved.

The recommendation is also non-specific and appears to be, "it should not happen again." ". . . without those specifics, no specific action, such as counseling or discipline, can be undertaken."

**FINDING 4**

**Working together as equal partner to meet the goals specified by the Calavera County Plan** Neither AB 109, any of the amending Bills or the Calaveras County Plan specified a rank ordering within the CCP beyond that of Probation being named the chair (which is a parliamentary specification). Therefore, each voting member has one vote and each vote has an equal weight. The Calaveras County Plan calls for, “... the need to collect and analyze data from the inception of the program forward, to serve as an input into the CCP's process for *continuous program improvement*.” In the same section of the Calaveras County Plan, the following are listed among the process goals: creating data tracking methods (software and others) and developing methods for increasing CCP member collaboration and information sharing.

**RECOMMENDATION 4**

The Calaveras County Plan calls for information sharing between the Community Corrections Partnership Members. All of the voting Executive Members must have access to *complete data* of the Post-release Community Supervision Offenders. All voting Executive Members of the CCP should decide together when and what formal processes need to be developed to achieve this goal immediately. Definitions of terms used must be clear and agreed upon formally, so information, either good or detrimental can't be hidden or fall through the cracks.

**RESPONSES TO FINDING 4****RESPONSE TO FINDING 4 FROM THE COMMUNITY CORRECTIONS PARTNERSHIP**

The CCP agrees with Finding 4 and has, therefore, scheduled a meeting on June 21, 2013, at 1:00 p.m. to initiate the discussion of program definitions and outcomes. “The intent of the CCP is to add an amendment to the Calaveras County Plan that specifically addresses local data definitions and outcomes. The CCP acknowledged that in order to fully implement data outcomes, there will be a need for a data management system (software) and the utilization of departmental resources, such as staff, in order to collect the data.”

**RESPONSE TO FINDING 4 FROM THE INTERIM CHIEF PROBATION OFFICER**

“I agree with the finding. The votes of the CCP Executive Committee members are of equal weight. The CCP is talked with continuous program improvement, and that improvement can only be accomplished after thoughtful analysis of data such as program outcome measures. The recommendation has not yet been implemented, but at its March 25, 2013, meeting the CCP agreed on a six-month timeframe for implementation.”

**FINDING 5**

The Calaveras County Plan specified on page 5 that the **“Criminal Justice partners made up of Probation, Sheriff, District Attorney, Angels Camp Police, Parole and California Highway Patrol, will meet monthly (or as needed) with appropriate treatment providers to discuss problematic offenders and what strategies will best address the offender's anti-social behaviors.”** This meeting was held only once and never repeated. However, the need for this kind of meeting is crucial to public safety as well as the success of reducing new offenses. All CCP voting *partners* feel they should have access to all the data as the process of Post-Release Community Supervision unfolds. Information such as :

- a. The number and type of technical violations,
- b. Searches and the results thereof
- c. In-house sanctions

**RECOMMENDATION 5**

Only one meeting of this type was held. These meetings should resume immediately and be held at prearranged regular intervals. Those intervals should be determined by a vote of the CCP. Members attending should come prepared to share all information from their individual departments concerning current offenders in PRCS. Information should freely be shared among the voting partnership, without partners being expected to answer the question, "Please explain your need for this information."

**RESPONSES TO FINDING 5****RESPONSE TO FINDING 5 FROM THE CCP**

The CCP partially agrees with Finding 5. It was unclear to the Executive Committee members specifically which meeting the Grand Jury referred to in this finding. "Monthly Intelligence Meetings" that were defined on page 5 of the Calaveras County Plan. It was never intended to include treatment partners, as confidential and/or classified law enforcement information is shared and certain CCP partners are not privy to this type of information.

The recommendation will be implemented as of April 17, 2013. "The CCP will be amending the Calaveras County Plan to delete references to the erroneously titled "Monthly Intelligence Meetings" and to properly detail the newly titled, "AB 109 Monthly Case Review Meeting". The objective of this meeting is to update all partners on all PRCS and Mandatory Supervision offenders. Information about these offenders will be freely shared, including arrests, searches, violations and sanctions, progress in treatment programs, and offender successes."

**RESPONSE TO FINDING 5 FROM THE INTERIM CHIEF PROBATION OFFICER**

"I agree with the finding...the recommendation was implemented on April 17, 2013."

**DETERMINATION OF 2012-2013 GRAND JURY**

The Grand Jury finds that all responses are adequate.

## 2. CALAVERAS COUNTY BUILDING DEPARTMENT

### REASON FOR INVESTIGATION

The Grand Jury received a citizen complaint stating that the Calaveras County Building Department was not always diligent in pursuing non-compliant or un-permitted business and residential construction activity.

### BACKGROUND

The Building Department applies standards for county construction and utilities by reviewing and approving citizen and business plans. A permit issued by the Building Department ensures the public that new construction, additions to existing structures, plumbing, electrical, and septic systems, etc. meet the Calaveras County Code of Ordinances and are safe. The Department's staff consists of 9 people as follows:

- Building Official - Plans, supervises and coordinates the activities of the County Building Department and its associated permitting activities.
- Permit Technician (3 each) - Provides public assistance related to the application process for a variety of permits and certificates, including answering basic questions regarding Code and compliance procedures, and entering permit information into applicable database and/or spreadsheet applications.
- Plan Checker – Receives and checks applications and plans submitted for building permits and energy standards.
- Building Inspector (2 each) – Performs very technical field inspection work. Inspections at projects ensure the enforcement of building laws and other related laws and regulations. This includes electrical, plumbing and mechanical work on complex and major projects to ensure code, ordinance and regulation compliance.
- Code Compliance officer (2 each) – Provides enforcement of zoning, building and health/safety regulations according to the Code of Ordinances.

The Code Compliance section of the Building Department makes sure structures and utilities comply with the County Code of Ordinances. Code Compliance Officers do the fieldwork as well as office administration. Building Department Revenues come from Permit Fees, Fines for non-compliance, and Liens on the property tax bill, or the Property deed.

When non-compliance is discovered through a citizen complaint, County records verify the property and the owner. Letters are sent requesting the violators' compliance. If, on the other hand, a Code officer discovers non-compliance in the field, a non-compliance citation is delivered in the form of a "Red Tag". This is placed at the construction site requiring all building activity to stop. At this point in the process, fines can be imposed for non-compliance. If these fines are not paid by the deadline listed in the letter, or the deadline written on the "Red Tag", a lien (a legal claim to secure payment) can be applied to the property tax bill, or to the property deed. Building Department Revenues come from Permit Fees, Fines for non-compliance with the County Code, and Liens on the property tax bill, or the Property deed. If a violator objects to the fine amount, the objection can be heard by the Appeals Board.

During the process, as shown on the Building Application Permit Flow Chart below, the Assessor's office is alerted via hand carried permit copies by special courier. All permitting activity is received from the Building Department in this way. The Assessor uses these documents to start property re-assessments if changes are added to existing residential and commercial building structures within the County. The Assessor's Office then levies taxes appropriate for the updates.

**PROCEDURE**

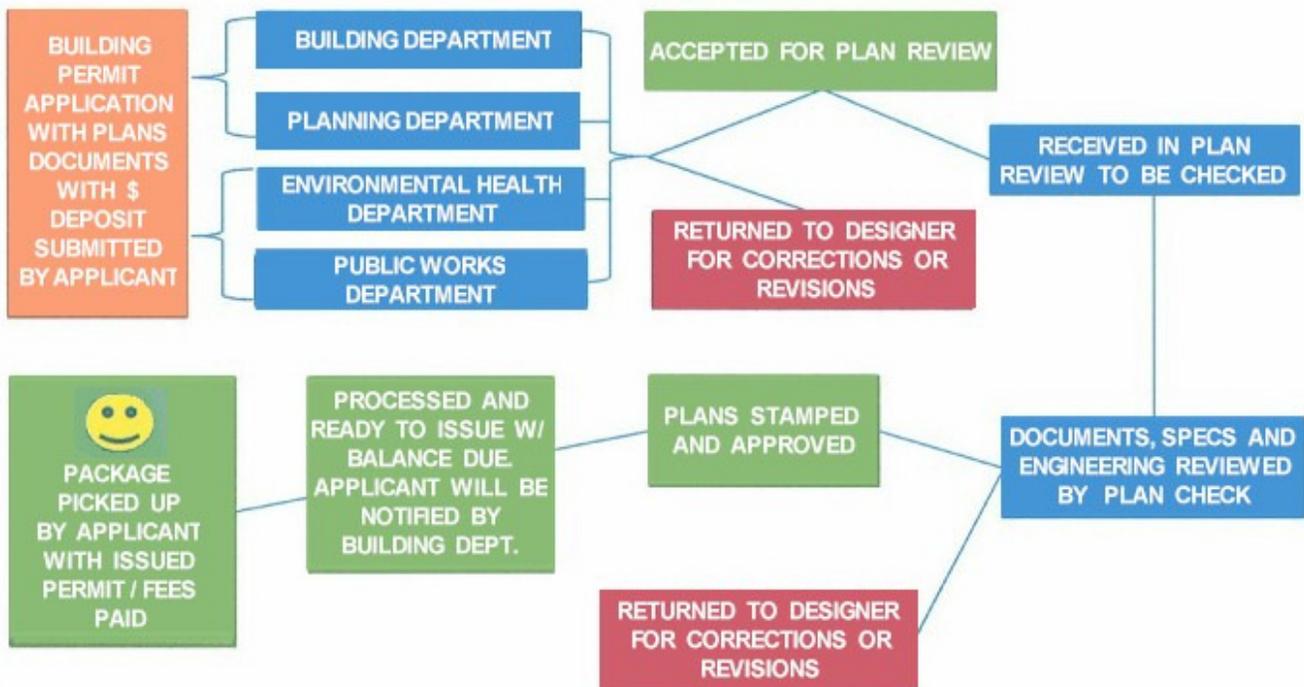
The Grand Jury investigated the Building Department by first reviewing available information on the Calaveras County website (<http://calaverasgov.com>). Key website information includes:

- The Permitting Procedure, (see “the Building Permit Application Flow Chart” below)
- The citizen complaint form, (the “Code Compliance Unit” form is available on line)
- The Code, (“Calaveras County Code of Ordinances”, <http://library.municode.com/index.aspx?clientId=16236>)
- Building Department Positions (the “County Job Descriptions”)

In addition, the Grand Jury investigation used the following resources:

- Google Earth high-resolution satellite imagery was used to study properties.
- Code Compliance Unit letters to Code violators citing violations and imposing fines for non-compliance.
- Interviews with Code Compliance, Building Department and Assessor's office personnel.

**BUILDING PERMIT APPLICATION FLOW CHART**



**DISCUSSION**

The Grand Jury's concern was primarily with the Code Compliance section of the Building Department. Their efforts are organized to ensure that all citizens, properties and operations comply with the law.

### Calaveras County Code Compliance Activity

Currently, there are about 600 backlogged complaints by citizens of Calaveras County. They are being actively processed by only two officers and are in various stages of completion. A citizen complaint can be filled out from the website form, but email complaints are also accepted. Citizen complaints vary greatly from “nuisance” issues, vehicle abatement (removal of vehicles that are abandoned or stored in the public right-of-way), to real estate agents who want sales to move forward more rapidly. The Code Compliance section receives about 100 new complaints per year.

In Calaveras County, a Compliance Officer typically handles 60 to 70 cases simultaneously, giving highest priority to those cases needing immediate attention. This workload is typical for Code Compliance Officers in other California Counties. This workload is substantially greater than in past years. Code Compliance funding comes from administrative costs, fines levied against violators and state revenue for abandoned vehicle abatement. Code actions by two Officers generated about \$262,000 for 2011 and \$230,000 for 2012. The salary plus benefits and overhead cost of one Code Compliance officer is estimated to be about \$75,000 per year. All the remaining funds go into the General Fund, under the control of the Board of Supervisors.

The Grand Jury received example letters sent to owners of record. Code Compliance Officers use them to document previous inspections, code violations citing public nuisance, and lack of required permits and inspections. Administrative Citations and Fines are issued with deadlines for payment. The Code Compliance unit maximum fine guideline is \$10,000. This has been set by practice and not by procedure. An officer may, in the event of multiple citations (or when the violator is not responsive), increase a previously levied fine by a substantial amount (as much as 50%). At an officer’s discretion, a fine can be waved or reduced for cooperation by the violator. When fines are not paid by the deadline, liens against the property tax should be immediately pursued, but this is not always accomplished because of the high caseload.

### Calaveras County Building Department Permit Activity:

- Currently permitting has slowed to about 20 to 30 permits per year for new residential construction. This is a substantial reduction from about 250 permits processed in 2006.
- The department currently issues several hundred permits per year for remodeling, minor modifications and renovations. Usually there is a 2 to 3 week backlog to issue a permit.
- So-called “Permit Avoidance” (knowingly attempting projects without applying for and obtaining a Building Permit to avoid the fee) is estimated at about 25% to 30% of the activity within the County.

All those interviewed were cooperative; highly professional, very experienced, and provided requested information freely. Specific details and key facts related to the findings were obtained from the interviews, as noted here and in the Background section above.

## **RESULTS OF THE INVESTIGATION**

### **Finding 1**

The backlogged non-compliance workload is far too great for the current two officers. It leaves Calaveras County unattended and its resident citizens without resolution.

### **Recommendation**

Hire a Code Compliance Office Secretary or Clerk to handle processing complaints, databases, and coordination with other land use departments. This will allow the existing officers to focus on the backlogged cases in the field.

**RESPONSE REQUESTED**

Building Department  
Board of Supervisors

**Finding 2**

The Code Compliance Section revenue is substantially greater than that required to support current staff effort. In addition, the excess is a “cash cow” for other County funding needs. These funds should be reserved only for improving the quality of County land use and its condition. Additional Code Compliance officers are needed.

**Recommendation**

The Building Department should as soon as possible complete an economic evaluation to confirm the justification of hiring additional code compliance officers based on the revenue they can generate.

**RESPONSE REQUESTED**

Building Department

**Finding 3**

For the subject complaint to the Grand Jury, the citation and fine for non-compliance was not followed-up by Code Compliance. The idle threat of a fine encourages those who are not in compliance or who are in the “Permit Avoidance” category. They can “play” on this apparent lack of County personnel.

**Recommendation**

Develop an automatic monitoring and follow-up system. This system would provide an alert when arriving at Code Compliance and Permitting process milestones, also deadlines that are critical to the operation. This will ensure that fines are imposed and taxes are levied on time.

**RESPONSE REQUESTED**

Building Department  
Information Technology Department

**Finding 4**

The Building Department and Assessor’s Office needs improved coordination processes to assess inevitable changes in structures and additional buildings on real property.

**Recommendation**

Review coordination processes between the Building Department and the Assessor's Office and make necessary changes to ensure that the Assessor's office is alerted to new Permits and potential re-assessments.

**RESPONSE REQUESTED**

Building Department  
County Assessor

**Finding 5**

It was discovered the imposition of fines is determined by a practice and not a procedure. Code Compliance Officers can impose, at their discretion, up to 50% greater than the normal maximum fine when there are multiple citations without response.

**Recommendation**

The Grand Jury recommends the development of a written procedure for levying of fines exceeding the normal maximum.

**RESPONSE REQUESTED**

Building Department

**Finding 6**

Code Compliance Officers can waive an imposed fine if the recipient decides to cooperate with the citation.

**Recommendation**

The Grand Jury recommends that the only way a fine can be waived or reduced is through a vote of the Appeals Board.

**RESPONSE REQUESTED**

Building Department

**◆ RESPONSES TO 2012-2013 GRAND JURY REPORT REGARDING  
THE CALAVERAS COUNTY BUILDING DEPARTMENT**

**FINDING 1**

The backlogged non-compliance workload is far too great for the current two officers. It leaves Calaveras County unattended and its resident citizens without resolution.

**RECOMMENDATION**

Hire a Code Compliance Office Secretary or Clerk to handle processing complaints, databases, and coordination with other land use departments. This will allow the existing officers to focus on the backlogged cases in the field

**RESPONSE FROM CALAVERAS COUNTY BUILDING DEPARTMENT**

“I agree with this finding. The recommendation has not yet been implemented, but hopefully will be implemented with an approval by the Board of Supervisors for new budgeted positions in the Code Compliance Unit”

**FINDING 2**

The Code Compliance Section revenue is substantially greater than that required to support current staff effort. In addition, the excess is a “cash cow” for other County funding needs. These funds should be reserved only for improving the quality of County land use and its condition. Additional Code Compliance officers are needed.

**RECOMMENDATION**

The Building Department should as soon as possible complete an economic evaluation to confirm the justification of hiring additional code compliance officers based on the revenue they can generate.

**RESPONSE TO FINDING 2 FROM THE BUILDING DEPARTMENT**

“I partially disagree with the finding, Potential revenues may be increased with an increase of code compliance staff to process cases. ...There is never an overage of revenue that goes to the General Fund. Code compliance is funded by Nuisance Abatement and Abandoned Vehicle Abatement. As such there is no General Fund dependency. The collections of code compliance revenue is transferred, on a regular basis, to the Nuisance Abatement Fund. The recommendation is to be implemented within the scope of county budget hearings.”

**FINDING 3**

For the subject complaint to the Grand Jury, the citation and fine for non-compliance was not followed-up by Code Compliance. The idle threat of a fine encourages those who are not in compliance or who are in the “Permit Avoidance” category. They can “play” on this apparent lack of County personnel.

**RECOMMENDATION**

Develop an automatic monitoring and follow-up system. This system would provide an alert when arriving at Code Compliance and Permitting process milestones, also deadlines that are critical to the operation. This will ensure that fines are imposed and taxes are levied on time.

**RESPONSE TO FINDING 3 FROM THE BUILDING DEPARTMENT**

“I agree with the finding. ...Implementation is in progress with a new software program for code compliance.”

**RESPONSE TO FINDING 3 FROM THE CHIEF INFORMATION OFFICER**

“I partially disagree with finding 3. Code Compliance recently purchased a software application that includes the “monitoring and follow-up system” being recommended by the Grand Jury. Since the functionality being recommended by the Grand Jury is present within their existing software application, there is no need to develop new software for this purpose.”

**FINDING 4**

The Building Department and Assessor’s Office needs improved coordination processes to assess inevitable changes in structures and additional buildings on real property.

**RECOMMENDATION**

Review coordination processes between the Building Department and the Assessor's Office and make necessary changes to ensure that the Assessor's office is alerted to new Permits and potential re-assessments.

**RESPONSE TO FINDING 4 FROM THE BUILDING DEPARTMENT**

The Building Official disagrees with this finding and feels that, “... the Building Department is meeting its obligations under the Revenue and Taxation Code section 72 to transmit permit and plan information to the Assessor.”

**RESPONSE TO FINDING 4 FROM THE ASSESSOR**

The Assessor states, “As a preliminary matter, the Assessor's office does not appear on the Building Permit Application Flow Chart... Regardless, the assertion that the Building Department alerts the Assessor to new permits by sending copies via special courier is incorrect. The Building Department alerts the Assessor to new permits by granting the Assessor's Office access to its PermitsPlus electronic database. No special courier has been used for approximately ten years. ...furthermore, ... the Assessor's office does not levy taxes. The Assessor appraises property for taxation purposes, but the actual calculation and levying of property taxes is done by the Tax Collector--- not the Assessor.... Since Finding 4 appears to be based entirely on the inaccurate assumption that a courier was being used to transmit permit information interdepartmentally, the Assessor wholly disagrees with the finding and does not believe that implementation of Recommendation 4 is reasonable or warranted.”

**FINDING 5**

It was discovered the imposition of fines is determined by a practice and not a procedure. Code Compliance Officers can impose, at their discretion, up to 50% greater than the normal maximum fine when there are multiple citations without response.

**RECOMMENDATION**

The Grand Jury recommends the development of a written procedure for levying of fines exceeding the normal maximum.

**RESPONSE TO FINDING 5 FROM THE BUILDING DEPARTMENT**

“I partially agree with the finding. The fines are to be considered as potential fines that can be adjusted in accordance of the levels of cooperation by the violator. The administrative costs do not get waived. The fines can be adjusted by the Code Compliance Unit.” However, “I agree with the recommendation.”

**FINDING 6**

Code Compliance Officers can waive an imposed fine if the recipient decides to cooperate with the citation.

**RECOMMENDATION**

The Grand Jury recommends that the only way a fine can be waived or reduced is through a vote of the Appeals Board.

**RESPONSE TO FINDING 6 FROM THE BUILDING DEPARTMENT**

“I agree with the finding” but... “I disagree with the finding (recommendation), The Hearing Board and the Board of Supervisors could hear an appeal within the specified time frame and either uphold or not up hold the levied fines. I do not feel it should be the only way fines should be waived or reduced. Administrative cost shall not be waived.”

**DETERMINATION OF 2012-2013 GRAND JURY**

The Grand Jury finds that all responses are adequate.

### 3. MOKELUMNE HILL FIRE PROTECTION DISTRICT

#### REASON FOR INVESTIGATION

The Grand Jury received two citizen complaints against the Mokelumne Hill Fire Protection District Board (MHFPDB) and the Mokelumne Hill Fire Chief.

#### Alleged violations:

- The Brown Act
- Fire Protection District Law of 1987
- Occupational, Safety and Health Administration (OSHA) California Code of Regulations
- Mokelumne Hill Fire District Policies and Procedures
- Calaveras County Code
- Americans with Disabilities Act (ADA)
- California Health and Safety Code 13800 et seq

#### BACKGROUND

What is the difference between a fire “district” and a fire “department”? Generally, a fire department is part of a city or county government. “Departments” are funded through the city or county’s general fund budget. General funds come from property and other taxes. A fire “district” is a “special district” created and operated pursuant to the Fire Protection District Law of 1987 and California Health & Safety Code 13800 et seq. Fire districts are usually independent of any city or county government. District funding comes from a portion of the ad valorem property tax and if approved by a 2/3 vote, a special tax on properties within the district. Fire districts generally provide service to rural and/or unincorporated areas in the county. Mokelumne Hill Fire Protection District (MHFPD) provides service within the Mokelumne Hill town boundaries as well as the surrounding rural areas. A parcel tax proposal for fire, police or emergency medical services in Mokelumne Hill passed with the required 2/3 voter approval in March 2004. This has made it possible for the MHFPD to go forward with the plan to add a fire station in Paloma, which has no fire station.

From <http://mokehillfire.org>:

“The Mokelumne Hill Fire Protection District serves a population of approximately 1,600 people in an area that covers 34 square miles. Our district includes the towns of Mokelumne Hill and Paloma, as well as subdivisions and the population east and west on Highway 26 and north and south on Highway 49. An elected Board of Directors and an appointed Fire Chief serve the District. Our district is comprised of approximately 34 square miles, centered near the spot where Highway 49 and 26 meet in Calaveras County. Within the town of Mokelumne Hill our ISO rating is a 5 (improved in 2003).” An Insurance Services Office (ISO) rating classification is on a scale of 1 to 10, with 1 considered as “exemplary” and 10 considered “without protection”. The ISO rates fire departments nationwide.

#### MHFPD is funded by:

- Property Tax
- Mokelumne Hill Special Fire Tax
- Corporate donations
- Private donations
- Federal grants
- Auxiliary members
- Firefighter association

The Mokelumne Hill Volunteer Firefighters Association (MHVFA) is a fundraising organization. MHVFA is comprised entirely of volunteers dedicated to raising funds to support the firefighters and the Mokelumne Hill Fire Protection District.

**Funds go to:**

- Acquiring firefighting apparatus (apparatus is a term used by firefighters for fire trucks and other equipment)
- Equipping firefighters
- Training the firefighters (MHFPD tries to make its training equal to that of paid departments)
- Maintaining the fire station
- Offering vision and dental to all employees
- Death and Dismemberment benefits
- Workman's Compensation
- Salary for full-time paid employees

The fire district is comprised of a fire chief, two full time fire fighters and several volunteer firefighters. Full time firefighters are fully compensated for their services. MHFPD is a fire district that has both full-time and volunteer firefighters. In this way, a station is staffed full time. This allows for rapid response with apparatus. The volunteers provide supplementary staffing before, during and after an incident.

A volunteer fire district is called the same way as other emergency services by dialing 9-1-1. Average response times vary due to members coming from different distances to the station or to the incident. In a volunteer district it is possible that more firefighters will arrive at an incident than a non-volunteer unit.

“According to the National Fire Protection Association, 71 percent of firefighters in the United States are volunteers. The National Volunteer Fire Council represents the fire and emergency services on a National level, providing advocacy, information, resources, and programs to support volunteer first responders.”

The Board of Directors (5 members) meets the 3<sup>rd</sup> Thursday of each month at 7:00 pm at the fire station. The station is located at 8160 Church Street, Mokelumne Hill, CA. The public is encouraged to attend.

**Basic duties:**

- Hold public meetings at least once each calendar month
- Pay the bills for the fire district
- Review and approve the annual budget that contains detailed estimates of expenditures for the fiscal year
- Determine the compensation payable to district personnel
- Employ personnel necessary or appropriate to carry out its purposes
- Provide services deemed necessary for fire protection, preservation of life and public safety
- Construct, purchase, lease or otherwise acquire the following:
  - Apparatus
  - Water and rescue equipment
  - Land
  - Buildings
  - Equipment
  - Furnishings to house equipment
- Retain a certified public accountant to perform an annual audit of district books.

**WHAT IS THE BROWN ACT?**

The Brown Act (Government Code Section 54950 et seq.) is a state law that governs open meetings for local governmental bodies. The Brown Act establishes rules designed to ensure that actions and deliberations of commissions, boards, councils and other public bodies of local agencies are done openly and with public access and input. The Brown Act was originally enacted in California in 1953.

**“LEGISLATIVE DECLARATION**

In enacting this chapter, the legislature finds and declares that the public commissions, boards and councils and the other public agencies in this state exist to aid in the conduct of the people’s business. It is the intent of this law that their actions be taken openly and that their deliberations be conducted openly.”

**“BASIC RULE**

All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body.”

There are exceptions to this rule, the Brown Act defines closed sessions and to what can be discussed and what needs to be reported out. Closed sessions are allowed under the Brown Act to discuss the appointment, employment, performance evaluation, discipline, complaints about or dismissal of a specific employee or potential employee. The employee may request a public meeting on any charges or complaints. In the event of a closed session there must be a quorum of board members and the board must give a 72 hour public notice that a closed session is to take place. The board must also specifically identify the subject to be discussed and provide a brief description of the subject on agendas available to the public.

The Brown Act prohibits the disclosure of confidential information acquired in a closed session. It is incumbent upon all those attending closed sessions to protect the confidentiality of those issues that are discussed.

**ZERO TOLERANCE AND STAND DOWN**

The Grand Jury reviewed the policy statement from the International Fire Chiefs Association to understand "zero tolerance" and "stand down". The following is from that policy statement:

“This policy statement is most easily described as a “zero-tolerance” standard about the use of alcohol by members of any fire or emergency services agency/organization at any time when they are called upon to act or respond as a member of those departments. Basically, if someone has consumed alcohol within the previous (8) hours, or is still noticeably impaired by alcohol consumed previous to the (8) hours, they must voluntarily remove themselves from the activities and functions of the fire or emergency services agency/organization, including all emergency and training (stand down).”

**PROCEDURE**

The Grand Jury interviewed the following:

- Majority of present Mokelumne Hill Fire Protection District Board Members
- Past Mokelumne Hill Protection District Board Members
- Present Mokelumne Hill Fire Chief
- Past Mokelumne Hill Fire Chief
- Mokelumne Hill fire fighters, past and present
- Citizens of Mokelumne Hill

The Grand Jury also:

- Attended a MHFPD Board Meeting
- Visited the fire station

The Grand Jury reviewed the following MHFPD documents:

- The Brown Act
- Minutes from the Mokelumne Hill Fire Protection District Board Meetings
- The Fire Protection District Law Of 1987
- Fire District’s Standard Operating Procedures (SOP)
- Fire District’s Standard Operating Guidelines (SOG)
- Fire District Board’s by-laws
- California Health and Safety Code
- California Code of Regulations

## DISCUSSION

On February 22, 2012, a MHFPD firefighter allegedly witnessed a fellow firefighter respond to a call who was suspected to be under the influence of alcohol. The witness did not officially report the incident or ask the firefighter to “stand down.” The allegation was relayed to board members through other members of the community. On February 24, 2012, two members of the MHFPDB met in a closed session and temporarily suspended the firefighter. This was done without a quorum and no agenda posted. There was an investigation done by two board members and no proof of the allegation was substantiated. At some point after the suspension the firefighter was back on duty without a meeting being conducted by the MHFPB, no votes were ever cast to either confirm the suspension or the reinstatement.

On March 22, 2012, at the regular meeting of the MHFPDB there were two different agendas with different descriptions or wording for the closed session.

On April 19, 2012, at the regular meeting of the MHFPDB, a board member accidentally played a portion of the audio recording of the closed session and the firefighter that was the subject of the closed session was identified during the open public meeting. A person may not disclose confidential information that has been acquired by being present in a closed session. Somehow, information regarding the accusation was already public knowledge.

In May 2012, the Division of Occupational Safety and Health (OSHA) received a complaint from a Mokelumne Hill citizen alleging the following conditions and OSHA notified MHFPD by letter.

- Firefighters are not wearing proper personal protective equipment (PPE) (section 3401)
- Firefighters are not wearing self-contained breathing apparatus (SCBA's) during car fire per department SOP (section 3409)
- No ladder testing (section 3226)
- Fire district does not have board approval for injury and illness protection program (IIPP) (section 3203)
- No posting of employees rights (section 340)

The MHFPD was not issued a citation for these conditions. Those issues that needed to be corrected were corrected and OSHA was notified. The letter from OSHA was not received in a timely manner, so MHFPD was not able to reply to OSHA within the required 14-day response time, which required the fire station to have an on-site inspection.

A completed addition to the Mokelumne Hill fire station came under Building Department scrutiny in June 2012, after a fire protection district board member raised concerns about the building's permits. The effort to expand the station to include living quarters began in 2007, with plans and a deposit of the permit fees with the Calaveras County Building Department. There was a miscommunication between the MHFPD Board of Directors and the Building Department. MHFPDB applied for the permit and because the fees were so high, they planned to request a fee waiver. The construction was completed without resolving the issue. At the time of the writing of this report, the permit fees have been waived and a building permit was issued. The second floor is now only permitted for storage and not as a dormitory, due to unresolved ABA issues.

A Mokelumne Hill citizen filed a whistleblower complaint against the MHFPD regarding the building addition of the second floor dormitory. The issues were:

- Second floor addition requires sprinklers and fire resistive construction
- Second floor addition to public building requires elevator for ADA compliance
- Building not in compliance with energy code (Title 24 of California Building Code)

On July 26, 2012, an accessibility study was completed as requested by the MHFPD Board of Directors, to list those areas found not to comply with the Americans with Disabilities Act (ADA) guidelines. The areas noted were:

- Accessible parking spaces
- Pedestrian ramps
- Handrails
- Toilet flush handles on wrong side
- Need of elevator for second floor
- Signage

The MHFPD has been working to comply with all the above issues.

## **RESULTS OF INVESTIGATION**

### **Finding 1**

There have been several violations of the Brown Act by the MHFPDB:

- Closed session without quorum and agenda
- No board vote for either suspension or reinstatement of firefighter
- Two different agendas for a closed session
- Playing audio recording of closed session
- Disclosing details and the subject of a closed session

### **Recommendation 1**

All board members must have Brown Act training shortly after taking office and ongoing training to ensure that board procedures comply with the Brown Act. The law gives uniformity to all public meetings and ensures that the public's needs are met.

### **Response Requested**

Mokelumne Hill Fire Protection District Board of Directors

### **Finding 2**

“Zero-tolerance” and “stand down” procedures are not always enforced when drug/alcohol impairment is suspected. A firefighter, who was suspected of being under the influence of alcohol while responding to a call, was not asked to “stand down.” This allegation was not reported to the authorities so the proper procedures could be applied, such as a Breathalyzer test.

### **Recommendation 2**

The Mokelumne Hill Fire Protection Board and Fire Chief must agree with and continue to enforce a “zero tolerance” regarding drug and alcohol consumption in the fire and emergency service when responding to emergencies. There should also be a “stand down” policy and the proper authorities must be notified anytime a fire fighter is suspected of being under the influence of drugs/alcohol.

### **Response requested**

Mokelumne Hill Fire Chief

Mokelumne Hill Fire Protection District Board of Directors

### **Finding 3**

In July 2012, when OSHA did an onsite inspection of the fire station, MHFPD was cited with these violations:

- Did not establish, implement and maintain an effective injury and illness prevention program (IIPP)
- Did not establish, implement and maintain an effective control of hazardous substances

- Did not provide a medical evaluation to determine the employee's ability to use a respirator
- Did not provide effective heat illness training
- Shall make available Hepatitis B vaccination and blood borne pathogen post-exposure evaluation and follow-up

### **Recommendation 3**

The preceding violations have been corrected. The MHFPDB is working on adopting changes and notifying OSHA. Fines of \$600.00 per violation are still pending and are being appealed. To maintain a safe work environment, the district should ensure they are compliant with current OSHA regulations.

### **Response Requested**

Mokelumne Hill Fire Chief  
Mokelumne Hill Fire Protection District Board of Directors

### **Finding 4**

Fire District Standard Operating Procedures and Standard Operating Guidelines are still in the process of being revised.

### **Recommendation 4**

These procedure and guideline revisions must be completed in a timely manner (6 months) and be reviewed and updated on an annual basis.

### **Response Requested**

Mokelumne Hill Fire Chief  
Mokelumne Hill Fire Protection District Board of Directors

### **Finding 5**

Currently the MHFPD has a "storage only" occupancy permit for the second floor and cannot use the addition for residential use. The upstairs of the fire station is not compliant with the Americans with Disabilities Act (ADA) as there is no elevator. The second floor needs to be accessible to all individuals, not just firefighters, under the ADA.

### **Recommendation 5**

The District should seek a waiver of ADA related issues through the California Division of the State Architect (DSA) in order to minimize costs of compliance.

### **Response Requested**

Mokelumne Hill Fire Protection District Board of Directors

## **GRAND JURY ACKNOWLEDGEMENT**

The Grand Jury would like to acknowledge not only the dedicated level of fire and emergency medical services that the Mokelumne Hill Fire Protection District provide to the people and property within their district, but also commend them on their active participation within their community to increase safety. They accomplish this through prevention, education, fire suppression, medical services and other related emergency and non-emergency activities:

### **These include:**

- The addition of a fire station in Paloma (land acquisition in process)
- An emergency plan for the district (which is in the process of being updated)
- Provide CPR classes to district personnel (If space permits they allow the public)

- A fire education program for the Mokelumne Hill Elementary School
- Cleared brush and debris from the end of Center Street for fire access and fire safety using “CHIPS”- Calaveras Healthy Impact Product Solutions (a local non-profit organization)
- Use of the “CERT”-Community Emergency Response Team -This program educates people about disaster preparedness for hazards that impact their area and trains them in disaster response skills, such as fire safety, light search and rescue, team organization and disaster medical operations. This team is also the “Red Cross Disaster Action Team” (sponsored by FEMA)
- “The File of Life”- An information card that contains an individual’s medical and surgical history, medications, allergies and physician as well as emergency contact information. One copy of the card is located in a magnetized pouch on the outside of the participant’s refrigerator, the smaller card “File of Life” is placed in his/her wallet. A “File of Life” sticker is affixed to the door of the participant’s home to alert emergency responders of participation in the program.
- A program to check smoke and carbon monoxide detectors in the district
- “Yellow Dot”-This program is designed to help crash victims, especially seniors, communicate with rescuers. Participants in the program receive a yellow dot to place on the rear window of their vehicle. It alerts emergency services personnel to a yellow folder in the glove box that contains a photograph, their medical conditions, prescriptions and other vital information.

## 4. MARK TWAIN HEALTH CARE DISTRICT FOLLOW-UP REPORT

### REASON FOR INVESTIGATION

This report is a follow-up to a report by the 2011/2012 Grand Jury. The 2012/2013 Grand Jury determined that the investigation from the prior year should be reviewed. The original investigation was done pursuant to Penal Code 925 which states in part "... investigations may be conducted on some selective basis each year."

### GLOSSARY

Mark Twain Health Care District	MTHCD
Mark Twain Health Care District Board	MTHCDB
Mark Twain Medical Center	MTMC
Mark Twain Medical Center Corporation	MTMCC
Mark Twain Medical Center Corporate Board	MTMCCB
Mark Twain Medical Center Foundation	MTMCF

### BACKGROUND

#### MARK TWAIN HEALTH CARE DISTRICT MISSION STATEMENT

"Through community collaboration, we serve as the stewards of a community Health system that ensures our residents have the dignity of access to care that provides competent, professional and compassionate healing."

Mark Twain Health Care District (MTHCD) was formed in 1946 by a vote of the people of Calaveras County. The MTHCD service area is 1100 square miles.

The MTHCD Funding comes from:

- District Tax Revenue
- Rental & Lease revenue
- Volunteer revenue
- Interest income

The Mark Twain Health Care District Board (MTHCDB) consists of five members who are elected and serve fixed terms. Secretarial and financial services are contracted with the Mark Twain Medical Center (MTMC). Two members of the MTHCDB serve on the Mark Twain Medical Center Corporate Board (MTMCCB), which is comprised of eight members. In addition to sending two members to serve on the Corporate Board, the MTHCDB appoints a third person, a Calaveras County resident, to represent them on the Corporate Board.

The MTHCD leases the hospital to the Mark Twain Medical Center Corporation (MTMCC). They in turn contract with Dignity Health to manage daily operations at the MTMC. Dignity Health is a not-for-profit hospital management company.

The current lease of the hospital to Dignity Health under the name of Catholic Healthcare West began on January 1, 1990, and expires on December 31, 2019. The new lease is to be voted on in a general or special election and needs 50% approval countywide. These negotiations will be made public via public meetings.

Monthly MTHCDB meetings are open to the public with numerous occasions for public comment. The meetings are at 7:30 am on the fourth Wednesday of each month. As of the writing of this report, one evening meeting is planned for June 26, 2013.

MTHCD, MTMC and the Mark Twain Medical Center Foundation (MTMCF) are planning to build a Family Medical Center and Women's Health Resource Center in Angels Camp. The MTMC currently has five Family Medical Centers that offer family medicine, pediatrics, outpatient counseling, laboratory draws and immunizations. The MTMC also has a new Cancer and Infusion Center and a Specialty Care Center, which currently has gastroenterology services.

## **PROCEDURES**

The following documents were reviewed:

- Minutes from MTHCDB meetings
- MTHCD Statement of Revenues & Expenses (09-2012, 01-2013, & 02-2013)
- MTHCD Balance Sheet (09-2012, 01-2013, & 02-2013)
- MTHCD Transaction Detail by Account (09-2012, 01-2013, & 02-2013)
- MTHCD List of Renters & Leases (09-2012, 01-2013 & 02-2013)
- MTHCD Transaction Detail by Account (programs & events) (11-2012 through 02-2013)
- Responses from the MTHCD to the Grand Jury Interim Report of 03-27-2012
- MTMCCB Report (03-05-2013)
- County Health Rankings for Calaveras County
- California Department of Health Statement of Deficiencies & Plan of Correction (03-15-2013)
- Agreement between MTHCD and their executive director
- Grand Jury members attended regular monthly meetings of the MTHCDB held on the campus of the MTMC.

## **DISCUSSION**

The MTHCD has established an office independent of the MTMCC. The office is located in the Human Resources Building at the MTMC and has a separate phone number from the MTMC and the MTMCC. A new member has been seated on the board, an executive director has been hired and a web site is up and running. ([marktwainhealthdistrict.org](http://marktwainhealthdistrict.org)). Meeting agendas, dates and times are on the web site. Meeting notices, excluding agendas, are published in a local newspaper. The MTHCD is reaching out to the public to explain their role in the community. The executive director has done a sit-down interview with a local newspaper, an interview on a local public television station, and a presentation to the Grand Jury 2012/2013. In addition to supporting the MTMC financially, the MTHCD provides funding for programs and events such as health fairs, scholarships for high school seniors interested in the medical field and grants to local non-profits.

## **RESULTS OF INVESTIGATION**

The MTHCD has considered the recommendations of the Grand Jury Report of 2011/2012 and improvements have been made and are continuing to be made.

## 5. GILLAM ROAD STUDY

### REASON FOR INVESTIGATION

The Grand Jury received a citizen's complaint regarding Calaveras County Public Works Department's failure to obtain the necessary permits from State and Federal agencies to maintain Gillam Road in Valley Springs. The complaint addressed the poor condition of Gillam Road, which at times has become impassable.

### BACKGROUND

Gillam Road is a public single lane rural road connecting Paloma Road to Double Springs Road and subsequently to Highway 12. (See satellite photo of road at end of report) There is a bridge where it crosses



Young's creek. Gillam road is a gravel road, with a fraction that is paved at both ends. It is the most direct route from Paloma Road to the hospital and schools in San Andreas and Toyon.

Gillam Road is a historical road that began over a hundred years ago, as an old stagecoach/carriage road. The road runs along the same stagecoach path, which also runs along Young's Creek. Young's Creek and Gillam Road cross protected wildlife wetlands and critical habitat for endangered species in five locations.

Some portions literally run through the streambed.

In 2006 the Army Corp of Engineers designated an additional 4,442 acres of wetlands, which included a portion of Gillam Road. Wetlands are areas inundated or saturated by surface or groundwater supporting vegetation and wildlife adapted to wet soil conditions

The wetlands of Gillam Road are federally protected under the Clean Water Act (CWA), which is the primary Federal law in the United States governing water pollution. The Federal jurisdiction is described as the "Waters of the United States." Federally protected wetlands on private property means you cannot develop, drain, or alter the environment, without obtaining permits or approval from the various agencies. In 2006, the U.S. Army Corp of Engineers had Calaveras Public Works rebuild the bridge to remove the pressure treated timbers that were polluting the creek. They also arranged to have gravel that had washed down from the road vacuumed out of the creek.

Gillam Road is a protected habitat for several possible listed species including the California Red-Legged Frog, the California Tiger Salamander, the Vernal Pool Fairy Shrimp, the Northwestern Pond Turtle, and the Western Spadefoot (toad). These species are protected under the Federal Endangered Species Act.

Numerous federal and state agencies are involved in protecting the designated wetlands and protected habitat. Permits or approval need to be obtained for any roadwork on Gillam Road from these agencies.

**Federal Agencies** involved with the permit process in connection with the Wetlands on Gillam include:

- U.S. Army Corp of Engineers (ACE)
- U.S. Environmental Protection Agency (EPA)
- U.S. Fish & Wildlife Service (F&W).

**State Agencies** involved in the permit process include:

- Department of Fish & Game (F&G)
- State Water Resources Control Board
- CA Sport Fishing Protection Alliance

### **Condition of the Road**

The current condition of Gillam Road is due in part to the use of materials approved by the responsible agencies. Large rocks, known as shot rock, are used on parts of Gillam in lieu of road base. The shot rock used on Gillam road is free of chemicals and does not exceed 1 ½ inches in diameter. The large rock is used to avoid eroding smaller material into Young's Creek, which runs through Gillam at the bridge. The rock provides a permeable road surface that allows percolation of the groundwater.

The shot rock has caused undercarriage as well as tire damage to vehicles and slows traffic to less than 10 miles



an hour. In some places Gillam Road is only 10 feet wide. Emergency responders avoid Gillam Road because of the current condition. Fire trucks, water tenders and school buses cannot travel through Gillam Road due in part to the 7-ton weight limit of the



bridge. Gillam Road is 2.1 miles to Hwy 12

while it is 7 miles to drive around on Paloma Road to Hwy 12. The Mokelumne Hill Fire District has plans for a sub station on Paloma Road in the town of Paloma.

Since December 2012, no further work has been completed on Gillam Road. The Public Works Department has failed to obtain the necessary permits from the State and Federal government.

### **FEASIBILITY STUDY**

A feasibility study was obtained by Calaveras County to determine an alternate route through the wetlands and circumvent the endangered species habitat, in 2006. See maps of alternate routes at end of report.

### **PROCEDURE**

The Grand Jury reviewed the following documents:

- Letters from Calaveras County Farm Bureau
- Letters from Fire Protection Districts
- Newspaper Articles
- Stantec Wetland Delineation Report on Gillam Road (Feasibility Study)
- Maps, including Topographical, Realignment, Site, and Assessor Parcel

The Grand Jury interviewed current and/or former parties from the following:

- Director of Public Works
- Property Owners on Gillam Road
- Board of Supervisors
- Project Consultants

- U.S. Army Corp of Engineers
- CA Highway Patrol
- Amphibian Biologist
- Local Developer

The Grand Jury traveled Gillam Road with different vehicles under varying conditions. The Grand Jury also traveled the longer route from Toyon to downtown Valley Springs to Paloma.

## DISCUSSION

Gillam Road in its current location is in a federally protected watershed, regulated by the Clean Water Act. Additionally, Gillam Road runs through a protected habitat for endangered species.

Gillam Road is a five mile short cut to Hwy 12 for communities of Paloma, portions of Valley Springs and Toyon.

“I know for a fact that the District’s larger structural firefighting equipment will not be able to negotiate this route. Most importantly, “no” water tender will be able to make the trip straight through...This agency is responsible for the quick and decisive response to life and property emergencies,” wrote one fire chief to a Supervisor in regards to Gillam Road. The Fire Chief concludes the letter by asking for a long-term solution for Gillam Road.

A new road would serve the communities of Paloma and Valley Springs. Gillam Road is the most direct route from Paloma Road and Hwy 12. Fifty-four residents on or near Gillam Road have submitted a signed petition requesting improvements.

## FINDING 1

Gillam Road runs through a protected habitat and designated wetlands and as such it is under the jurisdiction of State and Federal agencies.



## FINDING 2

The U.S. Army Corp of Engineers regulates Calaveras County’s ability to maintain Gillam Road where it intersects the wetlands and the protected watershed. Representatives of the U.S. Army Corp of Engineers have been to Gillam Road three times to address the maintenance issues of the road.

## FINDING 3

A wider, stronger, more passable road for emergency vehicles and school buses would shorten the trip between Hwy 12 and Paloma Road. A feasibility study to find an alternative route avoiding the wetlands and protected habitat of Gillam Road was conducted by Stantec Consulting, Inc. They recommended two alternate routes that would avoid some of the permitting process.

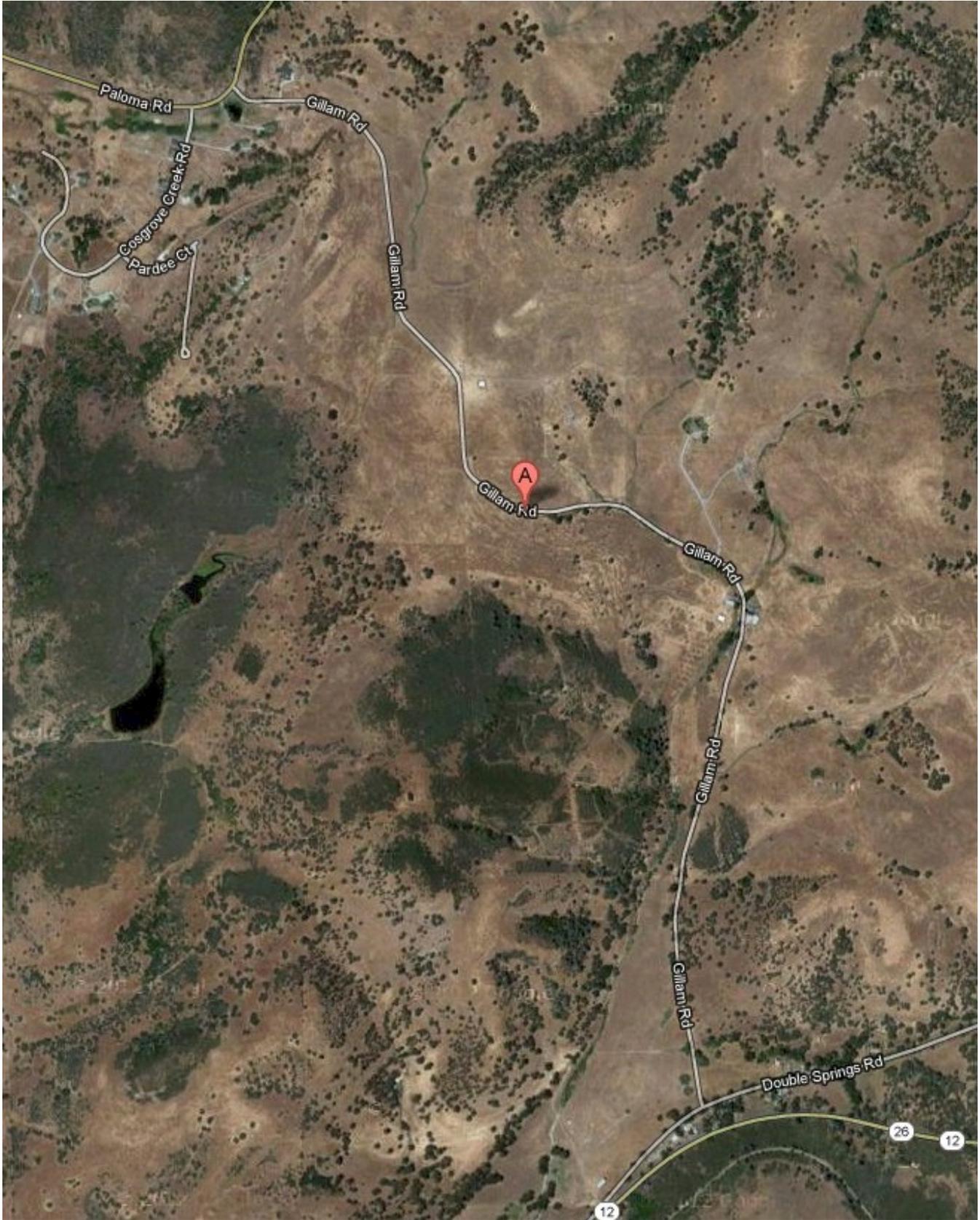
## RECOMMENDATION

The County should consider all options including an alternative route of Gillam Road, away from the streambed. Permits or approvals need to be

obtained for any roadwork on Gillam Road from the aforementioned Federal and State agencies. Calaveras County may consider applying for Federal and State funds to correct the situation.

**RESPONSE REQUESTED FOR ALL FINDINGS AND RECOMMENDATION**

**Board of Supervisors  
Director of Public Works**



**Gillam Road from Paloma to double springs Road and highway 12**



**Proposed Alternate Route #4 for Gillam Road in Feasability Study**

**Key: Red is the existing road  
Black is the Alternate Route**



**Proposed Alternate Route #7 for Gillam Road in Feasibility Study**

**Key: Red is the existing road  
Black is the Alternate Route**

## 6. CALAVERAS COUNTY TECHNOLOGY SERVICES DEPARTMENT

### REASON FOR INVESTIGATION

The Grand Jury received a citizen's complaint regarding the irresponsible use of taxpayer dollars and leadership negligence in the Technology Services Department (TSD). The TSD is responsible for computerized Communications, Mail, and Geographical Information Systems (GIS) for almost every department. (Some people refer to this department as the Information Technology or the IT Department or Tech Services.)

### BACKGROUND

#### Document Management System

In early 2005, the Document Management Committee was formed to research products and make recommendations for a countywide document management system. Representatives from several departments made up the committee including Administration, Assessor, Auditor-Controller, Building, Cal Works & Human Services, Clerk-Recorder, Planning, Public Works, Sheriff, Treasurer/Tax Collector, and Technology Services. Twelve months later Questys was chosen by the committee, citing price, ease of use, and initial training.

The benefits of the new document management system would save time and money to nearly every department. The new system promised to be space saving, would route and archive documents more efficiently, and provide better coordination between departments. For example, the building department could speed the permit approval process.

A memorandum from the Chief Information Officer (CIO) to the Board of Supervisors (BOS) dated February 10, 2006 recommended the Questys system. The recommendation was for the BOS to *"approve a resolution authorizing the purchase of a County-wide enterprise document management system from Questys, necessary computer hardware, and related budget transfer."* The BOS approved costs not to exceed \$400,000.

The aforementioned memorandum suggested that the funds for the project should come out of two non-departmental sources: \$300,000 from TEETER and \$100,000 from the Land Use Fund. The TEETER fund was discretionary money derived from property taxes. The Land Use Fund is generated from the Building Department's permit fees and fines. Questys was a countywide project utilizing countywide funds.

The BOS approved the purchase in March 2006, and Questys was installed in August 2006. The Questys software is a document management system, which is a computerized file cabinet where documents are stored electronically to save time, money and space.

Within six months a technician in the TSD discovered a security flaw that might expose the county's internal network to hackers. Official documents could be altered by employees or members of the public. The company, Questys, acknowledged the security flaw and offered to repair it with "patches."

A year later, and after spending almost \$400,000, the project was abandoned. The decision to abandon the countywide project was made by the CIO, who did not share this information with his superiors, or request a refund from Questys.

A refund was never requested nor were any other arrangements made with Questys. There was no financial compensation to Calaveras County. Nearly \$400,000 was spent and there is still no workable document management system.

Calaveras County cannot provide a copy of a contract with Questys. However, language was provided by the CIO making it possible to purchase Questys without a contract and was included in BOS Resolution NO. 06-072 which states, "BE IT FURTHER RESOLVED that authorization be given to the Chief Information Officer to purchase the aforementioned software from Questys, and related computer hardware for a price not to exceed \$400,000."

No one from Questys, past or present, could produce a copy of a contract with Calaveras County. The Questys Company has been sold twice, once in 2008, and again in 2012, making continuity difficult. In lieu of a digital document management system, the County continues to pay approximately \$7,000 a year to physically store documents. The goal of quickly processing and retrieving internal records for Calaveras County has not been met.

### **Leadership Issues within the TSD**

The CIO indicated his management philosophy is that *his staff understands what they need to know and do*. The CIO admits to not having done cross training with his staff and considers them “one deep”, meaning only one person has all the knowledge in a particular position.

Personnel difficulties within the department resulted in dissension. This problem continued until four employees of the TSD approached the Director of Human Resources for help. This personnel issue required the Human Resources Director who retained an outside attorney to investigate the issue.

The BOS expects the department heads to know how to conduct County business within their departments.

### **Performance Reviews**

The CAO has not conducted any performance reviews of the CIO in his sixteen years of employment. The CIO, in turn, rarely does performance reviews on his employees, the TSD staff.

### **After Hours Technical Assistance**

There is no plan or schedule for 24-hour technical assistance. On occasion, deputies have arrived at the private residences of technicians in the middle of the night with a technical emergency in their vehicle. Some of the TSD staff have made repairs in their pajamas without compensation. This situation has continued for several years.

## **PROCEDURES**

The Grand Jury reviewed the following documents:

- BOS Meeting Minutes and Agendas from 2006-present
- Memorandum recommending Questys as the Document Management System
- Emails from 2006 to present
- Memoranda on personnel issues in the TSD
- Invoices for Questys and other miscellaneous spending in the TSD
- Calaveras County Purchase Policy

The Grand Jury interviewed current and/or former personnel from the following:

- Technology Services Staff
- Technology Services Management, including the CIO
- Chief Administrative Officers
- County Counsels
- County Supervisors
- Department Heads
- Technical Staff and CAO from San Joaquin County
- Questys Staff and Management, including original representative

The Grand Jury requested and never received a signed Questys purchase contract between Calaveras County and Questys.

## DISCUSSION

### Document Management System

Currently, Calaveras County does not have a document management system. As a result, it takes more time to retrieve files, and there are additional costs to store documents. Communications between departments are hindered and counterproductive.

A refund from Questys was never requested. The CIO violated the Calaveras County Purchase Policy when he did not report to the Purchasing Agent the security flaw once it was discovered. The Purchase Policy states (3.28.50 F) "Department Heads receiving merchandise deliveries from a vendor shall be responsible to inspect such merchandise without delay, and report to the Purchasing Agent any deficiencies."

### Leadership Issues within the TSD

The BOS recognizes the TSD is important and necessary to the functionality of the county. Supervisors expect department heads to have expertise and knowledge.

A personnel issue in the TSD escalated to the point that the Director of Human Resources hired an outside legal firm to resolve the personnel issue.

The CAO, the Director of Human Resources, the Auditor-Controller and the CIO now together make the hiring and firing decisions of three positions in the TSD. These positions are still assigned to the TSD, but the day to day management of authority over these positions will now be by the Auditor-Controller, Director of Human Resources, and the CIO.

### Performance Reviews

The CIO never received a performance review. Performance Reviews communicate to the employee their strengths and weaknesses, reveal when more training is needed and can be a motivational tool.

### After Hours Technical Assistance

There is no plan for after-hours technical emergencies.

## RESULTS OF THE INVESTIGATION

### FINDING 1

Currently, Calaveras County does not have a computerized countywide document management system.

### RECOMMENDATION

Outsource a temporary, qualified project manager to be responsible for all components of establishing a successful document management system from start to finish.

### FINDING 2

Hundreds of thousands of taxpayer dollars were spent on the document management system, Questys. After Questys was found defective, reimbursement to the County was never requested.

### RECOMMENDATION

The Board Clerk should calendar formal updates on major purchases over \$100,000 on the BOS agendas. The Board Clerk would calendar in the meeting agendas for a follow up review after a period of 3 months, 6 months, one year, and beyond as appropriate.

### FINDING 3

The CIO has never received a performance review in 16 years as the department head.

**RECOMMENDATION**

The CIO and all other department heads should receive a performance review annually from the CAO to highlight on-going education and personal development improvement programs. The CAO should receive an annual performance review from the BOS.

**FINDING 4**

There is no on-call 24-hour technical support system for after hour technical emergencies.

**RECOMMENDATION**

Develop an on-call rotating schedule for after-hours emergencies.

**RESPONSES REQUESTED FOR ALL FINDINGS AND RECOMMENDATIONS**

Chief Information Officer

Chief Administrative Officer

The Board of Supervisors

## **RESPONSES TO THE 2011 – 2012 GRAND JURY REPORT**

The Grand Jury releases its final report at the end of its term. Most, if not **all**, of the responses are received after the new Grand Jury has been seated and these responses become its responsibility. Unlike many counties, the Calaveras County Grand Jury have holdovers who return to assist the new Jury in the way the Grand Jury conducts business and aid in the analysis of the responses. To assure continuity, it is important to carefully track and evaluate responses.

Responses are tracked to inform the public, ensure follow up, promote solutions, and reduce the number of unresponsive answers. Public scrutiny of the responses can improve the impact of the Grand Jury's reports and recommendations as well as increase the credibility of the elected officials and department heads whose areas were investigated.

The new Grand Jury reviews the findings and recommendations of the prior year's Jury and the ensuing responses. When necessary, these responses are discussed with the appropriate standing committees for follow-up comments. If it is determined that more information is needed, Jury members may meet with the respondents to discuss specific responses.

The Grand Jury refers to the California Penal Code (CPC) for follow up, summarization, and analysis of the responses from the responding officials and departments. Pursuant to CPC §933 and §933.05 there are time limits for responses and each Finding and Recommendation may either require or request a response from the party addressed. Specifically worded responses are limited by the CPC. Responses may include additional information to clarify a specific response.

### **RESPONSE TIME LIMITS CPC §933 (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 every elected county officer or agency head for which the grand jury has responsibility pursuant to §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 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.”*

### **RESPONSE TO FINDINGS CPC §93 3.05 (a)**

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 reason therefore.”*

**RESPONSE TO THE RECOMMENDATION CPC §933.05 (b)**

1. *“The recommendation has been implemented, with a summary regarding the implemented action.”*
2. *“The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.”*
3. *“The implementation 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 department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of 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 thereof”*

## **REPORT 1 RESPONSE TO 2011-2012 GRAND JURY REPORT REGARDING MARK TWAIN HEALTHCARE DISTRICT INTERIM REPORT**

### **REASON FOR INVESTIGATION**

Penal Code Section 925 states in part "... investigations may be conducted on some selective basis each year." The Grand Jury decided to investigate the Mark Twain Healthcare District due to publicity in the Calaveras Enterprise of turmoil and discord within the healthcare system of Calaveras County.

### **Procedure**

The Grand Jury acquired and studied public documents relative to the Mark Twain Healthcare District, the Mark Twain St. Joseph's Healthcare Corporation, and Catholic Healthcare West. These included Board meeting Minutes, Bylaws, leases, audits, LAFCO reports, and the Corporation's Federal Tax Return. Personal interviews were conducted with Board Directors, Corporate CFOs, and physicians who had practiced, or were currently practicing at Mark Twain St. Joseph's Hospital. Also, Grand Jury members observed regular public District Board meetings,

### **Background**

The current healthcare system in Calaveras County began in 1945, the healthcare District was formed, and in 1951 Mark Twain Hospital began operations. Over the years, maintaining the system's medical and financial viability has led to consolidation and reorganization. Mark Twain Healthcare District formed a partnership with St. Joseph's Regional Healthcare System in Stockton, and became Mark Twain St. Joseph's Healthcare Corporation that we know today. St. Joseph's Hospital became part of Catholic Healthcare West (CHW) system, known as "Dignity Health". By contract with the corporation, CHW provides the corporate senior management, including the CEO and CFO, and manages the day-to-day operation of the hospital. In 2010, the hospital became a **Critical Access Hospital** allowing a better financial reimbursement from government health insurance, but the length of time a patient stays in the hospital is now determined by government regulations. A number of Physicians left the hospital because of conflicts with management over concerns about the quality of patient care. They indicated recent changes by hospital management involving patient care and operational procedures were their reasons for leaving. The physicians felt they no longer had any substantive input in the daily running of the hospital. They stated that they left after trying every avenue within the system to solve the problems they faced. Mark Twain St. Joseph's Healthcare Corporation is a private non-profit corporation whose board meetings are not open to the public. They do not answer to the District Board and are not subject to the Healthcare District's bylaws.

### **Finding 1**

The Mark Twain Healthcare District Board has had a limited turnover in its elected members. Since there are no term limits it is possible for a District Board member to serve for decades if reelected.

### **Recommendation**

The Grand Jury recommends that the District Board incorporate term limits within their bylaws to bring new and fresh perspectives to the board at regular intervals.

### **RESPONSES**

#### **Mark Twain Health Care District Board President**

"The District concurs in the Finding" but it "will not implement this Recommendation", because it "is beyond the authority of the District and is preempted by State law (Health & Safety Code Section 32000 *et seq.*)"

### **Finding 2**

The Mark Twain Healthcare District's office (CEO, CFO, secretarial help, financial committee), website and telephone number are identical to that of the Mark Twain Healthcare Corporation. Even the District Board's files are archived within the corporate offices. This has allowed the Corporation to control access to the elected District Board and its records.

**Recommendation**

The Grand Jury recommends separating the District Board's office, staff, telephone number, document storage facilities, and website from that of the Mark Twain St. Joseph's Healthcare Corporation and Senior Management (CHW) of the hospital

**RESPONSES****Mark Twain Health Care District Board President**

"The District concurs in the Finding, except it does not maintain a website. However, the District will implement this Recommendation during Fiscal year 2012-2013."

**Finding 3**

Information from the private Corporate Board was either incomplete or not communicated to the full District Board until it was too late for the District Board to have any influence even though two elected District Board members sit on the Corporate Board. Since elected District Board members are the legal liaison between the District Board and the Corporate Board, they are responsible for all communication pertaining to public issues on healthcare within the county.

**Recommendation**

The Grand Jury recommends information move freely and readily in both directions between the District Board and the Corporate Board. Some mechanism should be devised by the boards to assure that this happens such as, but not limited to, Corporate Board meeting minutes being shared with the full District Board.

**RESPONSES****Mark Twain Health Care District Board President**

"The District agrees in part and disagrees in part with the Finding". The District is aware of only three specific instances in which communication between it and the Corporation has been criticized in some way, (1) Announcement of the "Critical Access Hospital" designation, (2) the decline in physician affiliation with the hospital, and (3) recent management changes in the corporation. The District has partially implemented this Recommendation and it is committed to working with the Corporation to maximize the collaboration between the two entities in the provision of health care in Calaveras County.

**Finding 4**

The Mark Twain Healthcare District has three seats on the Corporate Board only as long as the Corporate Board's bylaws read the way they currently do. If the bylaws were rewritten to exclude the District Board's representation on the Corporate Board, the electorate would lose its voice concerning healthcare in this county.

**Recommendation**

The Grand Jury urges both Boards to create a structure that guarantees the District Board a place on the Corporate Board regardless of changes in power or personalities.

**RESPONSES****Mark Twain Health Care District Board President**

The District concurs in part, and disagrees in part, with the Finding. The District will attempt to implement this recommendation in Fiscal year 2012-2013, but notes that there is no forcing function to compel the private Corporation to concur and it therefore cannot represent that such changes will occur.

**Finding 5**

The District Board's Financial Committee or their CFO submitted incomplete information to the independent auditors for the annual audit. The Management's Discussion and Analysis (MD&A) as required by law was never prepared.

**Recommendation**

All pertinent and legal financial requirements should be followed by agencies handling public funds.

**RESPONSES****Mark Twain Health Care District Board President**

The District disagrees with the Finding. The inclusion of a MD&A in an audit is not “required by law.” However, the District will implement this Recommendation and require MD&A for future audits even though doing so is optional, beginning with the next annual audit. In any event, a majority of the Finance Committee of the District (two of its three members) sits on the District Board, and therefore a response from the District Board is in practical effect also a response from the Finance Committee.

**Finding 6**

The public has lost confidence in the healthcare provided in the county.

**Recommendation**

The Grand Jury recommends that the Calaveras County Board of Supervisors receive an annual report from the District Board on the state of healthcare in the county and the hospital. The Management’s Discussion and Analysis (MD&A) portion of the annual independent audit is an overview of the Healthcare District’s financial health and should be included in this annual report. This report should be made public.

**RESPONSES****Mark Twain Health Care District Board President**

The District agrees in part and disagrees in part with this Finding. The District agrees, however, that the perceived exodus of physicians from the Hospital has left a perception that they must be leaving for a reason, and that this could in turn lead to a loss of confidence in the ability of the Hospital to deliver quality health care. The District will implement this Recommendation, beginning at the end of the current fiscal year, by providing a formal report to the public which will be provided to the County Board of Supervisors.

**Calaveras Board of Supervisors**

The recommendation has been implemented by the district.

**Finding 7**

The Grand Jury finds that the required public notices of District Board meetings and agendas were only posted on the bulletin board in the administrative area of the hospital. Although this minimally meets the requirements of the Brown Act, it limits public access to those notices.

**Recommendation**

The Grand Jury recommends that the Mark Twain Healthcare District post the date, time and agenda of the District Board meetings in the newspaper and in public places such as the Post Office or Library.

**RESPONSES****Mark Twain Health Care District Board President**

“The District concurs with this Finding and has implemented this recommendation in part, but will not implement this Recommendation relative to newspapers since they are not particularly effective in providing public notice.” The Ralph M. Brown Act provides (effective January 1, 2012) that if a public agency has a website, it will post its public meeting agendas on the website. The District will evaluate whether or not to implement a District web site during the Fiscal year 2012-2013 time frame, and if implemented will thereafter maintain agendas on that website. Notice of District meetings (not the full agenda) is published in the newspaper. It has previously (prior to the receipt of the Grand Jury’s report) implemented posting in other more highly trafficked public areas of the hospital (outside the emergency room which is open 24 hours each day) as well as at the library in San Andreas.

**DETERMINATION OF 2012-2013 GRAND JURY**

The Grand Jury finds that all responses are adequate.

## **REPORT 2    RESPONSE TO GRAND JURY REPORT 2011-2012 REGARDING CALAVERAS COUNTY ANIMAL SHELTER**

### **REASON FOR INVESTIGATION**

California Penal Code Section 925 states in part "... investigations may be conducted on some selective basis each year." The Grand Jury continues to assess the condition of the facility, animal health and welfare, safety, and overall operation of the animal shelter.

### **PROCEDURES**

The Grand Jury visited the Calaveras County Animal Shelter located at the County Government Center on Mountain Ranch Road in San Andreas.

### **BACKGROUND**

The Grand Jury met with the Sheriff's sergeant in charge of Animal Services. Jurors visited all areas of the shelter facility. It was found to be clean and orderly. The animal housing units were well maintained and the animals appeared to be well fed and properly cared for.

Much of the day-to-day cleaning, feeding, and other care is provided by a staff of volunteers. Regular paid staff, including field personnel necessary to respond to animal related calls for service, has been reduced as a result of cuts in the last three annual budgets of 10%, 10% and 17½%. This has resulted in such a dramatic reduction in staff that only one animal services officer is in the field four days a week and the shelter is open three days a week. Animal related calls are prioritized so that calls relating to public health and safety, such as vicious or rabid animals are handled first, and barking dogs and strays are handled last. At the time of the Grand Jury's investigation, the sergeant stated that 450 calls for service were pending.

In the past, low security misdemeanor county jail inmates were utilized to assist in kennel cleaning, however because jail bed space is now taken up by felons, trustee inmates are no longer available to perform such tasks.

A local veterinarian volunteers spay and neuter services and a veterinary hospital provides emergency care. Animal Services was previously able to provide as many as nine rabies clinics a year throughout the county but because of budget cuts that has now been reduced to a single clinic annually.

The shelter has a program for placing an identity chip in animals for a reasonable fee of \$15 and works with other organizations to place adoptable animals in foster homes. Both of these programs function to reduce the number of animals subject to euthanasia.

### **RESULTS OF THE INVESTIGATION**

#### **Finding 1**

A relatively new modular building serves as the office space for the shelter; however most of the facility is old and inadequate. In spite of that, the buildings are well maintained and have a good appearance. Although hampered by extremely limited resources, the sergeant, staff and volunteers have done a very good job in creating a safe and healthy environment for the animals.

#### **Recommendation**

The Grand Jury continues to recommend that the Board of Supervisors allocate funds and proceed with previously approved plans to construct a new animal shelter at the Government Center and staff it accordingly.

**Response Requested**

Board of Supervisors

"The Board agrees with the finding. The recommendation will not be implemented as the Board of Supervisors has not previously approved plans to construct a new animal shelter at the Government Center and staff it accordingly because it is not financially feasible. The Board continues to support efforts by the Humane Society to raise funds to build a new shelter and has identified a possible location for a future animal shelter."

Sheriff's Department

"The Sheriff's Office agrees with the findings of the Grand Jury regarding the need for a new and modern animal shelter. As noted in last year's response, the Calaveras Humane Society has approached the County of Calaveras with a proposed public/private partnership for the construction of a new shelter facility. This process is ongoing and much work is still needed until fruition."

**Finding 2**

Animal Services is managed by sworn officers of the Sheriff's Department. A sergeant and a lieutenant are performing Animal Services duties instead of law enforcement duties.

**Recommendation**

The Grand Jury recommends that the county recruit a professional animal services manager and return Sheriff's staff to law enforcement duties.

**Response Requested**

Board of Supervisors

"The Board partially disagrees with the finding. The Sheriff's Department has been responsible for managing Animal Services, including code enforcement since 2005. At the time Animal Services was transferred to the Sheriff's Department, a new sergeant position was established to improve services including code enforcement. Under the Sheriff's Department, administrative oversight has been performed by individuals in the rank of captain, lieutenant, among others, as deemed necessary to protect and improve public safety. In August 2012, the Board transferred management responsibility for Animal Services from the Sheriff's Office to the Environmental Management Agency to allow the Sheriff's Office to focus solely on law enforcement issues. The recommendation is being implemented and will be completed by the end of 2012. In 2012, Sheriff Kuntz expressed his desire to relinquish responsibility for managing Animal Services. After studying the options with various stakeholders, the Board took action on August 28, 2012 to transfer the management of Animal Services from the Sheriff to the Environmental Management Agency, effective October 1, 2012."

"Funding is included in the FY 2012-13. Animal Services budget to recruit and hire a civilian Animal Services Manager. This is part of a future public-private partnership with the Calaveras Humane Society. As part of the reorganization, the Board also funded a new sergeant position in the jail."

Sheriff's Department

"On February 14, 2012, the Sheriff's Office notified the County Administrators Office and Board of Supervisors of the Sheriff's intent to return control of the Animal Services Operations to the County and to reassign the Sergeant supervising Animal Services to Sheriff's Office related duties effective July 01, 2012. The decision to relinquish control of Animal Services was due in part to inadequate funding and the lack of sufficient staffing for the Sheriff's Office."

"A transition working group was assembled and directed by the County Administration Office; the group consisted of representatives from the County Administrators Office, Calaveras Humane Society, Environmental Health, and the Sheriff's Office. The group started meeting in March through June, however, a workable

transition plan had not been achieved because no County Department Head was assigned to take over the Animal Services Operation."

"In early June, the Sheriff agreed to extend the turnover date from July 01, 2012, for two (2) months in order that a County Department Head would be identified and obtain operational control. On July 25, 2012, the County Administrations Office informed the Sheriff's Office that the Environmental Health Department Head would be working with the Sheriff's Office on the transition. The Sheriff's Office will be turning the Animal Services operation over to the County effective September 01, 2012."

**DETERMINATION OF 2012-2013 GRAND JURY**

The Grand Jury finds that all responses are adequate.

## **REPORT 3    RESPONSE TO 2011-2012 GRAND JURY REPORT REGARDING CALAVERAS COUNTY ASSESSOR**

### **REASON FOR INVESTIGATION**

The Grand Jury received a citizen complaint of possible violation of the Revenue and Taxation Code.

### **PROCEDURE**

The Grand Jury interviewed the following:

- Assessor
- Complainant
- Treasurer
- County Assessment Appeals Board Clerk
- Board of Equalization Attorneys

The Grand Jury reviewed the following documents:

- Revenue and Taxation Code sections
- Unsecured Personal Property Tax Assessment Roll spreadsheets 2010/2011, 2011/2012

### **BACKGROUND**

Due to declining revenues, the authorized staffing positions in the Assessor's Office were reduced from 19 positions and 2 extra hires to 11. As part of a cost saving measure in 2012 the Assessor reduced the number of personal property tax forms (571L) sent to business and vessel owners. In 2011 no notices were sent and business and vessel owners were directed to file statements online.

The unsecured property tax roll as of the 2010/2011 tax year was valued at \$1,072,346 and 2011/2012 was valued at approximately \$1,000,000. This revenue is distributed to various public entities within the county but the largest percentage goes to county schools. Schools would be allocated approximately \$600,000, the county approximately \$178,000, and the remainder to special districts.

Revenue and Taxation Code Section 463 provides that "if any person who is required by law...to make an annual property statement fails to file an annual property statement within the time limit specified...a penalty of 10 percent of the assessed value of the unreported taxable tangible property of that person...shall be added to the assessment made on the current roll."

"Revenue and Taxation Code Section 463 also provides for an appeal process."

### **FINDING 1**

For 2010 and 2011 Unsecured Personal Property Tax Roll, the Assessor did not have the authority within the Revenue and Taxation Code to waive or not apply tax penalties. The wording of the Revenue and Taxation Code states that a 10% penalty shall be added to assessments for late or non-filers and the code does not give an Assessor any leeway to deviate.

Calaveras County has established an Assessment Appeals Board and the Appeals Board is the proper venue to address tax appeals which would include improper application of tax penalties.

Waiving or not applying the tax penalties have cost the county approximately \$500,000 for each of the 2010 and 2011 tax years.

### **RECOMMENDATION**

The Grand Jury recommends the Assessor properly apply the Revenue and Taxation Code.

## RESPONSES

### Response from Assessor

The Assessor disagrees in part with the Finding stating that in 2010, 533 penalties were applied, the additional 10% was assessed resulting in a total increase of \$1,072,346. Penalties were not, however assessed with respect to the unsecured roll in 2011.

“The recommendation was implemented and penalties were applied for the 2012 assessment roll, including the unsecured roll.”

### Response from Board of Supervisors

“The Board partially agrees with the finding. The Assessor, an elected official, is required to follow state statutes including but not limited to Revenue and Taxation Code. The Board disagrees with the Grand Jury’s statement that ‘Waiving or not applying the tax penalties have cost the county approximately \$500,000 for each of the 2010 and 2011 tax years.’ The stated loss of tax penalties in the amount of \$500,000 for each tax year (2010 and 2011) is grossly overstated and inaccurate.”

## FINDING 2

Due to staffing budget reduction by the Board of Supervisors, the Assessor decided not to support the Unsecured Personal Property Tax Roll. By not supporting the Unsecured Personal Property Tax Roll, county schools lose approximately \$600,000 each year and Calaveras County will also lose \$178,000 in uncollected revenue. The financial gain to the county could have more than paid to staff this position.

## RECOMMENDATION

The Grand Jury recommends the Board of Supervisors provide funding to the Assessor's office to staff all revenue generating functions.

## RESPONSES

### Response from Assessor

The Assessor disagrees in part with this finding “...budget reductions to my office initially led me to make a triage decision to not support the *Unsecured Assessment Roll* (not just the personal property component of the unsecured roll).” The Assessor does agree that financial gain to the county of staffing the revenue-generating functions of the Assessor's Office would more than offset the cost of staffing these positions.

“The Assessor has no authority over the decisions made by the Board of Supervisors. However, I will request additional staffing and related equipment in my final budget submittal for 2012-13. I have now supported the 2012 unsecured assessment roll.”

### Response from Board of Supervisors

“The Board partially disagrees with finding 2. The Assessor completed the unsecured assessment roll, with the assistance of other county staff, despite earlier statements that she would not process the unsecured assessment roll. In the Fiscal Year 2011-12 Final Budget, the Board allocated more funding to the Assessor’s budget to restore two .60 full time equivalent (FTE) Assessment Technician positions to full time and established one FTE Appraiser position. This action was taken to support the completion of the assessment roll to prevent a potential loss of property tax revenue.”

“The Assessor, an elected official, is responsible for directing and prioritizing staff assignments including revenue generating functions. While the Board allocates limited financial resources, there is no guarantee that the Assessor will utilize the resources to support functions that generate revenue. The Board concurs that had the

unsecured assessment roll not been completed, the schools and county would have experienced a revenue loss of at least the amounts stated above and likely more.”

**Response from County Administrative Office**

“I partially disagree with the finding. The Grand Jury is correct that the Assessor had stated that it was her intention not to complete the unsecured assessment roll due to budget reductions; however, the Assessor completed the unsecured assessment roll for 2012 with the assistance of other county staff.”

“If the unsecured assessment roll had not been completed, the approximate loss to the county and schools may have been greater than the figures quoted above. The Board provided funding to enable the unsecured assessment roll to be completed by the Assessor’s Office. It appears the Assessor, not the Board, chose to assign her staff to activities other than the unsecured assessment roll. As a result, an individual from the Auditor-Controller’s Office offered to assist the Assessor complete the unsecured assessment roll to prevent a tax loss. This was accomplished.”

“Despite serious fiscal and budgetary constraints in Fiscal Year 2011-12, the Board of Supervisors took action to increase funding in the Assessor’s Office, thereby implementing the Grand Jury’s recommendation.”

**DETERMINATION of GRAND JURY 2012-2013**

The Grand Jury finds that all responses are adequate.

## **REPORT 4    RESPONSE TO 2010-2011 GRAND JURY REPORT REGARDING CALAVERAS COUNTY BOARD OF SUPERVISORS**

### **REASON FOR INVESTIGATION**

The Grand Jury received a citizen's complaint regarding a member of the Calaveras County Board of Supervisors (BOS) citing conflict of interest, appearance of impropriety and breach of ethics. During the course of the investigation, the Grand Jury elected to expand the investigation to include other issues associated with the Board of Supervisors.

### **Procedure**

- The Grand Jury's investigation consisted of the following:
- Interviewed 18 witnesses
- Attended several BOS meetings
- Reviewed minutes of the BOS meetings pertaining to this complaint
- Reviewed Form 700 and Form 460 for all Supervisors pertaining to conflict of interest and campaign contributions
- Attended several LAFCO meetings
- Reviewed LAFCO Policies and Procedures
- Reviewed LAFCO Bylaws
- Reviewed 2009-2011 LAFCO agendas and minutes
- Reviewed City of Angels Sphere of Influence (SOI) documents and Assessor's maps regarding the proposed boundary line changes
- Reviewed 2009-2011 City of Angels agendas and minutes
- Reviewed City of Angels planning documents regarding land use and proposed SOI updates
- Reviewed 2009-2011 agendas and minutes for CCOG and viewed two years of video recordings of CCOG meetings
- Reviewed documents for the Wagon Trail Project
- Reviewed documents for Highway 4 Bypass
- Reviewed documents for the proposed Highway 49 Bypass routes

### **Background**

There are five Supervisory districts within Calaveras County and the voters of each district elect a Supervisor to represent them for a four year term. Supervisors are elected on a staggered basis, i.e., two in one election cycle and three in the next election two years later. Since there are no term limits, a Supervisor can remain in office until such time as they are voted out. Current Supervisors have served anywhere from 2 years to nearly 30 years.

All Supervisors are required to complete ethics training every two years. The Board may approve optional classes and training upon request by a Supervisor. There are neither bylaws nor policies and procedures for Supervisors to follow while in office, however, they must abide by the Brown Act. County Counsel is present at BOS meetings to advise the Board on State laws and County Codes.

When a Supervisor takes office, they assume the committee and board assignments of the Supervisor they have replaced. There are 37 BOS assignments for 2012 which include a wide variety of agencies, commissions and public boards that have varying terms of appointments. Supervisors' assignments rarely change once the duties are inherited. It takes a majority vote of three for a Supervisor to be reappointed or reassigned. This can be done simply because of a Supervisor's personal interest or expertise.

LAFCO (Local Agency Formation Commission) and CCOG (Calaveras Council of Governments), two of the most influential agencies in the county, each require two Supervisors to sit as board members with voting rights. While LAFCO operates as an independent agency, CCOG and other agencies are influenced by the BOS. This can occur when county funding is involved. As an example, the BOS sets transportation priorities that are presented to CCOG where two Supervisors have voting authority as CCOG board members. Another

opportunity to impact decisions presents itself when those same Supervisors vote on county transportation funding associated with CCOG projects at a BOS meeting.

### **LAFCO**

In the 1950's the California State Legislature formed LAFCO to oversee government efficiency and land use issues as urban sprawl became a costly problem for cities and counties. LAFCO is an independent oversight commission. LAFCO is required to periodically review SOIs after conducting a municipal services review. Two Supervisors are voting members of the seven-member board.

### **CCOG**

CCOG was formed in January 1998 under a Joint Powers Agreement as the Regional Transportation Planning Agency for the County of Calaveras and the City of Angels. CCOG was formed as a way to bring in State and Federal tax money for Calaveras County's transportation projects. Two Supervisors are voting members of this seven-member board.

### **Finding 1**

There are no term limits for Supervisors. They may be re-elected for multiple terms, therefore some Supervisors have been in office for nearly 30 years.

### **Recommendation**

The Grand Jury recommends that term limits be considered to prevent stagnation and undue influence by lengthy time in office.

### **RESPONSES**

#### **Calaveras County Board of Supervisors**

The recommendation will not be implemented because the electoral process provides ample opportunity for citizens to seek elective office if they so choose. Nine Supervisors have served one term, five Supervisors have served two terms, one Supervisor has served three terms, one Supervisor has served five terms and one Supervisor has served seven terms.

The Board of Supervisors understands it has the authority per Government Code Section 25000 (b) and pursuant to Elections Code Section 9140 to initiate a ballot measure for voter approval to establish term limits for supervisory representation. Likewise, county residents may pursue placing a term limit measure on the ballot, pursuant to Elections Code Section 9101 et seq., for approval by the county's electorate.

#### **County Counsel**

County Counsel cannot implement this recommendation as County Counsel has no authority to establish term limits for members of the board of supervisors. Government Code §25 000 (b) authorizes the board of supervisors, using the procedure set forth in Elections Code §9140, to place an initiative on the ballot to adopt a limit on the number of terms a member of the board of supervisors may serve. Alternatively, the residents of the county, using the procedure set forth in Elections Code §910 1 et seq., have the same initiative power. The initiative must be approved by a majority of the electors at a regularly scheduled election and if approved, applies prospectively only. Whether or not to pursue a term limit initiative is an issue to be decided by the Board of Supervisors or the residents and electors of the county.

### **Finding 2**

The only required training for Supervisors is a short course in ethics every two years.

### **Recommendation**

The Grand Jury recommends that the BOS consult with other counties or professional organizations to develop a mandatory training program including comprehensive training on the Brown Act.

**RESPONSE**

**Calaveras County Board of Supervisors**

The recommendation will not be implemented, as it is not economically feasible to develop a mandatory training program.

**Finding 3**

There appears to be a pattern of some Supervisors retaining committee appointments to the exclusion of others. This prevents a fair and even distribution of representation from all districts of the county. The current minimal rotation of committee assignments increases the potential for undue influence and impropriety when Supervisors remain on the same committees over multiple terms.

**Recommendation**

The Grand Jury recommends the BOS review committee assignments annually and must be rotated regularly.

**RESPONSE**

**Calaveras County Board of Supervisors**

The Board of Supervisors disagrees with Finding 3.

**Finding 4**

Witnesses testified to numerous examples of violations of the Brown Act, including failure to recuse, cronyism and attempts to influence other Board members in their voting decisions outside public meetings.

**Recommendation**

Supervisors need to actively monitor themselves to prevent violations of the Brown Act and recuse themselves when appropriate to avoid any appearance of impropriety.

**RESPONSE**

**Calaveras County Board of Supervisors**

The Board disagrees with Finding 4.

**Finding 5**

The Grand Jury witnessed examples of and heard testimony regarding unprofessional behavior by some Supervisors during BOS and other agency meetings. This includes shouting at other board members and the public, refusing to abide by the agenda structure in order to suppress public comments, and making sarcastic, inappropriate remarks.

**Recommendation**

The Grand Jury recommends that all Supervisors conduct themselves in a professional manner. Supervisors have a responsibility to set an example of professionalism and maintain focus on the task of efficient county governance.

**RESPONSE**

**Calaveras County Board of Supervisors**

The Board partially agrees with the finding. The Board agrees it is important to develop professional relationships and act civilly to one another and the public despite strong differences of opinion that may occur at times. The Board disagrees that it refuses to abide by the agenda structure in an effort to suppress public comment as the Board's agenda routinely states the Board Chair has discretion to take items out of order to conduct the Board's business in the most efficient manner.

**Finding 6**

The Grand Jury heard testimony from numerous employees who described working under hostile conditions as a result of being frequently pressured by current and former Supervisors. Some witnesses stated that they left public employment because of intimidation and inappropriate influence, causing a disruption of services to the public and an increased financial impact of hiring and training replacement employees.

**Recommendation**

The BOS does not directly supervise all county employees. The Grand Jury recommends the BOS follow appropriate protocol and respect the chain of command.

**RESPONSE**

**Calaveras County Board of Supervisors**

The Board disagrees with this finding. The Board is unaware of any situation involving intimidation or inappropriate influence by current or past Board members.

**DETERMINATION of GRAND JURY 2012-2013**

The Grand Jury finds that all responses are adequate

## **REPORT 6    RESPONSE TO 2011-2012 GRAND JURY REPORT REGARDING CALAVERAS COUNTY HUMAN RESOURCES DEPARTMENT**

### **REASON FOR INVESTIGATION**

California Penal Code Section 925 states in part "... investigations may be conducted on some selective basis each year." The Grand Jury elected to assess the Calaveras County employee job performance appraisal process.

### **Procedure**

The Grand Jury visited the Calaveras County Human Resources Department and requested a list of all Calaveras County employees by job classification, hire date, and employee ID number. At the time of the request, there were 431 County employees; 80 were randomly selected via employee ID number and job classification and those were subsequently reviewed for compliance with the County Ordinance Code sections.

### **Background**

The Calaveras County Ordinance Code states, in part, "It is the responsibility of the appointing authority to complete...performance appraisals in a timely manner and to ensure that such appraisals are properly placed in the employee's personnel file in the county administrative office" (Ordinance Code 2.64.585-Employee performance appraisal-Purpose).

"All regular employees should receive, at least annually, performance appraisal and evaluations on forms approved by the CAO" (Ordinance Code 2.64.590-employee performance appraisal-Procedure.)

The Calaveras County Human Resources & Risk and Management Department web site lists under Department Responsibilities (among many) "... performance appraisals/due process."

### **Finding 1**

Employee performance must be quantitatively and qualitatively assessed on a regular basis in order to ensure the highest level of productivity in service to the public. Furthermore, employee morale and development requires supervisory attention and review.

### **Recommendation**

The Grand Jury recommends that the Human Resources Department require county department heads to bring all employee appraisals up to date and to notify all department heads when appraisals are due on every employee prior to the annual review date.

## **RESPONSES**

### **Human Resources Director**

"Agrees and "the Grand Jury recommendation has already been implemented." "... Human Resources has partnered with Technology Services and is implementing a new process that electronically reminds and sends the department head and/or supervisor notice that the employee evaluation is due." "... However, Human Resources does not have the authority to require department heads to bring all evaluations up to date." "... If the department does not complete the employee evaluation, an electronic email will be sent to notify the County Administrative Officer. The County Administrative Office is responsible for evaluating all department heads."

### **Chief Administrative Officer**

Agrees with the finding. "The Human Resources (HR) Department is in the process of implementing the Grand Jury's recommendation with assistance from Technology Services." "... HR implemented a new system which alerts departments heads and their designees when annual appraisals are due." Although it provides for the CAO to be notified when department heads do not complete evaluations, the CAO has no authority to evaluate elected officials who serve as department heads.

**Board of Supervisors**

The Board partially agrees with the recommendation. “The Board supports Human Resources’ implementation of a notification system for apprising Department Heads when appraisals are due”. H.R. does not have the authority to require department heads to perform appraisals.

**Finding 2**

The current language of County Code Section 2.64.590 states “should receive” in reference to annual appraisals. This wording is ambiguous and more specific language is needed to assure compliance.

**Recommendation**

The Grand Jury recommends that the Board of Supervisors amend the County Code (Section 2.64.590) to make this a mandatory procedure.

**RESPONSE**

**Board of Supervisors**

The Board agrees “... and supports the implementation of this recommendation to amend County Code (Section 2.64.590) and supports the Human Resources Director’s review to propose amendments to County Code for consistency with county practice and/or prior Board action.”

**DETERMINATION of GRAND JURY 2011-2012**

The Grand Jury finds that all responses are adequate

## **REPORT 7                      RESPONSE TO 2011-2012 GRAND JURY REPORT REGARDING THE CALAVERAS COUNTY JAIL**

### **REASON FOR INVESTIGATION**

In accordance with California Penal Code section 919(b), "...the Grand Jury shall visit and inspect the condition and management of public prisons within the County of Calaveras.

### **SCOPE OF INVESTIGATION**

The investigation focused on the daily operation, staffing, facilities, and the procedures of the county jail, and a review of the new jail currently under construction.

### **PROCEDURES**

The Grand Jury conducted site visits and inspections of the Calaveras County jail at the Government Center in San Andreas.

During the course of the visit, the Grand Jury also reviewed the plans for the new jail, sheriff's headquarters and 911 dispatch center.

### **BACKGROUND**

The plans for the new jail call for the utilization of electronic technology to monitor inmate activity and to reduce prisoner movement by way of remote video arrangements. When completed, the jail and courthouse buildings will be connected by a hardened corridor, which will dramatically improve security during prisoner movements for mandatory court appearances.

The new jail complex will adhere to contemporary, state-of-the-art custodial facility design standards, which include utilization of "direct supervision" methods to prevent violence and control inmate behavior. However, current and predicted staffing shortfalls resulting from budget restrictions will negate the design benefits. These shortfalls will make it necessary for inmate supervision by staff to revert to the "indirect" instead of "direct" method. The indirect supervision method will require deputies to remotely monitor multiple units which potentially creates safety issues for both inmates and deputies. This situation is further exacerbated by AB 109, which places additional inmates in county jails.

### **RESULTS OF INVESTIGATION**

#### **Finding 2**

The jail appears clean and well organized although very worn. The staffing levels are minimally adequate and the jail continues to be out of compliance with State Board of Corrections standards on a regular basis.

#### **Recommendation**

The Grand Jury recommends that the Board of Supervisors review the current jail staffing levels and make appropriate funding allotments for personnel increases.

#### **Response by Board of Supervisors**

"The Board of Supervisors disagrees with this finding as the jail is not out of compliance with the State Board of Corrections standards on a regular basis. In FY 2011-12, the Board approved funding in an amount to ensure compliance with State Board of Corrections' standards. Sheriff's management must manage the jail budget including staffing levels in accordance with standards and budgeted appropriations. This requires anticipating when it is necessary to ask Human Resources to open recruitments and maintain hiring lists of eligible persons ready to perform relief duties due to vacations, medical leaves, resignations, etc."

#### **Finding 3**

Predicted staffing shortfalls resulting from budget restrictions will cause inmate supervision by staff to revert to the "indirect" as opposed to "direct" method in the new jail.

**Recommendation**

The Grand Jury recommends that the Board of Supervisors review the future jail staffing levels and make appropriate funding allotments for personnel increases to utilize “direct supervision” methods to prevent violence and control inmate behavior.

**Response by Board of Supervisors**

“This recommendation has been implemented. In addition to extra hire and overtime funds, the Board has provided additional funding for two new positions in the jail: a Sheriff’s Technician and a Sergeant “

**Finding 4**

A facility referred to as a “dormitory” has been deleted from jail construction plans. The dormitory would house sentenced inmate workers, known as “trustees”, dramatically reducing the movement of such inmates in and out of the regular jail facility and thereby eliminating the potential introduction of contraband to the “high risk” regular jail population.

**Recommendation**

The Grand Jury recommends that the Board of Supervisors review the need for a dormitory, particularly in light of the impact of AB 109.

**Response by Board of Supervisors**

“The Board disagrees with the Grand Jury’s recommendation as it is not financially feasible or warranted.”

**DETERMINATION of GRAND JURY 2012-2013**

The Grand Jury finds that all responses are adequate

## **REPORT 8    RESPONSE TO 2010-2011 GRAND JURY REPORT REGARDING JENNY LIND VETERANS MEMORIAL DISTRICT**

### **REASON FOR INVESTIGATION**

The Grand Jury received a citizen complaint regarding the Jenny Lind Veterans Memorial District (JLVMD).

1. The complainant alleged that the bid process for the new Community Hall was improperly conducted.
2. The complainant further alleged that the building completed was not the original design. The original design was commissioned at a cost of \$40,000. The complainant asserted that the design fees were wasted.
3. The complainant stated that bids were received improperly and after the deadline according to the bid specifications.
4. The complainant felt that the winning bid was improperly awarded to a friend of a Board Member.

### **Procedure**

The Grand Jury conducted interviews with:

- Current and past Board of Directors President
- Current and past Board members
- Secretary of JLVMD
- Current and Past General Managers
- County Counsel
- Representative of the General Contractor

The Grand Jury reviewed:

- The Digital Bid package provided by JLVMD to all prospective bidders
- Copies of required newspaper Solicitations for Bid
- Minutes of Board of Director meetings relevant to the Bid process
- Copies of all submitted bids
- Financial records of JLVMD related to construction

The Grand Jury also attended a JLVMD Board meeting and inspected the new facility and reviewed with JLVMD staff the bid handling process.

### **Background**

The bid process was plagued with inconsistencies from the start. The bid for original design came in much higher than the District could afford. The Design was modified and resubmitted for bid.

In order to solicit competitive bids, one Board Member was asked to contact a manufacturer of steel buildings to solicit another bid. There was a conflict between the bid times posted in the newspaper and the times that were put on the CD bid package. According to the newspaper, bids were due at noon. According to the CD, they were due at 3:00 PM. On the day the bids were due, three bids were delivered to the District office by noon. The fourth, which came in via fax to a board Member, was delivered to the Board President at his home soon after 2:00 PM.

The bids were opened during a closed session of the Board the next week and the contract was awarded to the lowest bidder, which was the one delivered via fax.

**Finding 1**

The complainant was correct that the bid process was flawed. This was due to a lack of understanding of the process by the Board. They did solicit advice during the process from County Counsel but did not properly disseminate that information to all bidders.

**Recommendation**

In the future, the Board needs to solicit advice of County Counsel before putting projects out to bid and to follow that advice.

**RESPONSES****JLVMD Board**

We agree there were irregularities and misinformation in the bidding process. The Jenny Lind Veterans Memorial District has taken corrective action as recommended in the Grand Jury investigative report.

**Finding 2**

The final building was not the vision of the complainant; however the complainant needs to understand that sacrifices have to be made given the current state of the JLVMD budget. The current building will meet the needs of the District.

**Recommendation**

None

**Finding 3**

The ultimate aim of the bid was to build the community a multipurpose place to gather. Though there were irregularities in the bidding process, the Grand Jury could find no inappropriate actions by the Board or bidders. The contract was awarded to the lowest bidder.

**Recommendation**

None

**Finding 4**

The Board member who delivered the faxed bid had no connection with the winning bidder except to receive and deliver the bid. The Grand Jury could find no evidence of cronyism or bid tampering.

**Recommendation**

None

**DETERMINATION of GRAND JURY 2012-2013**

The Grand Jury finds that all responses are adequate

## **REPORT 10 RESPONSE TO 2010-2011 GRAND JURY REPORT REGARDING CALAVERAS COUNTY PUBLIC WORKS DEPARTMENT**

### **REASON FOR INVESTIGATION**

The Grand Jury received a citizen complaint regarding Public Works' failure to return phone calls, being impolite, unhelpful and not responding to a written complaint.

### **Procedure**

The Grand Jury interviewed the following:

- Director of Public Works
- Permit Technicians

The Grand Jury reviewed the following documents:

- Public Works Mission Statement
- Handouts from the last customer service training in 2008

### **Background**

Public Works maintains county roads and bridges. This department is also responsible for commercial grading permits, county landfills, transfer stations, recycling operations, transportation planning, and public transit.

### **Finding 1**

Written service requests are not responded to in a consistent manner. Some are given a written response, others a phone call and some are not provided a response at all. Even though the department has templates for written responses, not all technicians are aware of them.

### **Recommendation**

To promote consistency within the department, a written procedure should be established on how to respond to customer service requests and provide training to staff.

### **RESPONSE**

**Director of Public Works** "disagrees partially with finding. Public Works policy was that not all written service requests required a written response. If the request was a simple maintenance request and that maintenance was done, no response was sent. In an instance where the request was more complex, such as drainage issues through private property, then a written response was provided once the issue was investigated. Staff on occasion receives complaints where Public Works is not able to address the issue of concern, either due to the matter being a neighbor dispute that does not involve the County, or other matter over which Public Works has no jurisdiction."

"The templates referenced in the Report are for illegal grading and encroachments. All staff was and is aware of those forms. No templates existed for complaints other than illegal grading and encroachments as these were addressed on a case-by-case basis."

"Public Works has developed an on-line customer service request form and tracking that has replaced written requests. This form can be accessed through the County's website, or staff can input the information if the resident prefers to give the details over the phone or in person at the Public Counter. This electronic form includes follow-up deadlines and a check box if the customer requests to be notified of any follow-up on the issue. This service became active on July 31, 2012."

"Staff that uses the on-line reporting system has been trained in its use and continues to update the procedures as needed, as well as develop additional outreach and tracking tools to ensure that customer complaints are logged and responses provided when requested. Public Works anticipates that this will not alleviate all complaints regarding service requests, notably when the response to the request is that Public Works has no jurisdiction

over the issue of concern, or that budget limitations prevent the Department from addressing the issue as the customer.”

**Finding 2**

It has been several years since Public Works has conducted customer service training.

**Recommendation**

Provide customer service training this year to all staff that have contact with the public and continue training annually.

**RESPONSE**

**Director of Public Works** “agrees with finding. Public Works in the past provided customer service training for staff on a regular basis. This training was impacted due to staff reductions and reassignments caused by budget cuts over the last three fiscal years. Staffing has stabilized at much lower levels, and training has resumed for the remaining staff that has interaction with the public. The last Customer Service Training was held on May 17, and June 19, 2012, and will be renewed annually”.

**DETERMINATION of GRAND JURY 2011-2012**

The Grand Jury finds that all responses are adequate

**GRAND JURY  
CITIZEN COMPLAINT FORM**

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

Date \_\_\_\_\_

1. THIS COMPLAINT IS AGAINST:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. MY COMPLAINT AGAINST THE ABOVE IS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. BEFORE FILLING OUT THIS FORM I HAVE CONTACTED:

\_\_\_\_\_  
\_\_\_\_\_

4. COMPLAINANT:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_

5. I REQUEST THE FOLLOWING:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The information in this form is true, correct and complete to the best of my knowledge

\_\_\_\_\_  
Signature

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**Instructions for preparing the Citizen Complaint Form**  
Calaveras County Grand Jury

- I. The Grand Jury Citizen Complaint Form should be prepared after all attempts to correct a situation have been explored and were unsuccessful.
- II. Instructions for preparing the Citizen Complaint Form:

**1. This Complaint is Against:**

- a. Include the name of the individual or organization the complaint is against. Ensure correct spelling of the name(s).
- b. If the complaint is against an individual in an organization, include the individual's title or position in the organization.
- c. Provide the street address (not a P.O. Box), city, state and zip code.
- d. The telephone number of the organization or individual cited should be included on the last line of this block.

**2. My Complaint Against the Above is:**

- a. Describe the problem in your own words.
- b. Be as concise as possible, providing dates, times and names of individuals involved.
- c. Cite specific instances as opposed to broad statements.
- d. Attach any available photographs, correspondence or documentation which supports the complaint.
- e. If more room is required, attach extra sheets, and include their number on the last line of the first sheet (i.e. 3 additional sheets attached).
- f. Include your name, street address, city, state, zip code and telephone number (area code also).
- g. Mail this complaint form to the address shown on the front.
- h. Please sign this complaint. (You may file an anonymous complaint if you desire; however, this may make it much more difficult for the Grand Jury to investigate the allegations.)

The Grand Jury will respond to your complaint and advise you whether or not an investigation will be undertaken.

The Grand Jury may contact you during the conduct of an investigation.

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