

TUOLUMNE COUNTY

GRAND JURY

IN THE YEAR

2001-2002

FINAL REPORT

TABLE OF CONTENTS

INTRODUCTION

	Page
Foreman's Statement	3
About the Civil Grand Jury	5
Members of the Grand Jury	6
A Letter to the Residents of Tuolumne County.....	7
Grand Jury Mission Statement.....	8
Secretary's Report	9
Grand Jury Report Introduction	12
Edit and Publications Report	13

REPORTS

Tuolumne General Hospital	15
Personnel Management	42
Salary Increases/County Administrator/County Counsel	58
Management and Oversight of County Fiscal Affairs.....	69
Jamestown Mine	82
Financial Impact	86
Law Enforcement	88
Review and Report	92
Tuolumne Utilities District	101

Foreman's Report

Lloyd D. Turman

**Tuolumne County Grand Jury
2001 - 2002
41 West Yaney Street
Sonora, CA 95370**

June 30, 2002

The Honorable William G. Polley
Judge of the Superior Court, Tuolumne County
41 West Yaney Avenue
Sonora, California, 95370

Dear Judge Polley:

The Grand Jury would like to thank you, Donald Segerstrom, District Attorney, and Mike Knowles, Assistant District Attorney, for your advice and assistance. We would also like to thank Margaret Smith of your office, the County Counsel, all the people of the court support system, the Board of Supervisors and all county employees who were interviewed or supplied information and records to the Grand Jury.

The 2001-2002 Tuolumne County Grand Jury herein submits it's final report. This report is submitted to you, the Board of Supervisors of Tuolumne County and the citizens of Tuolumne County.

This Grand Jury report is the result of many hours of interviews, investigations, telephone conversations, online computing and review of county operations and records.

We sincerely hope the findings and recommendations within this report will have a positive impact on the government of Tuolumne County and make the citizens of this fine county more aware of county operations.

Serving on the Grand Jury has been an experience that none of the members will ever forget. The Grand Jurors feel they have been honored by the opportunity to have served their community. Serving as Foreman of this group has been a great honor and I would like to thank each and every one of them for their dedication and hard work in preparing this report.

Respectfully submitted



Lloyd D. Turman, Foreman

Tuolumne County Grand Jury 2001-2002

ABOUT THE CIVIL GRAND JURY

The Tuolumne County Civil Grand Jury is composed of 19 citizens of Tuolumne County charged and sworn to conduct inquiries into matters of civil concern within the boundaries of Tuolumne County.

The Civil Grand Jury reviews and evaluates procedures, methods and systems used by governmental agencies to determine whether they comply with the stated objectives of the agency. The Jury may inquire into any aspect of the county/city government, including special districts, to ascertain that the best interest of Tuolumne County residents are being served.

The Civil Grand Jury functions lawfully only as a body; no individual grand juror acting alone has any power or authority. Meetings of the Civil Grand Jury are not open to the public. By law, all matters discussed before the Civil Grand Jury and votes taken are required to be kept private and confidential. The end results of inquiries are released to the public via a final report which is approved, prior to release, by the Presiding Judge of the Superior Court.

The Penal Code requires the Grand Jury to:

- Inquire into the conditions and management of jails within the County.
- Investigate and report on the operations, accounts and records of county officers departments and functions.
- Inquire into the willful or corrupt misconduct of public officers while in office.
- Submit a final report of its finding and recommendations, no later than the end of its term, to the Presiding Judge of the Superior Court. Agencies to which these recommendations are directed are required to respond to the Tuolumne County Board of Supervisors within 90 days after the final report has been released.

**Members of the Grand Jury
in the
Year 2001 - 2002**

Sandra J. Asquith	Twain Harte	Retired/Education
Elmer S. Boden	Columbia	Digital Imager
Beverly D. Broekema	Tuolumne	Business Owner
William C. Cooper	Sonora	Attorney, General Counsel
Vincent DeAnda	Tuolumne	Retired/Plywood
Ronald K. Degn	MiWuk Village	Technician
Joseph B. Dugan	Sonora	Mechanical Designer
Corinne B. Fish	Jamestown	Insurance
Nancy C. Franklin	Sonora	Education
Betita Gamble	Sonora	Artist
Jack G. Haney	Sonora	Retired/Marketing
Sandra Owen	Soulsbyville	Retail Sales
Henrik V. Petersen	Sonora	Retired Captain Navy Medical Service Corp
Jeannie G. Pierce	Jamestown	Education
David B. Sablotny	Moccasin	Hydroelectric Supervisor
Terri Shonio	Groveland	Nurse
Lloyd D. Turman	Twain Harte	Retired Hydroelectric Superintendent
Hazel Waters	Columbia	Retired Asst. Escrow Officer Manager
Robert C. Wellwood	Twain Harte	Retired/Software Programmer

**TUOLUMNE COUNTY GRAND JURY
2001-2002
41 West Yaney Avenue
Sonora, CA 95370**

To the Residents of Tuolumne County:

This report covers the Civil Grand Jury as appointed by the Honorable William G. Polley, Superior Court Judge in Charge.

Civil Grand Jury Service provided an opportunity for Tuolumne County citizens to participate in both a unique and valuable public service. A Grand Juror must be prepared to practice as a team member in a group of nineteen Grand Jurors. The energy and commitment of each individual Grand Juror determine how efficient the Civil Grand Jury performs as an investigative body.

On exercising our mandate to conduct investigations of selected governmental agencies, districts and special districts, we have attempted to set forth our findings in a fair, objective and constructive manner. The various committee reports are included in the Final Report. These reports represent the work of the committee members identified at the beginning of each report and reflect the concurrence of a majority of the Grand Jury.

**Tuolumne County Grand Jury
In The Year 2001 - 2002
Mission Statement**

The mission of this Grand Jury is to ensure that the best interests of the people of Tuolumne County are reasonably and responsibly represented by the officers and in the departments of county government.

In good faith and with due diligence, our means is to inspect the facilities, inquire about the functions, examine the records, investigate the operations and interview the personnel of the agencies and entities of county government.

To that end, we report on our findings and recommendations pertaining to the matters investigated, and we review the comments and responses to our report by the county officers, government departments and Board of Supervisors of the County of Tuolumne.

Passed and adopted this 10th day of October, 2001,

SECRETARY'S REPORT

Secretary - Hazel (Lynne) Waters

This report is submitted to show the public the time and effort put forth from their fellow citizens that volunteer to be Grand Jury members. This years report includes the Secretary's Report outlining meetings attended, speakers, tours and agencies visited. Members of the Grand Jury, after being sworn in by the Judge of the Court with the oath shown below, were read the mandate of the court describing their duties and obligations under the law, to be followed during their year of service as a Grand Jury member.

GRAND JURY OATH

I DO SOLEMNLY SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND OF THE STATE OF CALIFORNIA, AND ALL LAWS MADE PURSUANT TO AND IN CONFORMITY THEREWITH, WILL DELIGENTLY INQUIRE INTO, AND TRUE PRESENTMENT MAKE, OF ALL PUBLIC OFFENSES AGAINST THE PEOPLE OF THIS STATE, COMMITTED OR TRIABLE WITHIN THIS COUNTY, OF WHICH THE Grand Jury SHALL HAVE OR CAN OBTAIN LEGAL EVIDENCE. FURTHER, I WILL NOT DISCLOSE ANY EVIDENCE BROUGHT BEFORE THE GRAND JURY, NOR ANYTHING WHICH I OR ANY OTHER GRAND JUROR MAY SAY, NOR THE MANNER IN WHICH I OR ANY OTHER GRAND JUROR MAY HAVE VOTED ON ANY MATTER BEFORE THE GRAND JURY. I WILL KEEP THE CHARGE THAT WILL BE GIVEN TO ME BY THE COURT.

Weekly meetings were held between August 8, 2001 and June 30, 2002.

Average length of the meetings was one hour and 57 minutes.

Average number of jurors in attendance at each meeting was 15.

REQUIRED TOURS

COUNTY JAIL ON SEPTEMBER 25, 200,
Nine (9) jurors present
SIERRA CONSERVATION CENTER ON NOVEMBER 8, 2001,
Fourteen (14) jurors present

VOLUNTARY TOURS

TOUR OF THE JAMESTOWN MINE
On September 12, 2001 Four (4) jurors present
On October 9, 2001, Five (5) jurors present

TUOLUMNE COUNTY GENERAL HOSPITAL
On October 31, 2001, Ten (10) jurors present

INVITED SPEAKERS

Matt Mattingly, Forman 2000-2001 Grand Jury	August 15, 2001
C. Brent Wallace, County Administrative Officer	August 22, 2001
Donald Segerstrom, District Attorney Mike Knowles, Assistant District Attorney	September 19, 2001
Deborah Russell, CPA Assistant Auditor/Controller	September 26, 2001
Gary Danielson Coalition for Better Government	October 10, 2001
Rick Green, CPA, Partner Macias, Gini and Company and Michael Marini, Administrator Tuolumne General Hospital	October 17, 2001
California Grand Jury Association	October 22, 2001

Grand Jury In House Training

C. Brent Wallace, County Administrative Officer

December 27, 2001

**Michael Marini, Dismissed Administrator
Tuolumne General Hospital**

January 9, 2002

**Board of Supervisors, Tuolumne County
Richard Pland, Don Ratzlaff, Larry Rotelli,
Laurie Sylwester and Mark Thornton.**

January 22, 2002

GRAND JURY REPORT

INTRODUCTION

Because of the seriousness of some of the issues involved, primarily at Tuolumne General Hospital and the County Auditor/Controllers Office, the Grand Jury took a position to investigate and report problems/issues as we found them without trying to sugar coat, second guess or make our Findings Conclusions and Recommendations politically correct. The Grand Jury proceeded from a strong belief that "the buck stops here" and has applied this notion in our findings. The Grand Jury does not desire to embarrass any one person or group, but have identified County Officials or levels of leadership, when necessary, to elicit the proper response at the level of leadership where the required corrective action can be taken. The Grand Jury presumes that the County Leadership is mature enough to accept constructive criticism and that it will refrain from wasting its time and energy trying to dispute every finding the Grand Jury has produced, instead of focusing on evaluating and correcting the problems reported upon.

The Grand Jury recognizes that Grand Jury investigations are, in some respects, akin to "Monday morning quarterbacking", where it is easy to look back and criticize actions, or the lack thereof, when in fact there may have been legitimate or mitigating reasons for such actions or omissions. The Grand Jury also recognizes that some its findings are based on interpretation of data, regulations, and events that the County may interpret differently. Where such different interpretations may exist, it is incumbent upon the Board of Supervisors to look at the issues in their broader context to fully understand the Grand Jury's concerns and findings before dismissing them out of hand. The Grand Jury strived to ensure that all the findings were accurate and based on verifiable documentation such as correspondence, minutes of the Board of Supervisors' and Board of Trustees' meetings, personnel contracts and documentation, County personnel and compensation regulations, and copious transcripts and interview notes.

The Grand Jury found no evidence of criminal or fraudulent activities, but did find some serious lapses of good judgment and a number of management deficiencies that the Board of Supervisors and County Management Team need to address expeditiously. The Tuolumne General Hospital will continue to be a serious challenge for the County and will require the Board of Supervisors and the County Management Team's renewed efforts if it is to survive.

EDIT AND PUBLICATIONS

Edit and Publications Committee

Sandra Asquith, Chairman

Joseph "Jay" Dugan

Jeanie Pierce

Dave Sablotny

Hazel "Lynne" Waters

EDIT AND PUBLICATIONS REPORT

The law mandates that the 2001-2002 Tuolumne County Grand Jury submit a Final Report prior to the conclusion of their term of office on June 30, 2002. The Final Report consists of the findings, conclusions and recommendations of the Grand Jury.

Internally, the Grand Jury is divided into a number of committees; each committee takes responsibility for conducting and/or supervising the investigations within their respective field of interest. To initiate an investigation by any of the committees, the committee must have the approval of the majority of the Grand Jury.

Once the committees make their investigations and write their reports, the reports are submitted to the Edit Committee for editing and publication. Prior to publication, all reports must be approved by a majority of the Grand Jury. For legal purposes, the reports are then submitted respectively to: the Grand Jury Foreman, the Grand Jury's Legal Advisor, and the Presiding Judge of the Superior Court.

Copies of the Final Report are printed and bound for distribution. The distribution includes: the County Board of Supervisors, Superior Court Judges, the District Attorney, department heads, news media and public libraries. Copies are available for public viewing.

TUOLUMNE COUNTY GENERAL HOSPITAL

Hospital Committee

Henrik "Pete" Petersen, Chairman

Beverly Broekema, Secretary

William "Bill" Cooper

Corinne "Connie" Fish

Terri Shonio

TUOLUMNE GENERAL HOSPITAL (TGH)

Introduction

The Tuolumne General Hospital is in a state of financial and management crisis that has worsened over the past 6-7 years. Even though previous Grand Juries have investigated and reported on Tuolumne General Hospital's problems in the past, this Grand Jury had to focus much of its energies to investigate the factors that led up to the current situation and the way the County is currently managing the crisis. Unfortunately, some of the previously reported problems continue and have, in some cases, become worse. In the Grand Jury's opinion, the long term prospects for Tuolumne General Hospital are not encouraging, especially if the County continues its "business as usual" philosophy with respect to the Hospital's operation and management.

Objective

To identify management areas and issues in our findings below, that, in the opinion of the Grand Jury, are particularly important.

To provide the public information with respect to Tuolumne General Hospital that may not have been available or apparent previously.

To make recommendations that will assist the Board of Supervisors in making decisions regarding the future of Tuolumne General Hospital.

Methodology

Review of Personnel Rules and Regulations of the County of Tuolumne, hereafter referred to as County Personnel Regulations.

Review of the Executive/Confidential Unit Compensation Plan, hereafter referred to as the Compensation Plan.

Interview with the Board of Supervisors.

Interview and correspondence with the Hospital Board of Trustees.

Interview and correspondence with the County Administrative Officer.

Interview and correspondence with the County Counsel.

Interview and correspondence with the Human Resources Manager.

Correspondence with the Director of Human Services Agency.

Interview with Hospital Administrator, Mr. Marini.

Interview with Chief Financial Officer, Mr. Good.

Interview with Hospital Administrator, Mr. Woerman.

Interview and correspondence with Assistant Auditor/Controller, Ms. Russell.

Interview and/or Correspondence with various other hospital employees in the Risk Management, Long Term Care, Mother Lode Medical Center, Primary Care Clinic, Psychiatric Unit, Kingsview –Tuolumne County Behavioral Health and Recovery Service and Visiting Nurses Association.

On site visits to Tuolumne General Hospital and the above Clinics.

Interview with Chief Executive Officer of Sonora Community Hospital.

Interview with Warden at Sierra Conservation Center.

Contacts with the California Association of Public Hospitals and Health Care Systems and the California Health Care Association.

General Finding

Tuolumne General Hospital is in a financial and management crisis that is serious enough that it is unlikely it will survive in its current configuration and manner of operation. A detailed summary of all the financial issues is the subject of a separate set of Findings, Conclusions and Recommendations. The following is a general finding with respect to circumstances that impact the financial status and other management problems followed by more specific Findings, Conclusions and Recommendations.

Tuolumne General Hospital is a County (public) hospital, the mandate of which is to treat "indigent sick" (This term was provided by the County Counsel as a term that generally includes patients) as defined by the Welfare and Institutions Code Section 17000 and County Resolution 220-96. The "Indigent sick" are, by definition, not full paying customers and it is a fact that the Tuolumne General Hospital will never be able to generate enough revenue from State reimbursements for this group to balance the hospital budget. The "indigent sick", as defined by the County, are persons who are eligible for care under the County Medical Services Program (CMSP) and MediCal and for whom Tuolumne General Hospital has to accept the State reimbursement rates as payment in full and persons without means who do not qualify for either. With both the County Medical Service Program and the MediCal, the reimbursement rates provide 50% or less than what it costs the hospital to provide such services. While providing legally mandated care to this population, which according to the County Administrator constitutes approximately 47% of the patients seen at Tuolumne General Hospital, it is also trying to compete with Sonora Community Hospital for patients who are self-pay or privately insured with much higher reimbursement rates. Tuolumne General Hospital has not been able to compete successfully with Sonora Community Hospital in the past and probably will not be able to do so in the future. Sonora Community Hospital is a private, endowed, non-profit hospital, backed by a worldwide, corporate organization that has the resources to provide the staff, the technology and physical plant (witness new hospital construction) necessary to survive and succeed in today's rapidly and continuously changing, fiercely competitive healthcare market.

It is also significant to note that the County has a total customer base of about 55,000 residents. Though there does not appear to be a generally accepted population planning figure for what size population is necessary to support one acute care hospital, 55,000 is probably not sufficient to support two acute care hospitals the size of Tuolumne General Hospital and Sonora Community Hospital.

To place the health care industry's tough environment further into perspective, it should be noted that 60 percent of all hospitals in California (private and public) have negative patient margins (net patient revenue less expenses) and that there are less than 18 counties left in California that operate County General Hospitals funded with taxpayers dollars. All the other counties have had to find different ways to discharge their legal obligation to provide health care to the "indigent sick".

Lastly, there is a further threat to the County and Tuolumne General Hospital in the form of the State of California \$20 billion budget deficit. While there is no specific information on what the Governor intends to do in dealing with the deficit (as of May 23, 2002) it is likely that he will look to all counties, large and small, to make sacrifices to help balance the budget. Any sacrifice Tuolumne County might have to make in this respect will adversely affect Tuolumne General Hospital, but even more threatening is the very real possibility that the State may lower the County Medical Services Program and MediCal reimbursement rates and/or reduce subsidies in order to balance the budget.

Given these circumstances, the outlook for Tuolumne General Hospital is not encouraging. Whether intentional or not, Tuolumne General Hospital has evolved into what the healthcare industry terms an "open door provider" subject to all the fiscal realities and difficulties alluded to above. What is disturbing, though, is that the County leadership and Tuolumne General Hospital have not responded to the Hospital's crisis with innovation or by introducing any of the business practices, cost effectiveness measures or re-engineering (a term meaning a methodical analysis of the total organization and a restructuring to the organization making it more efficient, cost effective and capable of carrying out its mission) efforts that other California "open door providers" have had to do in order to survive. Instead, the emphasis has been on a "business as usual" approach in which the County has accepted the hospital's operating losses as a matter routine and paid them off from the County General Fund. The operating losses and outstanding debt have now grown to such proportions that the County has no choice but to take serious, corrective action.

In spite of all this, the Grand Jury does not advocate that Tuolumne General Hospital should be closed. The Grand Jury recognizes the serious need for and the quality of some of the services the hospital provides. Furthermore, the Grand Jury believes that there are significant opportunities for improvement if the Board of Supervisors, the County Management Team, the Tuolumne General Hospital leadership team and the public all commit fully to make the hard, but necessary, organizational and business practice changes that will be required.

The Grand Jury's focus has been to identify poor business and management practices and to make recommendations that would help turn the hospital into an enterprise that is managed as a business. This will not be easy. The Board of Supervisors has to become the force for change. That will require a change in philosophy and painful decisions and actions with respect to staffing, reorganization, consolidation and re-engineering. It will require termination of some money losing services and increased emphasis of other money-making services. It will require creativity and innovation to search out new community partnerships and new revenue sources. Lastly, it will require the County Leadership to commit to a plan and a timeline to turn the hospital around in

a period of time that should not exceed two years, a time line previously imposed by the Board of Supervisors on the previous hospital administrator (Marini).

Lastly, it should be noted that the information going into this report was, for the most part, obtained and analyzed prior to the last hospital administrator's (Mr. Woerman) hire on December 20, 2002. Therefore, nothing in this report reflects on his management efforts.

QUALITY OF CARE Findings

The Grand Jury did not have time to look in depth at quality of care issues. We were pleased to note, however, that to the extent we did, we heard many good reports about the Tuolumne General Hospital and its staff. Customer satisfaction appears to be high. Tuolumne General Hospital's previous Joint Commission for Accreditation of Healthcare Organizations (JCAHO) accreditation was awarded to the hospital on 2/20/1999 and ran through 2/20/02. There were several Type I Recommendations (recommendations for correction of discrepancies that must be corrected before final accreditation is granted) that the hospital successfully corrected.

JCAHO surveyed Tuolumne General Hospital again in March 2002 and published its report on April 22, 2002 awarding accreditation for all services provided by the Hospital. This accreditation is effective for three years beginning March 13, 2002, subject to several Type I Recommendations that have to be corrected within 6 months.

According to JCAHO policies, the specific findings of the JCAHO Survey are confidential, except as required by law. To that end, the Grand Jury will identify only general categories in which Tuolumne General Hospital has to make improvements. They are: Under Care of Patients – Medication use; under Improving Organization Performance – data analysis; under Management of Environment of Care – planning issues; under Long Term Care – assessment of residents and medical records entries; under Medical Staff-credentialing; under Human Resources Management – personnel qualifications and under Hospice Care – issues pertaining to patients' rights. The Grand Jury did find indicators of significant management problems in the Primary Care Clinic and the Mother Lode Medical Center (addressed elsewhere) that could impact on quality of care in general. These indicators pertain to morale problems, personality clashes and alleged unprofessional behavior on the part of certain staff members.

A new Hospital Administrator was hired effective December 20, 2001 and a new Clinic Director was hired effective March 11, 2002.

Conclusions

It is essential for Tuolumne General Hospital to be accredited by JCAHO and that it maintains such accreditation. Failure to obtain and maintain full JCAHO accreditation would have serious, negative consequences for the Hospital. For example, it may affect the Hospital's reputation, its ability to recruit quality staff, its ability to obtain loans, grants and lower insurance premiums, its ability to collaborate with other institutions and a host of other operational issues.

The JCAHO survey provides a comprehensive review of all quality of care issues. This will provide the Board of Supervisors the best possible evaluation as to the "professional health" and quality care at Tuolumne General Hospital. Successful completion of the survey and accreditation also indicates that Tuolumne General Hospital meets or exceeds the professional standards that are considered state-of-the art in today's healthcare industry. As such, the results of the survey will provide the Board of Supervisors and the County Management Team an important management tool with which to measure the Hospital's compliance with nationally recognized quality of care standards.

The Type I Recommendations in the JCAHO Report appear not to be serious problems and should not pose a major problem for Tuolumne General Hospital to correct. The Tuolumne General Hospital Staff is to be congratulated on the successful award of JCAHO accreditation. It speaks very highly of the Staff's loyalty, professionalism and "grace under fire". It is a particularly impressive achievement in view of the management problems the Hospital experienced over the past several years.

It is important to note that JCAHO accreditation pertains to quality of care and not the manner in which the hospital is managed administratively or financially. Therefore, successfully accreditation does not equate to an endorsement that the hospital is well managed or fiscally sound.

It is the Grand Jury's opinion that are significant problems in the Primary Care Clinic and the Mother Lode Medical Center with respect to the alleged factions of unprofessional behavior, personality clashes and inefficiencies. These problems appear to be symptomatic of lack of oversight and poor leadership. This situation is not conducive to providing the highest quality of healthcare and the patients will ultimately suffer unless the new Hospital Administrator and the new Clinic Director take immediate steps to assert their leadership and make the necessary changes to correct the problems.

Having two separate primary care clinics providing essentially the same services, one of which is physically distant from Tuolumne General Hospital, has contributed to the lack of oversight and other management problems. Likewise, having two different clinics with separate staffing and operating costs providing essentially the same services **may not be** the most cost effective and efficient way to provide such services.

Recommendations

The Board of Supervisors acquaint themselves with the basic purpose, methodology and terminology of JCAHO in order to understand the JCAHO Survey Report.

The Board of Supervisors schedule a meeting for presentation of the JCAHO Survey Report now that it is published.

The Board of Supervisors carefully monitor the timely and satisfactory resolution of the Type I Recommendations in the current survey report. To that end, the Hospital Administrator should make periodic reports to the Board of Supervisors to indicate the progress, or lack of progress, being made to comply with these recommendations. That Board of Supervisors, take vigorous action to bring in outside review/assistance by JCAHO or other consultants in the event of evidence of an increase in adverse outcomes (as defined in JCAHO standards) at Tuolumne General Hospital.

That the new Hospital Administrator (Mr. Woerman) make the management problems at the Primary Care Clinic and the Mother Lode Medical Center one of his priorities. He and the new Clinic Director must exert the necessary leadership to re-establish a harmonious, professional and effective work environment.

That the Hospital Administrator and the Clinic Director assess whether having two primary care clinics is the most cost effective and efficient way to provide primary care for the County. This assessment should be based on a complete review of the clinics' operation, i.e., hours of operation, patient use patterns, staffing, productivity, waiting time for appointments, use of physicians and physician extenders, cost of operation of two separate versus one facility, profitability, span of control, etc.

LEADERSHIP

Findings

The Grand Jury heard in various settings, including Board of Supervisors' meetings that the financial crisis at Tuolumne General Hospital came about as a result of the 1997 Balanced Budget Act. While there is no doubt that this Act, and other outside influences, have contributed to Tuolumne General Hospital's financial problems, the problems started before that. In the final analysis, the fundamental reason for the hospital's problems was lack of leadership and failure of the County Management Team to adapt management and business practices to meet the challenges of the extraordinary changes in the healthcare industry. Specifically:

The Grand Jury subscribes to the adage that "the buck stops here". Therefore, it is the Grand Jury's opinion that the Board of Supervisors and the County Administrative Officer (past and present) must shoulder as much of the responsibility for Tuolumne

General Hospital's poor performance as the former Hospital Administrator, Mr. Mitchell, and the succeeding hospital management teams.

The Board of Supervisors has not provided a clear vision and mission for Tuolumne General Hospital that meets the needs of the County and addresses the realities of today's healthcare market.

As of May 1, 2002, the County Management Team is not able to accurately identify the potential number of the resident population, referred to hereafter as the "indigent sick" for which healthcare services are legally mandated, what services they consume and what it costs to provide such services. The inability to obtain such basic cost accounting information for legally mandated services has been source of frustration to the Board of Supervisors and the Board of Trustees for several years. Yet, the Board of Supervisors, the Board of Trustees, along with the County Administrative Officer, have not exercised the necessary leadership to make the responsible officials provide this critical cost accounting information.

The Board of Supervisors and the County Administrative Officer have not provided the leadership necessary to cause Tuolumne General Hospital management team to introduce standard, industry business practices such as strategic planning, departmental performance standards, evaluating and right-sizing the staff and introducing accountability into the management of Tuolumne General Hospital. As of April 1, 2002 there is no evidence of any serious management attempts to validate, consolidate and/or down-size staffing. There is no evidence of implementation of any recent or innovative approaches to gain new revenue except for a failed attempt to get a contract with the Veteran's Administration. There is no evidence of any attempt on the part of County to study how other former county hospitals transitioned services to the private sector or public/private partnerships to assess any lessons learned that might apply to or benefit Tuolumne General Hospital. The emphasis of the Board of Supervisors continues to be on doing business as usual and a continuation of providing all the services currently provided.

As of March 2002, Tuolumne General Hospital's actual operational deficit is approximately \$5 million and the debt from the County's internal borrowing program about \$6.3 million. Total debt from both internal borrowing program and outside loans is approximate \$9.5 million. One Supervisor opined, during a meeting with the Grand Jury, that it was probably naïve to think that Tuolumne General Hospital would ever be able balance its budget and function without some subsidy from the County.

The public, in general, seems uninformed and consequently disinterested as to the reasons and magnitude of the crisis. The Board of Supervisors has not kept the public adequately informed about the crisis and realities at Tuolumne General Hospital. The Board has not held any Town Hall Meetings or engaged in any other serious educational efforts.

The Board of Supervisors and the County Management Team have, with one exception, not shown any initiative in seeking out new revenue sources. For example, during a visit to the Sierra Conservation Center, the Grand Jury discussed the possibility of Tuolumne General Hospital providing healthcare services to the 6300+ inmates,

services that, except for emergencies, are currently provided at various facilities outside the County. Warden Kramer indicated that he would favor such an arrangement if the necessary security arrangements could be provided. He also indicated that certain State contracting issues would have to be addressed.

Conclusions

The hiring and dismissal of Mr. Marini was, in the opinion of the Grand Jury, a leadership failure on the part of the Board of Supervisors and the County Management Team.

The lack of a clear vision and a current definition of Tuolumne General Hospital's mission from the Board of Supervisors are major reasons that the hospital has continued to deteriorate in terms of financial performance and other management parameters.

The Board of Supervisors' and the County Management Team's failure to make, evaluate and institute strategies that would optimize the Hospital's strengths, or strategies that would provide new revenue, has contributed to missed opportunities and continued failing financial performance. The Long-Term Care facility, for example, is a moneymaker, and with the long waiting list at this facility and other non-County facilities, expansion of this service might be a source of increased revenue.

Even though Tuolumne General Hospital is not a for-profit hospital, it is engaged in stiff competition with Sonora Community Hospital and cannot hope to succeed unless it operates according to the same business practices. The three current management imperatives that drive other California "open door providers" hospitals' quest for survival are "innovation, cost effectiveness and re-engineering". These concepts are not evident with respect to Tuolumne General Hospital's current philosophy, policies and operation. The Board of Supervisors' focus has lacked in urgency and up, until now, has been doing business as usual with an attitude that Tuolumne General Hospital should continue its current services at all cost. This focus is backwards looking and detrimental to the Hospital's survival. It has also resulted in an undue burden on the taxpayers in not being able to fund other County needs such as, for example, rehabilitation of the jail, assistance to Community Action Agencies, park maintenance, proper road maintenance, and a host of other needs.

The Board of Supervisors has been too willing to accept external causes, such as the Balanced Budget Act, as excuses for what has been and continues to be poor management and financial performance. They have also failed, with only the recent exception of Mr. Marini's dismissal, to exact accountability when it was required. It is the Grand Jury's opinion that failure to exact such accountability contributed to failed financial performance and poor management by removing any concern about sanctions for poor performance on the part of the County Management Team.

The County's inability to identify and differentiate between the prospective "indigent sick", non-indigent self-pay and insured patients, and to properly account for the cost of providing healthcare to the "indigent sick", goes to the core of Tuolumne General

Hospital's financial problems. It is the epitome of poor financial management that the County cannot account for the cost associated services provided for the "indigent sick". The legally mandated care for these residents is **the only reason** for the hospital's existence. Without such visibility and cost accounting, it is impossible to evaluate current and develop new financial and management strategies that will turn Tuolumne General Hospital into a properly managed and financed enterprise.

The Grand Jury concurs with the Supervisor mentioned above that Tuolumne General Hospital will never be able to balance its budget and operate without some subsidy from the County if it is managed on a business as usual basis. The Grand Jury believes, however, that the Hospital can make significant progress toward breaking even **if** the Board of Supervisors becomes a force for change and provides the leadership for innovation, re-engineering, accountability, and implementation of the business practices that will be needed to turn the Hospital around. This will require some completely new thinking on the part of the Supervisors with respect to how the Hospital should be configured, staffed, what services are to be provided. It will require exploration of partnerships with other healthcare providers, exploration of how other counties have managed their legal obligations and exploitation of resources such as the California Association of Public Hospitals and Healthcare Systems.

The Board of Supervisors has missed an opportunity for community support by not keeping the public better informed about Tuolumne General Hospital's problems. If Tuolumne General Hospital is to survive in any form, the public has to be involved and made to feel that they are key stakeholders who also have a responsibility in turning the Hospital into a financially viable County asset.

Recommendations

That the Board of Supervisors review the County's legal mandate, the realities of today's healthcare market and provide a clear vision and mission for Tuolumne General Hospital's future. The thinking going into this review needs to be, to use a popular current management cliché, "out of the box" and open to new ideas, innovation and focused on the **hospital as a business enterprise, not as a charity**.

That the Board of Supervisors direct the County Management Team to refocus their efforts on managing Tuolumne General Hospital as a business. This may require reorganization, staffing changes, downsizing, consolidation, community partnerships, shift of venue for services and a number of other serious business changes. Profit making, innovation, cost effectiveness and re-engineering should be key concepts in the County's new focus.

That the Board of Supervisors direct the County Management Team to initiate and use standard business tools such as strategic planning (addressed further below) and departmental performance standards to guide the operations at Tuolumne General Hospital.

That the Board of Supervisors exact accountability for operations at Tuolumne General Hospital from all principals including the County Administrative Officer, the County

Counsel, the Hospital Administrator and the Board of Trustees. To that end, the Board of Supervisors must set goals and provide milestones and timelines for the County Management Team.

That the Board of Supervisors provide positive incentives for performance that accomplishes their new goals and timelines for Tuolumne General Hospital such as bonuses, salary range increases, perks, etc., consistent with County personnel and compensation regulations.

That the Board of Supervisors carefully consider the impact on the taxpayers and avoid granting any new salary increases for the Supervisors themselves and other County employees responsible for management of Tuolumne General Hospital until it has been turned into a viable, well managed enterprise. It is the Grand Jury's opinion that granting such increases would lead to erosion of public confidence and credibility in the Board of Supervisors.

That the Board of Supervisors direct the County Management Team to identify the population and costs associated with providing mandated healthcare services.

That the Board of Supervisors direct the County Management Team and the Board of Trustees to consult with other counties that transitioned their mandated services to the private sector, community partnerships, etc. Such consultation should focus on what lessons might be learned and what business models might be applicable/beneficial to Tuolumne General Hospital as the Hospital develops its options for the future.

That the Board of Supervisors direct the County Management Team to evaluate new revenue potentials such as providing health care services to the Sierra Conservation Center. To that end, an immediate dialogue should be started with the Warden of the Sierra Conservation Center. Likewise, expansion of the Long-Term Care service and other profit making services should be explored.

That the Board of Supervisors engage in a serious public relations and educational campaign to get the public's support for the County's plan to rehabilitate Tuolumne General Hospital.

ACCOUNTABILITY

These Findings, Conclusions and Recommendations are based on what the Grand Jury found with respect to Tuolumne General Hospital. The Grand Jury does not suggest that the same hold true for all other County Departments.

Findings

The Grand Jury found that Tuolumne General Hospital has suffered from failed financial performance and poor management for several years. Some of these problems were investigated and reported upon in previous Grand Jury reports and are indicative of lack

of oversight by the County Management Team, poor communication, and leadership problems on the part of the hospital administrator. These observations were further confirmed by the County Administrative Officer, a member of the hospital Board of Trustees and several hospital employees. With regard to all these problems, no one was held accountable. On the contrary, the incumbent hospital administrator was granted \$ 17,750 in separation pay when he resigned. This in spite of the fact that the Board of Supervisors had, through the County Administrative Officer, communicated their loss of confidence and encouraged him to resign, and in spite of the fact that there were no provisions for such separation pay under the terms of his employment.

The Hospital Administrator's immediate supervisor, the County Administrative Officer, did not submit any performance evaluations on Mr. Mitchell or compile counseling notes of record with respect to his performance. This was understandable to the jury for the first year of the County Administrative Officer's service to the county but for the subsequent years - County Personnel Regulations and the County Code describe the need for such evaluations and counseling notes.

Again - in spite of all this information, the County Administrative Officer and the Board of Trustees, both commended him for his "outstanding services" to Tuolumne General Hospital during the Board of Trustees meeting on February 1, 2001. In his separation agreement he was also offered an opportunity to consult at the cost of \$100/hour. (It should be noted, however, that he was never called upon to provide such services.)

The County Administrative Officer, as the Hospital Administrator's immediate supervisor, was likewise not held accountable. To the contrary, he was subsequently given a substantial salary increase, based, it appears, not on any merit of his own, but on the contract salary negotiated by the new Hospital Administrator (addressed separately in section entitled Salary Increases for County Administrative Officer and County Counsel).

The Grand Jury questioned both the Board of Supervisors and the County Counsel with respect to the reasons why Mr. Mitchell was given separation pay, but did not get a clear answer. The separation agreement suggests that it was to prevent costs associated with potential litigation, but this was not articulated by either the Board of Supervisors or the County Counsel.

Conclusions

The County Management Team did not provide adequate oversight of Tuolumne General Hospital. When things finally came to a head, neither the department head of the County's largest department, nor his supervisor, was held accountable for what was unequivocally failed financial performance and poor management.

The County Administrative Officer appears not to have complied with County Personnel Regulations and the County Code in respect to developing proper performance standards and documenting performance counseling and reviews, thereby setting a poor example for other County officials.

The Board of Supervisors, for no articulated reason, provided a separation payment to a department head who quite clearly presided over the seriously deteriorating financial and management performance of Tuolumne General Hospital. This was presumably done to avoid the expenses of a lawsuit. Yet, neither the Board of Supervisors nor the County Counsel explained what possible claim the hospital administrator might have had or the reason for the separation pay. While providing payment may have been expedient under the circumstance, it was, in the opinion of the Grand Jury, an unnecessary expenditure of taxpayers' money that sets a poor precedent for dealing with future adverse personnel actions.

Recommendations

This set of Findings, Conclusions and Recommendations is tied to several others in this report pertaining to Personnel Management and the Dismissal of Hospital Administrator, in which more specific recommendations are provided. Thus, these recommendations are not repeated here. It is further recommended:

That the Board of Supervisors clearly articulates its expectations of department heads through the County Administrative Officer and exact the necessary accountability when a county employee fails to meet performance standards. This is necessary even when exacting such accountability is difficult, distasteful and when other more expedient actions are available.

That the Board of Supervisors direct the County Administrative Officer, to set an example with respect to complying with and enforcing County Personnel Regulations.

MANAGEMENT AND STRATEGIC PLANNING

Findings

As of May 1, 2002, Tuolumne General Hospital does not have a strategic plan or the management infrastructure necessary to carry out such a plan.

The Board of Trustees at the Hospital did attempt to develop a strategic plan but were not able to develop one in the absence of other County principals' participation.

A Website search on the Internet revealed that there are not less than 486 sites that deal with Strategic Planning. Some of these websites provide tools for self-assessments and offer a variety of services including on-site Strategic Planning Workshops. A cursory review of a few of sites suggest that they may be worthwhile for the County Management Team to review: University of Michigan Simplified Strategic Planning for Small and Mid-sized Companies, www.msusssp.com, and Genie Search, www.genie.org, both have good overviews of strategic planning and the planning process involved. But, there are a number of other websites that will provide similar

information. The California Association of Public Hospitals and Healthcare Systems may also be able to provide information in this regard.

Conclusions

The Board of Trustees cannot by themselves develop a proper strategic plan, the necessary corporate culture and management structure. Development of an effective strategic plan, and the necessary management structure, requires the entire management team in order to ensure that they become committed stakeholders in the plan's execution. As such, it would require active participation by the Board of Supervisors and other County management principals including the County Administrative Officer, Auditor/Comptroller, County Counsel, Director Of Human Services Agency, Human Resources Manager and the Tuolumne General Hospital management team.

The lack of a proper Strategic Plan goes to the very core of Tuolumne General Hospital's problem. A strategic plan requires carefully thought out mission and vision statements, as well as strategic objectives that must be met to carry out the plan. It requires the formal institution of a management infrastructure that is charged with and capable of analyzing and changing the various processes that drive the overall operations of the organization. Though some of these elements are present at Tuolumne General Hospital, they lack the formal structure of a strategic plan and committed management infrastructure. There are management systems available that could be adapted by Tuolumne General Hospital such as Total Quality Management. This particular system has been adopted and implemented by both small and large private business and government institutions with great success, but there are others. These systems work because they force the leadership of the organization to go through the often difficult and painful strategic planning process to come up with vision and mission, and a plan and management structure necessary for the organization to carry out its mission successfully. These management systems also work because they introduce innovation, accountability and actively involve the employees at all levels of the organization that actually carry out the processes that make the organization work.

Recommendations

That the Board of Supervisors direct Tuolumne General Hospital to go through a formal strategic planning process using outside consultants as facilitators to ensure proper focus, objectivity and timely completion.

That the Board of Supervisors and the County Management Team familiarize themselves with the strategic planning process through websites like those listed in the findings above in preparation for the actual planning session.

That the Board of Supervisors ensures that all the appropriate stakeholders, including the Board of Supervisors and the Board of Trustees, participate.

That the Board of Supervisors, once the plan has been developed and accepted by all the stake holders, use this strategic plan as a principal tool to measure the performance of Tuolumne General Hospital in meeting its strategic goals and objectives in carrying out its mission.

CONTINGENCY PLANNING

Findings

Tuolumne General Hospital is covered under the County Emergency Preparedness Plan. The plan appears to be well organized and written to cover all potential emergency situations in the County. Mass casualty situations and evacuation of the hospital are covered by the plan.

The County Plan is a dynamic document that does get exercised periodically. Responsible County personnel are currently in the process of reviewing the plan to update it to address the County response to terrorist activities in the County and/or the County's role as resource center for other counties' needs. They are also updating the plan to include lessons learned from last year's severe forest fires.

Tuolumne General Hospital does have both formal and informal transfer agreements with several hospitals that would serve the County during a disaster situation. It is not clear, however, that there is a transition plan to deal with discharge planning and other social services in the event the Tuolumne General Hospital is forced by a financial crisis to close or severely curtail services.

Conclusions

The County Emergency Preparedness Plan and Tuolumne General Hospital's planning for various types of emergencies such as mass casualty situations or hospital evacuation appear to be more than adequate and well managed.

In view of the current financial crisis, the Board of Supervisors and the Tuolumne General Hospital Management Team should review their options in the event that the Hospital is forced to close or curtail services. Discharge planning under such circumstances is likely to be different from discharge planning for emergency evacuation of the Hospital.

Recommendations

That the Board of Supervisors direct Tuolumne General Hospital to review its transfer agreements and discharge planning to explore what alternatives are available in and outside of the community for patients in the event services at the Hospital have to be curtailed permanently.

That the Board of Supervisors direct Tuolumne General Hospital to develop a transition plan with proper discharge, social services and transportation planning to minimize hardships for patients, families and staff.

That the Board of Supervisors define what financial and other conditions constitute a point at which time the transition and discharge plan must be implemented.

TUOLUMNE GENERAL HOSPITAL LEGAL MANDATE

Findings

The Grand Jury attempted to get the Board of Supervisors, the County Counsel, the County Administrative Officer and the Director of Human Services Agency to define what the County's legal mandate is to provide healthcare services at Tuolumne General Hospital. The Grand Jury also attempted to obtain data to identify inpatient and outpatient utilization by residents for whom the County is legally mandated to provide healthcare and the costs associated with such care. This proved to be very difficult. The appropriate statutes and court decisions, provided courtesy of the County Counsel, were not easy to understand and provided only limited assistance. Furthermore, the County Counsel's opinions were, in the opinion of the Grand Jury, for the most part rendered to support the Board of Supervisors' attitude with respect to the current operation of Tuolumne General Hospital. It also became apparent that the County does not track and utilize information with respect to legally mandated care for budgeting and cost accounting purposes. In the end, the County was not able to clearly articulate its legal mandate and the mission of Tuolumne General Hospital or the cost associated therewith. As stated elsewhere in this report, the Grand Jury is of the opinion that the lack of such clarity goes to the heart of the hospital's financial and management problems.

The following specific findings are pertinent:

The responsibility of the County to provide medical services to the "indigent sick" (term introduced by the County Counsel) is provided for in the Welfare and Institutions Code Section 17000. It states, among other things, that every county "shall relieve all incompetent, poor, indigent persons, and those incapacitated by age, disease, or accident, lawfully resident therein, when such persons are not supported and relieved by their relatives or friends, by their own means, or by state hospitals and other state or private institutions".

The authority to establish and maintain county hospitals is contained in the Health and Safety Code, Section 1441.

The legislature authorized County Hospitals to treat paying patients with adoption of Welfare and Institutions Code Section 14000.2. Specifically, "The Board of Supervisors of each county may prescribe rules which authorize the county hospital to integrate its services with those of other hospitals into a community service which offers free choice of hospitals to those requiring hospital care. The intent of this section is to eliminate discrimination or segregation based on economic disability so that county hospital in the community share services to paying patients and to those who qualify for care in public medical care programs".

Welfare and Institutions Code 14000e sets forth conditions under which the " Board of Supervisors may transfer operation, maintenance and ownership of county hospitals ...upon a finding that the community services provided by the hospital could be more efficiently and effectively provided by the transferee than the county." and goes on to state "The intent of this section is to permit the implementation of programs for the **consolidation of public health services in order to permit more effective use of existing hospital facilities and retard the spiraling cost of medical care**".

Based on material provided by County Counsel, two court decisions are pertinent: Community Memorial Hospital v. County of Ventura in which the Court upheld the County's practice of raising money by accepting paying patients **rather than through increased taxes...** And Goodall v. Brite in which Goodall (a county hospital) provided free medial care to all county residents regardless of ability to pay and even though there were no shortage of other hospitals willing to provide care for the paying patients. In this case, the Court held that providing free care to all residents exceeded the county's police power.

Authority for paying for medical care of the "indigent sick" is provided for in the Government Code, Section 29606 which states: " The necessary expenses incurred in the support of the county hospitals, almshouses, and the indigent sick and otherwise dependent poor, whose support is chargeable to the county, are county charges." According to the Director Of Human Services Agency, persons who qualify for care at Tuolumne General Hospital as "indigent sick" are persons under the County Medical Services Program (CMSP), MediCal and persons who have no means of their own who do not qualify for County Medical Service Program or MediCal.

The Board of Supervisors' did not express a clear understanding of what Tuolumne General Hospital's legal mandate is and variously opined: "Provide care to citizens whether they can afford it or not", "What the public requires..." "What they are legally mandated to do", "seeing indigents " and "provide services to the working poor". The County Counsel opined that "indigent sick" include anyone who cannot afford to pay for medical services regardless of whether they are eligible to participate in Federal, State or County healthcare programs. This is a very broad and inclusive opinion that is consistent with the Board of Supervisors general, but unwritten, policy that Tuolumne General Hospital will see any resident without regard to ability to pay.

The Grand Jury found and accepted that those residents who qualify for healthcare under MediCal, County Medical Services Program and those persons without means, who do not qualify for the MediCal or CMSP, provide a reasonable baseline definition. Based on this definition, the Grand Jury attempted to get the County to identify the

persons provided health care under this definition and the cost associated therewith. Based on a response from the County Administrative Officer dated April 15, 2002, there appears to be no clear terminology that defines the residents for which the County has a legal obligation to provide healthcare and there is no system or methodology in existence at the County that tracks inpatient and outpatient visits by these residents, how much it costs, and no inclusion or use of such data in preparation of Tuolumne General Hospital's budget.

Patients other than the "indigent sick", hereafter referred to as non-indigent paying patients, seen at Tuolumne General Hospital constitute patients who are persons who become "bad debts", persons who self-pay or persons who are covered by third party (insurance) payers. Under Welfare and Institutions Code 14000.2 these patients would, **presumably**, be seen at Tuolumne General Hospital in order to implement a program for the consolidation of public health services in order to permit more effective use of existing hospital facilities and to retard the spiraling cost of medical care. **BUT** there appears to be no deliberate County strategy or policy that addresses care of non-indigent, paying patients in this context.

The Board of Supervisor's did pass resolution 220-96 to "approve the General Assistance Standards of Tuolumne County pursuant to the Welfare and Institutions Code Section 17000, et seq." This resolution sets forth residence requirements, personal property considerations, responsibility of kindred/others, etc. Under Medical Care, it states "Eligibility for care shall be based on the County Medical Services Program (CMSP) Eligibility Manuals as long as the County remains in the program. This resolution provides a much more restrictive standard than that expressed by the Board of Supervisors, the County Counsel, and the Director of Human Services Agency and is inconsistent with the actual practice at Tuolumne General Hospital.

The Board of Supervisors has not provided an official, written mission statement, other than Resolution 220-96, for Tuolumne General Hospital that sets policy with respect to what patients can be provided healthcare at Tuolumne General Hospital. The Hospital does have the following mission statement: "The Tuolumne General Hospital is your locally owned, governed and managed healthcare system. We provide comprehensive, compassionate care that meets the needs of the entire community, while respecting the dignity of the individual. We offer a continuum of services. We strive to be financially and socially responsible with the belief that a physically healthy community leads to a socially healthy one". It is the Grand Jury's opinion that this is a very commendable and politically correct mission statement, but that it is not grounded in any legal mandate or County mission statement, and that the Hospital does not currently have the organization, the resources and the management focus to back it up.

There is no mandate from the taxpayers in Tuolumne County to use public funds for non-mandated healthcare services for non-indigent paying patients. That is, there is no mandate from the Public to cover the ever-increasing operational losses at Tuolumne General Hospital, specifically losses that are not associated with providing care to the "indigent sick". In fact, the public has not been offered the opportunity to address this issue. To the contrary, the public has been led to believe that all services provided at Tuolumne General Hospital are essential and mandated services. The Grand Jury asked the County Counsel if there were any ordinance or statutes that required the

Board of Supervisors to take funding issues such as Tuolumne General Hospital to the voters. His response, in a December 27, 2001 letter, was "There is no statutory requirement that the Board of Supervisors take the issue of funding Tuolumne General Hospital to the voters." He goes on to quote Government Code 29606 as authority and then states "This means that the use of the General Fund to support Tuolumne General Hospital is an appropriate use of the General Fund because the expenses and losses of operating Tuolumne General Hospital are deemed county charges."

California Association of Public Hospital and Health Systems, of which Tuolumne General Hospital is a (very recent) member, is a valuable source of information on current issues, legislation and fiscal impacts on public hospitals. A copy of a recent article entitled: *California's Uninsured and the Future of Open Door Providers* is provided for the Board of Supervisors as an addendum to Grand Jury's report to provide a further perspective on public hospitals in the current healthcare environment.

Conclusions

There is **ONLY ONE** legal mandate and reason for the County to operate a hospital, and that is to provide healthcare for the "indigent sick" as identified in the appropriate State statutes and ordinances. Providing health care to non-indigent self-pay or insured patients is authorized but **NOT** legally required.

It is clear that the County has an obligation to provide care for the "indigent sick" and the authority to operate a County hospital. Likewise, there is no question that the County has the authority to offer care to non-indigent paying patients under the following conditions in Welfare and Institutions Code, Section 14000e: (1) as a strategy to integrate its services with those of other hospitals into a community service which offer free choice of hospitals to those requiring hospital care; (2) as a strategy to eliminate discrimination or segregation based on economic disability so that county hospital in the community share services to paying patients and to those who qualify for care in public medical care programs, and (3) as a strategy to raise money to cover the increasing cost of healthcare by accepting paying patients rather than through increased taxes. It is the opinion of the Grand Jury that Tuolumne General Hospital does not meet the test of these criteria. There is no current strategy to integrate Tuolumne General Hospital's services with any other hospital or healthcare providers in the County and there is no strategy or written policy to deliberately seek paying patients as a means of offsetting the cost of care to the "indigent sick" versus raising taxes. To the contrary, the County has not made any serious attempt to integrate services or collaborate with Sonora Community Hospital or any other healthcare provider. The Board of Supervisors, in fact, chose not to implement a recommendation in the Casey Report (addressed below) that specifically recommended that Tuolumne General Hospital look at the need for two acute care hospitals in the County and initiate a dialogue with Sonora Community Hospital.

Tuolumne General Hospital, while not providing free care, appears to have taken a chapter from Goodall v. Brite cited above. The Board of Supervisors' philosophy to date has been to have the Hospital open to all comers regardless of the cost to the County.

In the absence of any other pertinent case law, it appears that the Board of Supervisors may be operating outside its police powers in allowing Tuolumne General Hospital to operate in this manner. It is not clear what, if any, legal implication that might have, but the Grand Jury is of the opinion that the current philosophy and operations at the Hospital are outside the County's legal mandate of providing healthcare to the "indigent sick".

It is clear that Institutions and Welfare Code Sections 14000.2 authorizes counties to transfer mandated healthcare services to another institution so long as the transferee has the ability to provide such care properly. It is equally clear that this County has not seriously considered this as an option even though most other county hospitals in California have done so.

The County's lack of a clearly articulated, written mission statement for Tuolumne General Hospital has opened the doors to all residents without regard to the cost to the taxpayers. It is the opinion of the Grand Jury that the lack of such clearly defined mission and policies for utilization of the Hospital has perpetuated the erroneous and fiscally irresponsible notion that all charges and losses incurred in its operation are County charges that can legitimately be paid for with public funds from the County General Fund and other County funds.

The public has an absolute right to be properly informed with respect to the County's legal mandate and the full implication of Tuolumne General Hospital's current crisis. They need to have a voice in the manner in which the County plans to deal with the crisis. The Board of Supervisors needs such grass root support for the Hospital but has not actively sought such support. Without active public involvement there is little chance that the Hospital will survive.

The California Association of Public Hospital and Healthcare Systems is a valuable resource that should be exploited to obtain information on and connection with point of contacts in Counties that have made innovative changes to improved services and reduce costs.

Recommendations

Recommendations for strategic planning, goals, performance standards and accountability are addressed under the headings of Leadership, Accountability, Strategic Management and Planning. Some of these recommendations are pertinent for this section as well. The starting point for all these recommendations is that the County must have an absolutely clear understanding of what its legal mandate is, and based on that, what Tuolumne General Hospital's mission should be. Thus, it is reiterated here that the Board of Supervisors and the County Management Team must define the legal mandate and then the mission of Tuolumne General Hospital as a first step in its rehabilitation. In addition, it is recommended:

That the Board of Supervisors direct the County Management Team to obtain the demographic data and other necessary parameters on the "indigent sick" in order to

identify potential and actual users and develop a cost accounting system that accurately reflects the cost of providing mandated health care services.

That the Board of Supervisors direct the County Management Team to pursue and evaluate opportunities for hospital services integration, as envisioned by Welfare and Institutions Code 14000.2, with Sonora Community Hospital and/or other potential providers.

That the Board of Supervisors reach out to the public in order to get their input with respect to the future of Tuolumne General Hospital and seek the grassroots support that will be necessary to salvage the Hospital in some form.

That the Tuolumne General Hospital engage California Healthcare Association and the California Association of Public Hospitals and Healthcare Systems to exploit their resources and expertise as the Hospital explores its options.

CASEY REPORT

Findings

The Board of Supervisors commissioned the Health Care Assessment for Tuolumne County and Tuolumne General Hospital in 2000. William J Casey, Inc. did the assessment and provided to the Board of Supervisors a report dated December 5, 2000 that subsequently became known as the Casey Report.

The report cost the County \$130,000. William J. Casey, Inc. also provided an interim Hospital Administrator from January to August 2001 at a cost of \$ 25,000 per month. The Casey Report has a number of worthwhile recommendations, some of which have already been implemented.

The County Administrative Officer stated that other recommendations have not been implemented either because they were not appropriate under County rules, or mostly because the turnover of senior personnel at Tuolumne General Hospital precluded serious attempts to analyze and implement the recommendations.

The Board of Trustees found the Casey Report exceedingly expensive and disagreed with many of its recommendations. They spent many hours reviewing it with hospital personnel and reported their findings to the Board of Supervisors. Two members of the Board also wrote a review of the Report that was published in the *Union Democrat* on January 2, 2001.

The Board of Trustees particularly disagreed with the recommendation to down size the Board. They felt that a broader, rather than a more narrow, perspective was needed. One recommendation pertains to the question of the need for two acute care hospitals in the County. This recommendation provides a decision tree for Tuolumne General Hospital to analyze its options, one of which involves negotiations with Sonora

Community Hospital. According to the County Administrative Officer, the Board of Supervisors chose not to pursue this recommendation for unspecified reasons. The Casey Report points out a litany of financial and management deficiencies including, but not limited to the fact, that Tuolumne General Hospital lacks a business plan; that certain management positions should be eliminated and others consolidated; that communication and public relation efforts are not well organized/focused; that financial performance has declined significantly; that there may be a need to cut personnel; that managed care contract reimbursement rates are too low; that personnel are under utilized in certain clinics and the departments lack proper goals. Many of these observations coincided with this Grand Jury's findings.

The report provides important information with respect to economics, demographics and health status indicators in the County.

The Grand Jury interviewed the Hospital Administrator and Chief Financial Officer of Sonora Community Hospital. The Administrator expressed willingness to meet with the Tuolumne General Hospital leadership to explore cooperation of mutual benefit. The Hospital Administrator did, however, express that he did not have a clear understanding of Tuolumne General Hospital's mission.

Conclusions

The Casey Report and the provision of an interim Hospital Administrator cost the County's taxpayers approximately \$280,000. As such, it deserves a more thorough analysis and action than it has received by the County and Tuolumne General Hospital's management team to date.

In spite of some alleged shortcomings, the Casey Report provides a wealth of information that would be helpful in various planning activities. It also provides a number of recommendations that have merit and should be analyzed and implemented where appropriate.

The recommendation with respect to performing an analysis to assess the need for two acute care hospitals in the County is particularly pertinent in spite of the Board of Supervisors choice not to pursue it. Such an analysis would be critical in preparation for development of the Strategic Plan addressed above and in meeting the spirit of Welfare and Institution Code Section 14000.2. As such, an analysis of options should be undertaken as soon as possible.

Tuolumne General Hospital would benefit from an ongoing dialogue with Sonora Community Hospital to exploit integration of services that benefit both hospitals. Such dialogue would be beneficial even if no collaboration is agreed to.

Recommendations

That the Board of Supervisors direct the Tuolumne General Hospital management team and the Board of Trustees to do a thorough analysis of the Casey Report and implement appropriate recommendations.

That the Board of Supervisors reevaluates its position on the recommendation to review options with respect to alternatives for acute care services in the County.

That Board of Supervisors direct the Tuolumne General Hospital Management Team and Board of Trustees to do the analysis and initiate the necessary dialogue with Sonora Community Hospital, and other potential healthcare partners, to explore opportunities for consolidation and cost effective alternatives to current operations.

HOSPITAL BOARD OF TRUSTEES Findings

The Board of Trustees is composed of up to 7 residents who serve voluntarily up to two three-year terms at no cost to the County. One member is (supposed to be) appointed from each supervisor's district, and one from mental health and Visiting Nurses Association and Hospice Care Association. Some members have been appointed across district lines because of particular skills and relationships. The Board includes persons with significant credentials and experience in nursing, healthcare administration, business and engineering and common sense.

The Board's understanding is that it is supposed to function as an extension of the Board of Supervisors, but notes that its role, in this respect, is not clearly defined. The Board of Supervisor has not empowered the Board with authority and the attendant responsibility to function effectively in this manner.

The County Administrative Officer has chosen to relegate the Board of Trustees to a minor advisory role.

The Board does have a Charter and bylaws, but because the Board's authority and responsibilities are poorly defined, its has resulted in conflicts with the County Administrative Officer, wasted efforts on the part of the Board and lost opportunities to effectively use this talented group to participate fully in the rehabilitation of Tuolumne General Hospital. At the current time, the Board is, in effect, reduced to deal only with medical professional issues such as recommending the recruitment, hiring and credentialing of physicians and other patient care issues.

In spite of its lack of clear authority, the Hospital Administrator has been required to report to the Board of Trustees as if it were in a supervisory role in the "chain of command".

The Board of Trustees has long advocated that Tuolumne General Hospital be run like a business but has been frustrated by the long term financial and other mismanagement at the Hospital. The Board's is also frustrated by the lack of authority to intervene effectively and the disdain they perceive the Board of Supervisors and the County Administrative Officer have for their talents and ability to contribute. This frustration was expressed by one member who stated to the Grand Jury: "There is no set of rules of expectations between the Hospital Administrator, the County Administrative Officer, the Board of Supervisors and the Board of Trustees."

The Board of Trustees perceives the County Administrative Officer to be a very controlling person who has not seen fit to consult the Board on important issues. For example, he did not consult with the Board with respect to placing Mr. Marini on administrative leave and recommending his dismissal. He only notified the Chairperson after the fact, and left her to deal with reporters without adequate information as to the reasons. He related to the Grand Jury that he did not consult with the Board Of Trustees because there were no County regulations that required him to and because he believed that he is better qualified to manage the day-to-day operations at Tuolumne General Hospital than the Trustees.

The Casey Report recommended that one member of the Board of Supervisors be assigned as a member of the Board of Trustees. One Supervisor has been attending Board meetings, but he is not being perceived as serving the intended purpose as he alleged usually comes late and leaves early.

Currently, the Board does not include a physician. The Trustees strongly believe that one is required and is seeking authority for such an appointment.

The Board of Supervisors acknowledged to the Grand Jury that there was a need for a meeting between the Board of Supervisors, the Board of Trustees and other principals, to review the Charter to define and codify the Board of Trustees role, authority and responsibilities. As of April 1, 2002 no such meeting has taken place.

There is no indication that the Board of Supervisors, the County Administrative Officer or the Board of Trustees has looked at other hospitals, either public or private, to search out a successful Board of Trustees model that might be adapted for Tuolumne General Hospital.

Discussions with the Board of Trustees regarding public relations suggest that Tuolumne General Hospital program is not as effective as it could be. This was also a finding in the Casey Report. The outreach to the public by means of talks to civic, service and women's groups appears to be minimal, as does newspaper and radio marketing.

Tuolumne General Hospital does have a Website.

Conclusions

The Board of Trustees consists of a group of, caring, dedicated, hardworking and talented individuals who could be a great asset to the County. The Board is not, however, a real partner in the management of Tuolumne General Hospital and is not used to the best advantage. That is because the Board of Supervisors, for reasons of its own, has chosen not to define the Board's duties, authorities and responsibilities. The Grand Jury does not concur with County Administrative Officer's opinion that he is better qualified to manage the day-to-day operations at Tuolumne General Hospital than the Board of Trustees. Though he has impressive credentials in his own field and has had some peripheral experience in the healthcare arena, he does not have the education, training and experience that is individually or collectively present in the Board of Trustees.

The Grand Jury acknowledges that there are no County regulations that required the County Administrative Officer to consult with the Board of Trustees with respect to the administrative leave and dismissal of Mr. Marini. The Grand Jury is of the opinion, however, that common sense, common courtesy and reasoned, mature management practice would dictate such consultation. The Chairperson expressed to the Grand Jury that the Board of Trustees had a good working relationship with Mr. Marini. Accordingly early consultation could possibly have made a difference and prevented, or at least, ameliorated, this disruptive and costly setback for the County.

The Board of Supervisors and the County benefit from having a Supervisor being a member of the Board of Trustees. This provides the important exposure to healthcare issues in general and the operations at Tuolumne General Hospital, in particular, that the Board of Supervisors needs in its decision-making. Thus, it is important that the assigned supervisor is able to invest the time necessary to provide this valuable interface.

The Board of Trustees' assessment that the Board requires a physician member is valid. The presence of a physician will help to keep decision-making focused on the patients, quality of care and other medical issues impacting on management of Tuolumne General Hospital.

The Board of Trustees could play an important role in rehabilitating Tuolumne General Hospital if they were empowered to do so. An immediate and active dialog is needed between all principals to define the Board of Trustees' role and empower it accordingly. This process would benefit by a review of how other successful hospitals Board of Trustees are empowered and how they operate.

If Tuolumne General Hospital is to compete effectively for paying patients, it must have an effective public relations program that uses the media effectively and one that reaches out to the public directly. The Board of Trustees could play a particularly effective role in this arena by sponsoring or participating in Town Hall Meetings, giving talks to service clubs, at health fairs and to other community groups, and doing

interviews or talks on the local radio station. The Hospital would also benefit from more media exposure through the newspaper and radio. Tuolumne General Hospital's Website has a great potential that should be exploited to the fullest with more educational and other information services.

Recommendations

That the Board of Supervisors seriously consider and decide what role they want the Board of Trustees to play in the management of Tuolumne General Hospital. If they want the Board of Trustees to be just be an advisory group that provides oversight of the medical/ professional issues at the hospital, the Board of Trustees should be told so and the Charter and By-laws changed accordingly. Under these circumstances, the Hospital Administrator should be freed from having to report to the Board of Trustees except with respect to specific medical/professional issues. If, on the other hand, the Board of Supervisors desires to empower the Board of Trustees to become full partners in the management and operation of Tuolumne General Hospital, the duties, authorities and responsibilities of the Board have to be carefully defined and codified to eliminate the current confusion. If so empowered, reporting relationships and responsibilities will require particular attention so that the Hospital Administrator is not placed in a position of having to report to two different (and currently philosophically different) supervisors. Having to report to two different supervisors violates an important management principle and is unfair to the Hospital Administrator.

That the Board of Supervisors initiate a series of meetings with the Board of Trustees to start the dialogue necessary to define the Board's role. End-state of this action should be a new Charter and By-laws.

That the Board of Supervisors pay particular attention to reporting relationships in the new Charter and By-laws to ensure it is clear and consistent with good management principles.

That the Board of Supervisors tasks the Board of Trustees to seek out hospitals that have successful Boards of Trustees and develop a proposal for a model that can be adapted to Tuolumne General Hospital.

That the Board of Supervisors authorizes a physician to be assigned to the Board of Trustees.

That the Board of Supervisors ensures that the member assigned to the Board of Trustees is able to invest the time necessary for this important interface.

That the Board of Supervisors, irrespective of what they finally decide to empower the Board of Trustees to do, direct the County Administrative Officer to consult with the Board Of Trustees on serious matters that concern Tuolumne General Hospital.

That the Board of Supervisors task the new Hospital Administrator to work with the Board of Trustees to improve the public relations program. The Board of Supervisors

should also consider having a Board of Supervisors column on the Website to address County healthcare issues of importance to the Hospital and the public.

PERSONNEL MANAGEMENT

PERSONNEL MANAGEMENT

Findings

The County appears to have a problem with personnel management, both with respect to procedure and attitude. The Grand Jury saw a number of indicators and specific problems to this effect, some of which are addressed below in detail. The Grand Jury is of the opinion that the reason for most of the problems investigated was a cavalier attitude toward County employees, lack of compliance with personnel and bargaining unit contracts, and County regulations that pertain to hiring, professional growth, discipline and dismissal. The problems investigated and reported on, are listed under five headings: Turnover of Senior Personnel, Performance Evaluations, Personnel Grievances, Dismissal of a Hospital Administrator and the County Administrator. These problems have cost the County dearly, not only in terms of expenditure of tax payers money for which the County received no benefit or value, but probably also in terms of loss of confidence and credibility on the part of County employees and with the public.

TURNOVER OF SENIOR PERSONNEL

Findings

Tuolumne General Hospital has had four different Hospital Administrators in the past year. One was asked to resign, one was a temporary administrator, one was dismissed and one was just been hired on February 11, 2002. There have been several Chief Financial Officers, the last having resigned on February 28, 2002. There has also been a significant turnover of other senior personnel in the business office.

There are morale problems at Tuolumne General Hospital, the Primary Care Clinic and Mother Lode Medical Center resulting from the turnover, lack of communication and continuity, lack of stability and, mostly, lack of leadership. There are factions within various hospital departments that snipe at each other, there have been accusations of preferential treatment in scheduling of personnel and overtime, and a number of other alleged incidents of unprofessional behavior.

Many of the Tuolumne General Hospital employees who appeared on behalf of Mr. Marini during the Board of Supervisors' open sessions, expressed concerns over stability and continuity within the work place and spoke of poor morale. In memoranda provided by the County Counsel employees, labeling themselves the "silent majority" (not for Mr. Marini) also spoke of uncertainties, poor morale and factions within the Hospital.

The County Administrative Officer made an issue regarding Mr. Marini's lack of experience in public hospitals in his recommendation for dismissal and other written

communication to the Board of Supervisors to substantiate that he "wasn't a good fit" for the County.

The Grand Jury's review of Mr. Marini's experience indicates that he had not been employed in a hospital/healthcare executive position since 1997.

Conclusions

The Grand Jury did not poll a large number of employees with respect to morale and their sense of stability and does not state this as a general problem perceived by all Tuolumne General Hospital employees. It is clear, however, that the turnover of senior personnel and lack of stability, continuity and leadership has taken a toll on the Tuolumne General Hospital staff that is counter productive and in the end, a potential threat to quality of care.

When added to the financial and other management problems at the Hospital, such personnel turnover raises serious questions about the leadership and management abilities of the County Management Team, not only in the eyes of the hospital staff, but in the eyes of the public.

The hiring and dismissal of Mr. Marini and the turnover of senior staff also raises serious questions regarding the selection and hiring processes in the County, especially with respect to recruitment practices, backgrounds checks and quality of the interview process.

The Tuolumne General Hospital staff has been subjected to a lot of uncertainty and work related stress. Overall, staff members are to be commended for their loyalty, professionalism and "grace under fire" in the past several years.

Recommendations

A number of recommendations are made elsewhere in this report with respect to the key management issues that contributed to the general management climate and in turn to the turnover of the Tuolumne General Hospital senior staff. As such, they are not repeated here. In addition it is recommended:

That the Board of Supervisors direct the County Management Team to review the entire hiring process to ascertain that the County is able to attract only the best talents. The background screening and interview processes, in particular, appears to be in need of improvement.

That the Board of Supervisors direct the new Hospital Administrator to initiate confidence-building meetings and other measures with all the Tuolumne General Hospital staff to restore visibility of leadership and a sense of stability.

That the Board of Supervisors meet with the Tuolumne General Hospital staff in a Town Hall Meeting type forum to help restore confidence and to show that the Board of Supervisors are serious and concerned stakeholders.

PERFORMANCE EVALUATIONS

Findings

The Grand Jury was told and accepts that numerous discussions took place between the County Administrative Officer and the Hospital Administrator (Mr. Mitchell) with respect to the financial and other management problems at Tuolumne General Hospital. The County Administrative Officer did not, however, develop and set appropriate performance/conduct standards for Mr. Mitchell in writing and did not submit any annual performance evaluations as described by Rule 8, Section B, C, and E of the County Personnel Regulations and Section 2.12.130 of the County Code respectively. He also did not keep any counseling notes for the record to substantiate counseling for performance deficiencies.

The Tuolumne General Hospital Board of Trustees wrote the only performance evaluation of record on Mr. Mitchell in the past three years. This evaluation shows Mr. Mitchell's performance to be satisfactory. Interviews with a member of the Board of Trustees, however, indicated that Board members had serious concerns over his management and leadership abilities.

Performance evaluations, in general, appear not to be taken seriously in the County. County regulations, however, are very clear in that supervisors are responsible for setting standards, submitting performance evaluations, and maintaining documentation on counseling and disciplinary actions. The Human Resources Manager is responsible for tracking the timely submission of annual performance evaluations. He informed members of the Grand Jury that the County Administrative Officer and other department heads, do as they want with respect to performance evaluations. If he does not receive the performance evaluations after reminding the supervisors involved, the employee/s involved are granted step increases anyway. When Grand Jury members contrasted this practice with that of the US Civil Service's management of performance evaluations, they were told that the County "is not nearly as rigid".

Conclusions

Providing proper performance standards/goals and evaluations is one of the supervisor's most important duties. They are essential for an employee's professional growth, promotions and financial well-being. The County recognizes this through its clearly written regulations pertaining to these personnel management requirements. Clearly defined goals and standards provide the employee guidance for what she/he must achieve both short and long term, and the supervisor a tool by which to measure

performance and to counsel the employee, as necessary. Without such official, agreed upon goals/standards, any performance evaluation is irrelevant.

When performance goals and evaluations are not taken very seriously, as it appears in this case, they become an issue when management wants to take adverse action. Under such circumstances, County management faces a serious disadvantage if it has to take adverse action and there are no standards and evaluations of record, no counseling notes of record, or if the evaluations and/or other documentation do not support the supervisors' allegations of performance or conduct deficiencies. In and by itself, a single lapse in this respect may not be significant. It is the Grand Jury's opinion, however, that it is unacceptable that the senior Officer in the County, who is ultimately responsible for enforcing County rules and regulations on behalf of the Board of Supervisors, did not comply with County Personnel Regulations. Such failure not only suggests the existence of a double standard but also sets the tone for the rest of the County department heads.

It is also the Grand Jury's opinion that the County Administrative Officer's action (or lack thereof) may have led to the generally indifferent attitude toward performance evaluations alluded to by the Human Resources Manager.

Recommendations

That the Board of Supervisors direct all appropriate County officials, especially the County Administrative Officer, to comply with County Personnel Regulations pertaining to performance evaluations, counseling and discipline as outlined in Rule 8 of the County Personnel Regulations and in the case of the County Administrative Officer, Section 2.12.130 of the County Code.

That the Board of Supervisors make the County Administrative Officer responsible for oversight of the performance evaluation process to ensure that department heads provide timely reports.

That the Board of Supervisors direct the County Administrative Officer to make periodic compliance reports on performance reviews and evaluations to the Board of Supervisors.

That those department heads who fail to comply with County regulations pertaining to performance standards, evaluations and disciplinary procedures are held accountable for such failures to comply in their own performance evaluations.

PERSONNEL GRIEVANCES

A review of grievances, disciplinary actions and investigative/problems reports on file at the Human Resources Office suggest that there have been major morale problems, especially at the clinics, that resulted in both formal and informal grievances. The following findings will highlight what appear to be the major grievances.

Findings

Numerous employees vented frustration at the observation of indirect, and some direct, unprofessional behavior, i.e. "threats, vulgar language, undermining, defamation of character, malice and contempt", etc.

A County interoffice Memorandum from one department head to another stated, "All of this has to stop!!!!" The situations were serious enough that, at the County's expense, a consultant was brought in to facilitate a conflict resolution retreat.

In response to a County Notice of Proposed Disciplinary Action against a Tuolumne General Hospital employee, the Operating Engineers Local Union No. 3 was successful in reducing the level of discipline on behalf of the employee. The Union Representative found it inexcusable that the County's original charging document was not on official letterhead, was not dated, nor were the attachments available.

The Tuolumne General Hospital relief workers, through arbitration, successfully challenged the County in a grievance with respect to the County's violation of the Memorandum of Understanding between the County and the Tuolumne County Health Care Employees Association regarding salary range adjustments. As a result of this grievance and arbitration, the County was ordered to make appropriate adjustments to the pay range for relief workers as set forth in the Memorandum of Understanding for the period of 1997-2000 as amended by the Addendum dated December 7, 1999. The County was further ordered to make the affected employees whole for any wages and benefits lost due to the failure of the County to make the appropriate adjustments in a timely manner.

A Tuolumne General Hospital employee in arbitration was awarded reinstatement of employment, back pay and benefits from date of discharge. Even though the arbitrator found that disciplinary action might have been warranted, he found for the employee and ordered that she be given a second chance.

Conclusions

Employee grievances occur no matter how well an organization is managed. Frivolous grievances can usually be dealt with expeditiously if management has acted properly according to its own personnel regulations in terms of proper counseling, disciplinary procedures and documentation, and if there is good communication between the County and the Bargaining Units. If an organization does not follow its own regulations scrupulously, even frivolous grievance may be settled in favor of the employee. The more serious grievances that end up in arbitration are usually indicative of more

significant problems in the organization's personnel management, especially when the arbitration finds in favor of the employee/s. Under those circumstances the organization, in this case, the County, stands to lose not only in monetary terms and wasted time, but also in terms of ill will from the employee/s involved and in terms of loss of credibility. Thus the County's focus has to be on prevention of grievances through proper personnel management, adherence to Memoranda of Understanding and improved communication with the Bargaining Units.

The Grand Jury is not in a position to judge whether the County or the employee/s were right or wrong in the grievances reviewed. But the issues grieved are similar in pattern to what the Grand Jury reported on with respect to staff morale and personnel management in findings above. The grievance pertaining to the relief workers is noteworthy because it suggests that the County did not live up its obligations regarding salary range increases that were codified in a Memorandum of Agreement with the Bargaining Unit. As such, this grievance, in particular, should be cause for concern for the Board of Supervisors and the County Management Team. Regardless of the outcome of a grievance, neither the County nor the Bargaining Units wins. Therefore, it would be productive if the County and the Bargaining Units use past and new grievances as case studies for mutual discussions to improve management/employee relations.

Recommendations

That the Board of Supervisors institute a requirement for case reviews of serious grievances to ensure that both the County Management Team and the Bargaining Units benefit from lessons learned.

HIRING AND DISMISSAL OF HOSPITAL ADMINISTRATOR

This set of Findings, Conclusions and Recommendations were written as of March 6, 2002, prior to the Union Democrat's article on March 18, 2002 announcing that Mr. Marini would file suit against the County to receive severance pay.

Findings

The following Findings, Conclusions and Recommendations are made primarily on the basis of documentation provided by the County Counsel and interviews with the County Administrative Officer and Mr. Marini. In addition, the Grand Jury reviewed the County Personnel Regulation, the County Code and Compensation Regulations pertinent to Mr. Marini's dismissal. According to the County Administrative Officer, there is no other

documentation or memoranda to the file, etc., other than what he turned over to the County Counsel, and what he, in turn, provided copies of to the Grand Jury.

It is not possible for the Grand Jury to make a definitive judgment with respect to validity of the allegations used in the dismissal of Mr. Michael Marini. There are enough alleged incidents of incompetence, violations of County rules/regulations and improper behavior in the voluminous material provided by the County Counsel to suggest that the dismissal may have been justified. But this documentation, by itself, does not justify the County Administrative Officer's recommendation for dismissal or the Board of Supervisor's action. The main problem is that the record lacks documentation to support that the County Administrative Officer carried out his responsibilities as the immediate supervisor. There are no written performance or conduct standards as described by County Personnel Regulations and the County Code. In fact, there are indications from interviews and other documentation, including statements from Mr. Marini, Board of Trustees' minutes of meetings, and e-mail exchanges between the County Administrative Officer and Mr. Marini, to suggest that proper performance standards and goals were not formalized and presented to him. There are also no documented performance reviews, as required by County Personnel Regulations, and the County Code, notwithstanding the County Administrative Officer's assertion that he met in a series of meetings with Mr. Marini to do so. Most importantly, there is no documentation that the County Administrative Officer counseled or disciplined Mr. Marini with respect to 37+ allegations of various performance deficiencies and infractions of County regulations that he listed in his confidential Memorandum to the Board of Supervisors dated December 10, 2001. This document became the real basis for Mr. Marini's dismissal.

There is one Memorandum from the County Administrative Officer dated September 24, 2001 that might be construed to include performance goals, but it is very global in nature and does not meet the County Personnel Regulations' and County Code requirements. Mr. Marini asserted that this memorandum was offered as an tutorial on how to manage an organization such as Tuolumne General Hospital and that it did not constitute any performance standards, goals and timelines mutually agreed to by the Board of Supervisors, the Board Of Trustees, the County Administrative Officer and Mr. Marini.

There is another more specific Memorandum dated September 20, 2001 regarding the Budget with specific guidance dealing with the budget and financial issues. This Memorandum, while quite specific and direct with respect to those issues, does not constitute the overall performance standards as described by County Personnel Regulations, Rule 8, and County Code Section 2.12, 130.

There are a number of other memoranda, documentation and e-mail exchanges between the County Administrative Officer and Mr. Marini, as well as from various other county officials including the Assistant County Administrative Officer, the County Counsel that allege performance and other deficiencies. Whereas this documentation may correctly describe performance deficiencies on the part of Mr. Marini, it does not suffice or substitute for what the County Personnel Regulations and the County Code describes.

Because Mr. Marini was an "at will" employee who served at the pleasure of the Board of Supervisors, he had few, if any, of the rights granted to classified County employees. As such, the Board of Supervisors did have the authority to dismiss Mr. Marini based on a recommendation from the County Administrative Officer.

Mr. Marini requested that this matter be handled in a closed session, as was his right under the Brown Act. Therefore, there is no authority for the Grand Jury to disclose specific details of the allegations to the public without the permission of Mr. Marini. The Grand Jury has not asked for or received permission to reveal the specific details. Nonetheless, there are a number of irregularities surrounding the hiring of and dismissal of Mr. Marini that are pertinent and addressed below.

Mr. Marini was not hired in accordance with standard County Personnel Regulations and the Compensation Plan. This issue is covered in detail in a separate section entitled "Salary Increases of the County Administrative Officer and County Counsel". In essence, Mr. Marini was hired on the basis of a letter from the County Administrative Officer dated June 25, 2001. This letter offered Mr. Marini employment and provided a compensation package and other conditions of employment that are not part of the provisions in the County personnel and compensation regulations for a Hospital Administrator. A copy of this letter was signed and approved by both the County Administrative Officer and Mr. Marini. This letter clearly became an extraordinary, one of a kind contract when it was approved in open session by the Board of Supervisors on July 10, 2001 and consummated on August 1, 2001 when Mr. Marini commenced to work.

The County Counsel drafted a Memorandum of Understanding dated July 10, 2001. This was to be the formal contract, but Mr. Marini never signed it because it did not contain certain provisions included in the June 25, 2001 letter.

The County Administrative Officer made an issue of this unsigned Memorandum of Understanding in his memorandum to the Board of Supervisors dated December 10, 2001. In this memorandum he states: "This was all placed in contract form by Greg Oliver and provided to Mike to review, make changes as necessary, sign and return. Mike refused to sign the agreement. **There has never been an agreement between Mike and the County for employment services. There is nothing that has been signed by the County Counsel, the County Administrative Officer, the Board and Mike.** Mike did not provide an explanation for refusing to sign the agreement. He simply refused to sign it. Ultimately, I gave up and instructed Bill Morse to use the letter offer of employment as the basis for his salary and benefits." The County Administrative Officer's explanation to the Grand Jury and his memorandum to the Board of Supervisors both suggested that this was a major point of contention and the source many attempts on the part of himself and the Personnel Analyst (Mr. Morse) to resolve this issue.

An interview with Mr. Morse suggested that the signing of the Memorandum of Understanding was not a major or contentious issue. In response to "Did you give Mr. Marini the Memorandum of Understanding?" he responded "Yes, I either handed it to him or gave it to his secretary to give to him." In response to "How many times did you contact him with respect to the Memorandum of Understanding?" he responded, "I don't

remember asking him more than once. May have asked his secretary once or twice, ...etc". He also stated that the reason Mr. Marini gave him for not signing was that he didn't like the way it was written.

Mr. Marini asserted to the Grand Jury that he did not sign the agreement because items pertaining to professional association fees and education in the June 25, 2001 letter were not included in the Memorandum of Understanding and that he told Mr. Morse so. He further asserted that he was never provided a corrected copy of the document and therefore did not sign it; that he was satisfied that his and the County Administrative Officer's signature on the copy of the June 25, 2001 letter were sufficient, and that the signing of the document was simply not an issue for him as he was already working. The Board of Supervisors did approve the hiring of Mr. Marini on July 10, 2001 based on the compensation and other provisions in the County Administrative Officer's June 25, 2001 letter.

Mr. Marini did begin to work as Tuolumne General Hospital Administrator effective August 1, 2001 and was compensated in accordance with the provisions of the June 25, 2001 letter.

State and County regulations require that all employees sign an oath of allegiance prior to commencing to work. Mr. Marini was never offered the opportunity or directed to do so, and did not swear such an oath. According to the County Administrative Officer, it was Mr. Morse' responsibility to ensure that Mr. Marini was sworn.

Mr. Morse stated that to his knowledge Mr. Marini did not swear an oath of allegiance; that this should have been done at a new employee orientation; that he did not know if Mr. Marini attended such orientation and that he was not sure whose responsibility it was to make sure that Mr. Marini complied with this requirement.

In spite of Mr. Marini not signing the official Memorandum of Understanding, not being sworn in, not attending the standard new employee orientation, Mr. Marini was allowed to start to work and officially assume the position of Hospital Administrator, and was compensated in accordance with the terms of his contract.

Mr. Marini asserted that the County Administrative Officer never gave him specific performance guidance and goals. The County Administrative Officer, to the contrary, asserted that he and other County officials gave Mr. Marini plenty of guidance. There is indeed documentation to suggest that Mr. Marini interacted with and received assistance from the County Administrative Officer and various other officials. But, there is no documentation consistent with the requirements in the County Personnel Regulations and the County Code.

In a November 5, 2001 Memorandum to the Board of Supervisors, that County Administrative Officer addressed Mr. Marini's performance and stated "As you know, the code requires me to evaluate all appointed department heads after three and six months and then annually thereafter. With all new department heads I DO NOT DO a formal evaluation at the three and six months periods, because I schedule a whole series of meetings throughout the entire first year to provide feedback to the department head, as well as to set priorities. I am heavily involved in that process with Michael

Marini... etc". While the County Administrative Officer may have conducted such meetings, he did not document them properly. . Furthermore, this evaluation process is apparently one of his own design and not consistent with County Personnel Regulations and the County Code.

Mr. Marini asserted that the County Administrative Officer did not counsel him with respect to any alleged performance deficiencies. The County Administrative Officer asserts otherwise, but again, there is no documentation in the material provided by the County Counsel to show that he counseled Mr. Marini on any performance deficiency, much less the very specific and serious allegations of performance deficiencies and violations of personnel regulations and policy in his December 10, 2001 Memorandum to the Board of Supervisors.

Mr. Marini asserted that when the County Administrative Officer placed him on administrative leave, he only gave him a letter dated November 27, 2001. This letter stated that the grounds for dismissal was "failure to meet department performance standards and pass your probationary period as outlined in Section 15 of the 2001-2202 Executive/Confidential Unit Compensation Plan". At that time, the County Administrative Officer also told him that the reason he was being recommended for dismissal was that he had aggravated key Hospital and County staff. Mr. Marini further related that the County Administrative Officer refused to give him names or any other information with respect to the persons that he had allegedly aggravated. It should be noted that Section 15 of the Compensation Plan with respect to probationary periods states: "... This provision shall not apply to positions that serve at the pleasure of the appointing authority... etc.", and that there is no clause in Mr. Marini's contract that specifies a probationary period. It should also be noted that Rule 1, Section L. and Rule 2, Section J of the County Personnel Regulations, which define probation and probationary employees, pertain to classified employees only, not to "at will", contract employees. The County Administrative Officer did not provide Mr. Marini with a copy of his 16 page Memorandum dated December 10, 2001 that he read to the Board of Supervisors, and which became the basis for Mr. Marini's dismissal. He also did not respond to Mr. Marini's request for further details, regarding the County officials he allegedly aggravated, during the November 27, 2001 meeting when he placed Mr. Marini on administrative leave.

The Board of Supervisors likewise did not provide Mr. Marini with a copy of the County Administrative Officer's December 10, 2001 Memorandum.

The County Counsel advised the Grand Jury that Mr. Marini was an "at will" employee and therefore was not entitled to any of the due process rights provided classified employees.

The County Administrative Officer related that the grounds for dismissal were based on performance issues, not moral turpitude.

The County Administrative Officer related that he did not make a recommendation to the Board of Supervisors to withhold severance pay and that he does not know who did, if anyone. The Board of Supervisors did not give Mr. Marini a reason for their decision to withhold severance pay.

The Board of Supervisors declined to give the Grand Jury a reason for withholding severance pay based on attorney/client privilege. The Grand Jury finds it inappropriate for the Board of Supervisors to withhold information on this basis.

The County Counsel likewise declined to provide a reason to the Grand Jury for withholding of severance pay citing attorney/client privilege.

The statute of limitations for filing a lawsuit with respect to the severance pay is four years.

Conclusions

It is the opinion of the Grand Jury that the County Administrative Officer, as Mr. Marini's immediate supervisor, did not follow County Personnel Regulations with respect to setting proper, written performance goals and standards. While he may have conducted many meetings with Mr. Marini, he did not document these meeting as performance reviews as described by the County Personnel Regulations and the County Code. He also did not document counseling he claims to have provided for performance deficiencies. By not documenting the performance goals and standards, performance reviews and counseling, he has introduced an element of doubt as to the legitimacy of his own actions and the grounds for dismissal. It is the Grand Jury's opinion that there is no excuse for the County's most senior official not to follow County personnel rules and regulations under any circumstance, but especially not in a case of this importance.

The County Administrative Officer's statement to the Board of Supervisors that "There has never been an agreement between Mike and the county for employment services." is nonsense. There was indeed a contract that was consummated by both parties. The signed and approved copy of the County Administrative Officer's June 25, 2001 letter contract attests to that as does the fact that the Board of Supervisors approved Mr. Marini's employment based on this letter and that Mr. Marini started to work August 1, 2001 and was compensated in accordance with this letter. Furthermore, the County Counsel confirmed in correspondence dated January 17, 2002 that a contractual relationship existed between the County and Mr. Marini based on the Board of Supervisors' approval of Mr. Marini's hiring as Hospital Administrator.

The County Administrative Officer's December 10 Memorandum to the Board of Supervisors contains no less than 37 different allegations of performance failures and other violations of policy and procedures. Some of these allegations are serious enough to suggest that the County Administrative Officer should have taken disciplinary action against Mr. Marini. Or, if not, then the allegations should, at a minimum, have been made the subject of a documented counseling session.

The County Administrative Officer's statement that "Ultimately, I simply gave up and instructed Bill Morse... etc," is a highly inappropriate way for the County's most senior manager to react. If the lack of Mr. Marini's signature on the Memorandum Of Understanding was a serious a violation of County rules and regulations or source of discord, it was incumbent upon the County Administrative Officer to ensure that this situation was corrected before Mr. Marini was allowed to start working. The statement begs the question - who is in charge?

As an "at will" employee, Mr. Marini had few, if any, procedural rights with respect to his dismissal. In fact, outside the closed hearing, he was not given any due process at all. Due process is one of the corner stones in the United States' system of justice and fairness, and Mr. Marini should have been afforded some modicum of courtesy and due process. Specifically, the County Administrative Officer and Board of Supervisors should have had the courage of their convictions to tell Mr. Marini the real reasons he was being dismissed and given him the opportunity to address them. Instead, he was only given the November 27, 2001 letter and told that he had aggravated some unnamed County officials. The reasons provided in the November 27, 2001 letter and, the verbal reasons related by the County Administrative Officer when he was placed on administrative leave, represent but a small portion of the total allegations in the County Administrative Officer's December 10, 2001 Memorandum to the Board of Supervisors that became the real basis for the dismissal.

The County Administrative Officer's unwillingness to tell Mr. Marini what County officials he had offended and what the real allegations against him were, is in sharp contrast to the County Administrative Officer's own lamentations in his response to the 1999-2000 Grand Jury Report in which he states "I have the right to face my accusers".

The County Administrative Officer's statement in his November 27, 2001 letter that "The specific grounds....and pass your probationary period as outlined in Section 15, etc. " cites a section in the Compensation Plan that does not pertain to Mr. Marini as an "at will" employee and suggests that the County's most senior official did not know the proper authority for his recommendation to dismiss.

The failure to provide even limited due process reflects poorly on the County Administrative Officer and the Board of Supervisors. It leaves the impression that the County is run in a "good ole boy" fashion in which decisions are made the behind closed doors, in which reasons are never revealed, and in which there is no means of redress. The Grand Jury is particularly disturbed by the manner in which Mr. Marini was treated. He was only provided the November 27, 2001 letter, which cites a wrong authority, and the other unsubstantiated allegations regarding persons he had allegedly aggravated. In fact, the Board of Supervisors made its 5/0 decision to dismiss on the basis of a litany of other serious allegations in the County Administrator's December 10, 2001 Memorandum that Mr. Marini never saw.

In the absence of any reason from the Board of Supervisors and the County Counsel for withholding the severance pay, the Grand Jury can only conclude that the decision to withhold was ill advised. The County Administrative Officer and the Board of Supervisors both confirmed that reason/s for dismissal were based on performance issues, not moral turpitude. Accordingly, Mr. Marini should have been entitled to severance pay in accordance with his contract. The decision to withhold severance pay may leave the County wide open for a costly lawsuit.

The power of the Board of Supervisors with respect to dismissal of an "at will" employee is awesome. Although being an "at will" employee apparently includes its own authority or precedent for summary dismissal in a case like this, there is no equivalent power in any other legal, administrative law or government merit pay systems. With such power

comes the responsibility to ensure that the dismissal action is taken only after the most scrupulous review assures the Board of Supervisors that the staff work is done right and that allegations are correct, fair, properly substantiated and documented. It is the Grand Jury 's opinion that the Board of Supervisor's review of this case did not meet such test. The Grand Jury **does not** wish to leave the impression that Mr. Marini should not have been dismissed. There may have been sufficient reasons for the dismissal in spite of the lack of proper documentation. Only the principals will really know. BUT, it is the Grand Jury's opinion that the manner in which Mr. Marini was treated, from the time he was hired until he was dismissed, was sloppy, unprofessional and, in the end, indifferent and lacking in common courtesy.

As a post script it should be noted that Mr. Marini did file a claim for property damage which included the following: Loss of severance pay \$90,077.00, Specialized damages for Reasonable attorney fees Professional dues and educational expenses "unknown at this time" and General Damages of \$100,000.00. The Grand Jury confirmed with County Counsel that, in response to this claim, "The Board of Supervisors in closed session approved the payment of Mr. Marini's claim on May 14, 2002 The County paid Mr. Marini \$92,500.00 in full settlement of all claims known and unknown. Mr. Marini signed a settlement agreement and has received his payment of \$92,500.00. This action validates the Grand Jury's findings and conclusions that the Board of Supervisors' action to withhold severance pay was ill advised. While the County was able to settle for \$92,500.00, this amount still included \$2,500.00 of unnecessary expenditure of taxpayer money.

Recommendations

That the Board of Supervisors direct all county officials, and especially the County Administrative Officer, to comply with County regulations with respect to performance standards, performance reviews and performance evaluations. This is the second, most recent, personnel action in which the County Administrative Officer's failure to meticulously follow County rules and regulations have compromised the County. That the Board of Supervisors institutionalizes a requirement for a periodic report of compliance with performance reviews and that failure to comply would be made the subject of counseling for department heads that fail to comply.

That the Board of Supervisors directs the County Management Team to conduct a thorough review of the County personnel management rules, regulations and procedures. Such a review is necessary to ensure that clearly articulated procedures are in place so that every step, from recruiting to dismissal, is managed correctly both with respect to documentation and personal interactions with the employee/s. The County needs to have procedures in place that would preclude an employee from starting to work until the County and the prospective employee have met all the County's and State's regulations and procedural requirements.

That the County Counsel review employment contract terminology and clauses to ensure that they accurately reflect the employee/s' employment status and provide adequate safeguards for the County. Specifically, the clause in Mr. Marini's contract that provided nine (9) months' severance pay for dismissal for any reason other than moral

turpitude was too open and left the County at risk. This contract clause could, and should have been strengthened by including an enforceable probationary provision and by specifying defined, basic performance criteria.

That the Board of Supervisors review its decision with respect to Mr. Marini's severance pay, and, if necessary, negotiate an agreement so that the County is not under further, and possibly increasing, liability in the next four years.

COUNTY ADMINISTRATIVE OFFICER'S AUTHORITY

Findings

After Mr. Marini's dismissal, questions arose among the Board of Supervisors and the public as to the propriety of the County Administrative Officer's authority with respect to actions leading to Mr. Marini being placed on administrative leave and his dismissal. Accordingly, the Grand Jury reviewed the County Code and the procedures the County Administrative Officer followed:

The pertinent section of the County Code is Section 2.12.120 "Dismissal or suspension of Department heads". It reads: "The county administrator may suspend, or discipline any department head other than (should read than) elected officials, county officers, and those appointed for a fixed term. The county administrator may not terminate a department head appointed under 2.12.120 without first advising the Board of Supervisors...etc. The affected department head must be notified in writing...etc." The County Administrative Officer essentially met the requirements of Section 2.12.120 when he placed Mr. Marini on administrative leave.

The County Administrative Officer could have dismissed Mr. Marini independently if he had notified the Board of Supervisors in closed session, and if he had notified Mr. Marini in writing.

The Board of Supervisors reviewed all of Chapter 2.12 of the County Code in open session and concluded that there was no need for change. The Board expressed concern that if changes were made that would require them to dismiss County employees, it would politicize the process and jeopardize free communication, i.e. department heads might be concerned that ideas expressed might offend the Board of Supervisors and lead to dismissal. According to Rule 1, Section F. of the County Personnel Regulations, "All department heads shall be appointed by and serve at the pleasure of the Board, except those whose appointment and term of office is otherwise is established by law."

Conclusions

The Grand Jury concurs with the Board of Supervisors' assessment to the extent that the Board of Supervisors should not be the party to initiate action to dismiss a department head. The County Administrative Officer should be responsible for recommending such action, subject to compliance with all pertinent County regulations. The County Administrative Officer, on the other hand, should not have independent authority to dismiss any department head, even with proper notification to the Board of Supervisors and the department head concerned. All department heads (except as noted above) are appointed by and serve at the pleasure of the Board of Supervisors. Therefore, the Board should be the final arbiter of a department head's fate in a dismissal action. Accordingly, they should only be dismissed with the specific consent of Board of Supervisors, after an appropriate recommendation from the County Administrative Officer. This is basically the procedure the County Administrative Office followed in Mr. Marini's case and it should serve as a precedent in the future.

Recommendations

That Section 2.12.120 of the County Code be amended to reflect that the County Administrative Officer can only dismiss a department head after proper notification of the department head involved, after advising the Board of Supervisors in closed session, and then ONLY after getting the Board's specific consent.

**SALARY INCREASES
OF
COUNTY ADMINISTRATIVE OFFICER
AND
COUNTY COUNSEL**

SALARY INCREASES OF COUNTY ADMINISTRATOR AND COUNTY COUNSEL

Introduction

Mr. Michael A. Marini was hired to serve as Hospital Administrator for Tuolumne General Hospital effective August 1, 2001. Because of his special training and experience, he was able to negotiate a salary much higher than that authorized in the 2000-2001 Tuolumne County Executive/Confidential Unit Compensation Plan. He was also able to negotiate other compensation and benefits that clearly made his employment contract a **one-of-a-kind** contract that, for the most part, does not conform to the Executive/Confidential Unit Compensation Plan or the Personnel Rules and Regulations of the County of Tuolumne. As a result of Mr. Marini's contract, the County Administrative Officer and the County Counsel negotiated higher salaries for themselves, based on a section in the Executive/Confidential Unit Compensation Plan stating a supervisor should be paid 20 salary ranges more than employees they supervise.

Objective

To investigate if the County Administrative Officer's and the County Counsel's salary and other compensation increases were appropriate according to the County Personnel Regulations and Compensation Plan.

Methodology

Review of Personnel Rules and Regulations of the County Of Tuolumne, hereafter referred to as County Personnel Regulations.

Review of the Fiscal Year 2000-2001 Executive/Confidential Unit Compensation Plan dated and approved July 3, 2001, hereafter referred to as Compensation Plan.

Review of Mr. Marini's contract and other documentation.

Review of the County Administrative Officer's and the County Counsel's contracts and amendments.

Review of County Administrator's and County Counsel's correspondence to Board of Supervisors and Grand Jury.

Correspondence with the Human Resources Manager.

Interview and correspondence with the Asst. Auditor/Controller.

Interview with the Board of Supervisors.

Interview and correspondence with the County Administrative Officer.

Interview and correspondence with the County Counsel.

Findings

Mr. Marini was hired on the basis of a contract that provided a salary at Range 531, Step E (\$120,103.05) in the Compensation Plan; a 5 % pay raise to Salary Range 541, Step E, after one year of "excellent service"; nine months of severance pay (approximately \$ 90,000) if he was terminated for any reason other than moral turpitude and a relocation allowance of \$ 3,500. The County Administrative Officer sent a letter dated June 25, 2001, which included these terms of employment, to Mr. Marini as a tentative employment offer subject to a successful background review. A non-letterhead copy of this letter was subsequently signed and approved by both Mr. Marini and the County Administrative Officer on August 1, 2001 and August 27, 2001 respectively. The County Counsel, in addition, prepared a Memorandum of Understanding for Mr. Marini's signature, with the same basic compensation package, which was to have been the official contract. Mr. Marini never signed this document because it did not include items listed in the June 25, 2001 letter with respect to payment of professional association dues and payment for professional education and development.

Except for physicians, Mr. Marini's contract made him the **highest paid** County employee at the time of his appointment.

It was difficult to determine what type of position Mr. Marini was assigned or appointed to. Various County officials referred to it both verbally and in writing as an "Executive Position", a "contract position", an "at will" position, a "non-classified position", an "employment agreement", and position based on a Memorandum of Understanding. What is clear is that **the only document of record** pertaining to his hire is the June 25, 2001 letter from the County Administrative Officer. The Grand Jury finds that Mr. Marini was hired by the County as an "at will", contract employee based on an **extraordinary, one of a kind** contract and **not** the classification or other provisions for a hospital administrator, or any other employee, in the Compensation Plan for the following reasons:

- The Human Resources Manager stated "that position was **not** considered a classified position."
- The County Counsel stated in writing: " I do believe that a **contractual relationship exists** between the County and Mr. Marini based on the BOS action taken in open session on Tuesday, July 10, 2001 to hire Mr. Marini as the Tuolumne General Hospital Administrator."
- Mr. Marini **did** sign and approve a non-letterhead copy of the County Administrative Officer's June 25, 2001 letter on August 1, 2001.
- The County Administrative Officer **did** initial and approve a non-letterhead copy of his June 25, 2001 letter on August 27, 2001.

- The Board of Supervisors **did**, in open session on July 10, 2001, approve Mr. Marini's contract based on the compensation and benefits in the County Administrative Officer's June 25, 2001 letter.
- The County Administrative Officer's June 25, 2001 letter provided a salary range that is **54 ranges** higher than the salary range for a hospital administrator in the approved 2000-2001 Compensation Plan. Salary Range **531** versus Salary Range **477**, (\$91,745.91 versus \$120,103.05, or total of \$28,357.14 higher).
- The County Administrative Officer's June 25, 2001 letter provided nine (9) months severance pay (approximately \$90,000). Severance pay is **not** granted to other employees in the Compensation Plan except for the County Administrative Officer and the County Counsel, with respect to whom the Compensation Plan states that their salary is "**set by contract**".
- The County Administrative Officer's June 25, 2001 letter provides for a 5 % salary increase for Mr. Marini after one year of "excellent service". This performance standard is **not** in the County Personnel Regulations and it is not applicable to any other County classified, elected, appointed or contract employee. The County Administrative Officer confirmed that neither he nor the Board of Supervisors had defined this standard.
- The County Administrative Officer's June 25, 2002 letter provides for relocation cost reimbursement up to \$3,500, a benefit not routinely provided for County employees, and a benefit not provided for a hospital administrator in the Compensation Plan.
- The Board of Supervisors, the County Administrative Officer, the County Counsel and the Human Resources Manager all referred to the position as being a **contract** at one time or another, both verbally and in writing.
- Mr. Marini commenced to work for the County as Hospital Administrator of Tuolumne General Hospital effective August 1, 2001 and was compensated in accordance with the County Administrative Officer's June 25, 2001 letter.
- Mr. Marini was not required to comply with the State and County regulations requiring that: "No appointment shall be complete until the applicant has subscribed to a Oath of Allegiance or affirmation as required by section 3100 et sec of the Government Code of State of California. All officials and employee must execute and Oath ...etc".

The County Administrative Officer related that he and the County Counsel negotiated their salary increases **INDIVIDUALLY** with the Board of Supervisors, but that he requested them formally by a letter dated July 3, 2001 to the Board of Supervisors.

The County Counsel **DENIED** that he negotiated his own salary increase and stated in a letter that "I believe that Mr. Wallace negotiated his salary with the Board of Supervisors and told them that there was a historical relationship between the County Administrative Officer's and County Counsel's salary, therefore, the County Counsel should also get a salary increase". The County Counsel stated the same during an interview with the Grand Jury.

The Board of Supervisors approved the two salary increases in open session on July 10, 2001.

The County Administrative Officer's request for the salary increases in his July 3, 2001 letter **predates** the Board of Supervisor's actual approval of Mr. Marini's hiring, which took place on July 10, 2001.

The County Administrative Officer used Section 1 (d) of the Compensation Plan to justify the increase. Section 1(d) states " A minimum of twenty (20) ranges on the base salary as provided for in **subsection (a)** shall be maintained between members of this unit and the subordinates that they supervise". **NOTE:** Subsection (a) lists all the positions that are classified or listed in the 2000-2001 Compensation Plan. As stated above, this section sets the salary range for a hospital administrator's position at Salary Range 477, **NOT** at Mr. Marini's contract negotiated Salary Range of 531.

Though the County Administrative Officer used Section 1 (d) as authority, his July 3, 2001 letter **did not** request that his salary increase be done accordance with this section. Instead, it proposed that his base salary remain as is i.e., at Range 503, that the County's contribution to Deferred Compensation be increased from \$5,100 to \$ 8,500, and that he be credited with 30 years for longevity (Retention Incentive Pay and Post Retirement Medical Insurance). In the case of the County Counsel, the letter provides as authority that "The County Counsel's salary has historically been set at about 10% below that of the County Administrative Officer" and proposes to increase the County Counsel's salary to Salary Range 503. **NOTE:** There is no authority in The Compensation Plan that supports this rationale and the salary and benefits actually approved are only about 6% below the County Administrative Officer's.

The Board of Supervisors granted a 3.5% cost of living allowance (COLA) increase to all Executive/Confidential Unit employees on July 1, 2001. In addition, the County Administrative Officer and the County Counsel received the salary increases requested in the County Administrative Officers July 3, 2001 letter. The Board of Supervisors approved these salary increases on July 10, 2001 with the increases taking effect July 15, 2001. The following provides a breakdown of the annualized total compensation increases, provided to the County Administrative Officer and the County Counsel in 2001. These data show total compensation and are based on information provided by the County Administrative Officer and the Auditor/Comptrollers Office. Total compensation includes base salary, cafeteria allowance, longevity pay plus PERS, FICA, deferred compensation contributions and a car allowance, i.e., the total increase in cost to the County. In the case of the County Administrative Officer, he also received 30 years credit for Post Retirement Medical Insurance which has not been quantified or included:

County Administrative Officer

July 1, 2001. Based on 3.5% COLA granted by the Board of Supervisors, the County Administrative Officer's total compensation increased from **\$ 137,779.35** to **\$ 144,575.27** or a total of **\$ 6,795.92** per annum.

July 15, 2001. Based on County Administrative Officer's request for a salary increase pursuant to Mr. Marini's contract salary, the Board of Supervisors granted salary and benefit increases that increased total compensation from **\$144,575.27** to **\$154,058.20** or a total of **\$9,482.93** per annum. (This does not include the 30 year credit for post retirement medical insurance).

County Counsel

July 1, 2001. Based on 3.5% COLA granted by the Board of Supervisors, the County Counsel's total salary and benefits increased from **\$116,969.82** to **\$120,641.31** or a total of **\$ 3,671.49** per annum.

July 15, 2001. Based on County Administrative Officer's request for salary increases pursuant to Mr. Marini's contract salary, the Board of Supervisors granted salary and benefit increases that increased the total compensation from **\$120,641.31** to **\$ 145,786.90** or a total of **\$25,145.59** per annum.

July 1, 2001. Total salary and benefit increases for both County Administrative Officer and County Counsel based on 3.5% COLA: **\$10,467.41** per annum.

July 15, 2001 Total salary and benefit increases for both County Administrative Officer and County Counsel based on the County Administrative Officer's request pursuant to Mr. Marini's contract salary: **\$34,638.52** per annum.

Total compensation increases for the both the County Administrative Officer and the County Counsel in 2001 from COLA and increases requested pursuant to Mr. Marini's contract salary: **\$44,638.52**

NOTE: The July 10, 2001 amendment sets the County Counsel's salary at about 6% below the County Administrative Officer, **NOT** the 10% that it should have been set according to the County Administrative Officer's July 3, 2001 letter.

In a January 2, 2002 letter to the Grand Jury, the County Administrative Officer discussed the salary increases and asserted that, with respect to his and the County Counsel's salary increases "**nothing new was created**" in the Compensation Plan. The terminology describing the County Administrative Officer's and the County Counsel's employment status is inconsistent and confusing. The Compensation Plan states that their salaries are "**Set by Contract**". Yet, the employment document of record for the County Administrative Officer is called an "Employment Agreement" and

the document for the County Counsel is called a "Memorandum of Understanding". The Human Resources Manager clarified that these documents are both contracts. According to the County Administrative Officer's July 10, 2001 contract amendment, he would be entitled to a salary increase if Mr. Marini had received a salary increase after one year of "excellent service", whatever this criterion means. And, if the relational criteria of 10% were to be maintained between the County Administrative Officer and the County Counsel, it follows that the latter would also be entitled a 5% salary increase.

With respect to the "longevity" mentioned in the County Administrative Officer's letter dated July 3, 2001, it should be noted that this refers to **Retention Incentive Pay and Post Retirement Medical Insurance** in Section 4 and Section 10 (c) respectively of the Compensation Plan. Section 4 provides that "Employees who have completed 10 continuous years of County employment shall be granted a five (5) ranges salary increase, employees having completed fifteen (15) continuous years of County employment shall be granted 10 ranges of salary increase...etc". In its full context, this section grants up to 30 incremental salary ranges based on years of employment **in the County of Tuolumne**. With respect to Elected and Appointed Officers (the CAO and the CC are the latter) the section specifically states that they "shall be entitled to incentive pay based upon the **total number of years of full time employment with the County of Tuolumne**". Section 10 (c) likewise requires service in Tuolumne County for entitlement to Post Retirement Medical Insurance. **NOTE:** Neither the County Administrative Officer nor the County Counsel has the total years of required service with **Tuolumne County** for which they were given credit in their contract amendments.

In his January 2, 2002 letter, the County Administrative Officer lists three positions for which the Board of Supervisors granted the incumbents special compensation dispensation. He claims that they set a precedent for his and the County Counsel's salary increases. There are, in fact, at least 6 positions that have received special dispensation by the Board of Supervisors. According to the Human Resources Manager, "In each case this was done as a **hiring incentive** in recognition of the decrease in salary and leave accrual the employee would realize when they came to work at Tuolumne County".

The County Administrative Officer's January 2, 2002 letter explained that the Executive/Confidential Unit Pay Plan (the plan is actually called the Executive/Confidential Unit Compensation Plan) is not a true Merit Pay system. The Grand Jury concurs **but finds** that it contains the most important element of a Merit System, i.e., that an employee's step increases and promotions depend on satisfactory job performance. Mr. Marini's contract was written in this context in that he was required to perform in an "excellent manner" (whatever that means) in order to get his 5% pay raise after one year.

The County Administrative Officer's January 2, 2002 letter explained that the Board of Supervisor "may take action and award any benefits within the pay plan". The County Counsel similarly stated in a letter that "The Board of Supervisors can increase the salary for any government purpose pursuant to its authority to set County employees salaries under Government Code Section 28000, et seq."

The County Administrative Officer's January 2, 2002 letter states "It was my intent to keep my base salary as low as possible and use other provisions within the pay plan to provide for the 10% salary differential provided in for in Section 1, subsection (d)". While this may be commendable, it is the Grand Jury's opinion that it is irrelevant because Section 1, subsection (d) clearly does not apply with respect to Mr. Marini's contract. Several Letters to the Editor of the *Union Democrat* expressed disbelief over these salary increases. The same sentiment was expressed verbally to members of the Grand Jury by a number of people. A Mr. Neuman, appearing at the July 10, 2001 Board Of Supervisor's meeting, is referred to in the minutes as objecting to the salary increases. Likewise, one member of the Board of Supervisors, in a meeting with the Grand Jury, expressed dissatisfaction with the salary increases in the strongest of terms. The Board of Supervisors, in a meeting with the Grand Jury on January 22, 2002, upheld their approval of the salary increases. It was clear, however, that they did not understand the provisions of Mr. Marini's contract. They also did not seem to understand specific requirements of the Compensation Plan and the County Personnel Regulations as, for example, that service credited for the purpose of Retention Incentive Pay and Post Retirement Medical Insurance **must be for service in Tuolumne County**.

A new hospital administrator was hired subsequent to Mr. Marini's dismissal at the same Salary Range but less some of the other benefits. His total compensation was set at \$ 143,894 The Grand Jury also finds this to be an **extraordinary appointment and not subject to the Section 1 (d)**.

Conclusions

It is the opinion of the Grand Jury that the rationale and authority cited in the County Administrative Officer's July 3, 2001 and January 2, 2002 letters are not valid and **DO NOT** justify the salary increases.

Specifically:

It can be argued generally that it may be desirable for a supervisor to get a higher salary than the persons he/she supervises may. **But**, it is not unusual in this day and age that employees with special skills and experience, in both the private and public sector, are paid more than their supervisors are. In fact, it is so in Tuolumne County where the physicians at Tuolumne General Hospital are the highest paid County employees. Furthermore, one has to look no further than US Civil Service and the Military where doctors and other health professionals are often paid more than the hospital administrator, their officer peers and officers senior in rank, both line and staff. If the authority cited by the County Administrative Officer were justified, then it would follow that Mr. Marini should automatically have received 20 salary ranges more than the highest paid County physician who worked for him. That is a notion that would hardly be acceptable to the Board of Supervisors, the County Administrative Officer or the Public.

The key to understanding why these salary increases are inappropriate is that Section 1 (d) of the COMPENSATION PLAN **does not apply**. Mr. Marini's conditions of employment were negotiated outside the classification and other parameters of the Compensation Plan and County Personnel Regulations. Mr. Marini was able to negotiate such an extraordinary, **one of a kind contract** because of his apparent special skills, education and experience. This placed him in a **unique status** not covered by the Compensation Plan and County Personnel Regulations. Therefore, Section 1 (d) **does not apply** and was not appropriate to invoke as authority for the salary increase. Likewise, the rationale that the County Counsel's salary has historically been set at 10 % below that of The County Administrative Officer is, under the circumstances, totally irrelevant and equally inappropriate as authority for his salary increase.

The Grand Jury **strongly disagrees** with the County Administrative Officer's assertion that "**nothing new was created**" in the Compensation Plan with respect to the salary increase. In the final analysis, it is clear that the salary increases for the County Administrative Officer and the County Counsel are not based on any clear authority in the County Personnel Regulations or Compensation Plan. As such, it is the Grand Jury's opinion that they amount to an **ad hoc change** to the County Compensation Regulations and County Personnel Regulations **requested by and benefiting only** the County's two senior officers.

It is the Grand Jury's opinion that the fact that the County Administrator did not request an increase fully in accordance with Section 1 (d), shows that he had concerns about using Section 1 (d), as written, because such a increase would clearly have been too extreme and too visible. So, instead he proposed the alternative, ad hoc change to county personnel and compensation regulations in order to make the salary increases appear more reasonable and acceptable to the Board of Supervisors and the public.

The request for the salary increases did not come about as an after thought to Mr. Marini's hiring but was a well-planned action that preceded the Board of Supervisor's meeting during which Mr. Marini was formally hired.

It is the Grand Jury's opinion that there is **absolutely no relation** between the cases the County Administrative Officer used as precedents for the salary increases or justification that these exceptions should serve as a precedent for the County Administrative Officer's and County Counsel's salary increases. The Board of Supervisors granted special dispensation for these new and urgently needed hires so that coming to work for Tuolumne County would not penalize them.

In the Grand Jury's opinion, it is very troubling that that the County Administrative Officer claimed that the County Counsel negotiated his own salary with the Board of Supervisors while the County Counsel denies this. This is an issue that the Board of Supervisors needs to investigate and deal with in a firm, timely and appropriate manner. The Grand Jury acknowledges that the Board of Supervisor's has the authority to make exceptions and adjust salaries, as suggested by both the County Administrative Officer and the County Counsel, **BUT** only with good justification and when such exceptions clearly benefit the County. In this case, it is the Grand Jury's opinion that **there was no justification and certainly no benefit to the County**. On the contrary, at a time when

Tuolumne General Hospital is in financial extremis and struggling to survive, the County Administrative Officer's and the County Counsel's combined salary increases of approximately \$ 34,638.52/year on top of a COLA increase of 10,467.41/year are egregious. This money could and should have been put to better use at Tuolumne General Hospital.

Whether the Compensation Plan is a true Merit System or not, it is absurd that Mr. Marini's one-year performance, based upon an undefined performance standard, could automatically have triggered another 5% raise for the County Administrative Officer and the County Counsel. Their already very substantial compensation packages were set by contracts and should remain so until expiration of their contracts. If they are deserving of a salary increase **based upon their own performance**, then they should negotiate a salary increase on the basis of such performance at the time their contracts are up for renewal. . It is the opinion of the Grand Jury that in view of the current crisis at Tuolumne General Hospital, for which both the County Administrative Officer and the County Counsel must shoulder some responsibility, their respective performances **do not** warrant any salary increase based on anything having to do with the Hospital.

The Grand Jury does not intend to judge the County Administrative Officer's and the county counsel's motives with respect to their **self-initiated** salary increases. The Grand Jury is, however, of the opinion that their actions reflected badly on the County Administrative Officer and the County Counsel. Specifically, their actions give rise to the appearance that the two **senior officers** in the County exploited a crisis at Tuolumne General Hospital and the County Compensation Plan for their own, **personal benefit**. It also suggests arrogance and contempt for the taxpayers whose tax dollars funded these increases. As with all public employees, and especially senior employees who are held to a higher standard and who are expected to set an example, **any appearance of impropriety should have been studiously avoided**.

That the Board of Supervisors' approval of Mr. Marini's contract and extraordinary compensation package was appropriate in view of the County's needs and his apparent special skills and experience. It was also clearly within their authority.

That the Board of Supervisor's approval of the salary increases was **inappropriate but well meaning**. It was clearly based on use of an inappropriate authority in the Compensations Plan, very questionable staff work, lack of adequate information and understanding of Mr. Marini's contract and lack, understandably, of an agreement of the finer details of the County personnel and compensation regulations.

The Board of Supervisor has to decide for themselves the significance of the disparity between the County Administrative Officer's and the County Counsel's claims with respect to who negotiated the salary increases.

The fact that a new hospital administrator was hired after Mr. Marini's dismissal at the same salary range, but without some of the other compensation benefits, does not change the Grand Jury's Findings, Conclusions and Recommendations in this section. The salary range is still 54 ranges higher than for the classified position of a hospital administrator.

Recommendations

That the Board of Supervisors very carefully review the facts and circumstances involved in this issue with a view toward rescinding these salary increases and recouping all expenditures of the taxpayer money associated with these increases. The County needs to see such leadership on the part of the Board of Supervisors. Specifically, the public needs to be assured that their elected Supervisors are scrupulous in their fiduciary responsibility to the taxpayers and willing to deal firmly with what appears to have been poor judgment, even when it involves the two senior officers in the County.

That the Board of Supervisors review the County Administrative Officer's and County Counsel's assertions with respect to who negotiated their salaries and take action as necessary.

That the Board of Supervisors direct a review of the Compensation Plan and revise it to specifically exclude **extraordinary contracts** such as Mr. Marini's from Section 1 (d).

That the Board of Supervisors **counsel** the County Administrative Officer and the County Counsel with respect to their duty to set an example, to show more respect for the taxpayers and **to avoid even the appearance of impropriety**.

That the Board of Supervisors direct the County Administrative Officer and the County Counsel to ensure that the County uses hiring documents with standard and appropriate terminology that ensure clarity with respect to type of position/ appointment and compensation.

That the Board of Supervisors institute a requirement that when the County has to deviate from standard County procedures, as in Mr. Marini's case, that the record is appropriately annotated to explain the circumstances. The record should also reflect that such deviations do not automatically set a general precedent for the future.

MANAGEMENT AND OVERSIGHT OF COUNTY FISCAL AFFAIRS

Finance Committee

William “Bill” Cooper, Chairman

Sandra Asquith

Betita Gamble

Jack Haney

Management and Oversight of County Fiscal Affairs

The Committee assigned to review the management and oversight of County fiscal affairs exerted a very significant effort to assess oversight by the Board of Supervisors, the budget process, budget execution, internal controls and other fiscal and accounting functions. This was particularly true with respect to Tuolumne General Hospital. In the end, this proved to be a very frustrating experience. The Grand Jury found the County budgeting, accounting and budget execution methods extremely convoluted which tended to hamper the investigation. The Grand Jury was also hampered by the fact that independent audits of the County and Tuolumne General Hospital, required by the Government Code, were not done and/or reported on in a timely fashion, thereby depriving the Grand Jury of critical tools needed to conduct its review. Nevertheless the Grand Jury did conclude its investigation the findings, conclusions and recommendations. These are provided in three sections under the Board of Supervisor, Office of the Auditor/Controller and Tuolumne General Hospital.

Board of Supervisors Findings

It is the opinion of the Grand Jury that the Board of Supervisors has not provided adequate oversight of the County's financial affairs with respect to collecting, safekeeping, managing and distributing public funds, specifically:

- The Board of Supervisors has not complied with statutory requirements to supervise and/or "at least biennially (2 years) examine or audit, or cause to be audited, the financial accounts and records of all officers and offices having responsibility the care, management, collection and distributions of public funds" (Government Code, Sections 25250 and 25303).
- The Board of Supervisors has not provided financial oversight for 56 of the 78 special districts in Tuolumne County, in that the County Financial Transactions Report(s) have not been submitted in a timely manner by the County Auditor/Controller to the Office of the State Controller. The Financial Transactions Report for FY 1998-1999 was due October 20, 1999, but was not received by the office of the State Controller until July 1, 2000. The Financial Transactions Report for FY 1999-2000 was due on October 20, 2000, but was not received until February 15, 2001.
- The Board of Supervisors, in operating the County Hospital as an enterprise fund, has not complied with financial provisions for County budgetary provisions

(GASB: "Government Accounting Standards Board") and enterprise fund accounting (GAAP: "Generally Accepted Accounting Principles") under the Government Code for the State of California. Specifically:

- (1) Residual Equity Transfers: The Board has not followed the parameters and guidelines for the administration of the Internal Borrowing Program established by Resolution # 114-93 dated May 25, 1993. As a result, the Board of Supervisors have authorized transfers of cash (out) from internal services funds and transfers (in) to the hospital enterprise fund during the fiscal year that are not accounted for in the financial statements of the County Budget, and are not accounted for in the financial statements of the County funds. The "Residual Equity Transfers" are recorded as decreases in the ending balances of the internal service funds and increases (retained earnings) in the ending balance of the hospital enterprise fund for the fiscal year. This has the effect of taking cash from a County fund, such as workers compensation, and transferring it to the hospital enterprise fund without any budgetary or fund accounting record of the financial transaction other than in the general purpose financial statements of the County for the fiscal year.
- (2) Operating Transfers: The Board has not complied with financial provisions for itemized estimates of revenues and expenses of the "budget unit" (submitted in June) and for a comprehensive plan of appropriations and expenditures of the "enterprise fund" (approved in August) in the Final Budget (for the fiscal year) as described in Government Code Sections 29009, 29005 and 29045. Operating Transfers are recorded as transfers of cash (out) from the General Fund and transfers of cash (in) to the hospital enterprise fund. The "Operating Transfers" show up as another source of revenue of cash income in the hospital enterprise fund when in reality it amounts to a transfer of funds to offset the Hospitals operational losses.

The total effect of the "Residual Equity Transfers" and the "Operating Transfers" is transfer of cash during the current year to the Tuolumne General Hospital to pay for predictable operating deficits that are not accounted for in the financial statements of the County Final Budget for the fiscal year.

CONCLUSIONS

The Grand Jury is of the opinion that:

- The Board of Supervisors have not exerted the leadership necessary to ensure that audits required by the Government Code are performed in a timely manner.
- The Board of Supervisors has not used good judgment with respect to loans to Tuolumne County General Hospital from the Internal Borrowing Program. While

the Board of Supervisors commitment to keep Tuolumne General Hospital operational is commendable, the methods cannot be considered fiscally responsible.

- The cash flow accounting methods used to keep Tuolumne General Hospital afloat, whether intentionally or not have resulted in the public being kept unaware of the full extent of the Hospital's total operational losses.
- The lack of timely performance and reports of independent and other audits have deprived the Board of Supervisors of critical oversight tools that are essential for them to discharge their fiduciary responsibilities to the public in a proper manner.
- The County lacks clearly defined lines of authority, separation of powers and checks and balances in the fiscal supervision and management of the organizations and operations of County government.
- The Board of Supervisors appears to lack the technical ability, time and resources to provide proper oversight of the County's financial affairs.

RECOMMENDATIONS

That the Board of Supervisors carefully review the County's legal audit requirements in the appropriate sections of the Government Code with the County Counsel and the Auditor Controller and take the necessary steps to ensure that these audits are carried out as required.

That the Board of Supervisors review the Internal Borrowing Program, Resolution 114-93, to ensure that internal borrowing is conducted within the parameters and guidelines of this resolution.

That the Board of Supervisors explore the need and options with respect to establishing an organizational entity or position which would be responsible for directing, consolidating, coordinating all the financial matters and fiscal affairs of the Auditor Controller. Specifically, this position would supervise and ensure that all required accounting (accuracy), performance (efficiency and economics), compliance (statutory requirements) audits and other internal review functions are performed correctly and in a timely manner. As an alternative, the Board of Supervisor might consider establishing an Internal Review position that would report directly to the Board of Supervisors to provide them direct, timely and unbiased information to assist them in carrying out their fiduciary responsibilities.

OFFICE OF THE AUDITOR/CONTROLLER

FINDINGS

The office of Auditor/Controller is combined with the offices of the County Clerk and Elections. The current incumbent was elected to head the combined office in 1991. While legally responsible for the auditor controller functions in the County, there was no requirement at the time, when the incumbent was elected to be a Certified Public Accountant. The Assistant Auditor/Controller, however, is a Certified Public Accountant and the only person with such credentials in the Auditor/Controllers Office.

There appears to be a separation of function in the combined offices of the Auditor/Controller and the Office of the County Clerk and Elections in which the Auditor/Controller is engaged most of the time in the County Clerk and Elections Office functions. The Assistant Auditor/Controller, on the other hand, is fully engaged in the Auditing-Controller budgeting, accounting and other functions of that office. As such, it is quite evident that the current Assistant Auditor/Controller is the de facto Chief Accounting Officer for the County.

The Assistant Auditor/Controller appears to have a workload that far exceeds what is possible for any one person to do.

The office of the Auditor/Controller was not able to produce the required independent audit reports on Tuolumne General Hospital. Perhaps that is why the independent auditors report on the Hospital, for fiscal 1998-1999, was only delivered in draft form to the County on March 20, 2002.

An independent audit of the County has not been done in the past couple of years. As described in the Government Code, such an audit is supposed to be done every 2 years. The lack of adequate financial data on Tuolumne General Hospital has been given as the reason for not performing such an audit.

The office of the Auditor/Controller has not provided oversight of the Special Districts in the County to ensure that the Financial Transactions Reports are submitted on time. This lack of a timely submission of these reports has created potentially negative effects on the County as, for example, the ability of the County to succeed in getting Federal as well as State grants.

CONCLUSION

It is the opinion of the Grand Jury that:

The current organization and separation of the functions of the Auditor-Controller's Office is not appropriate. Specifically, while the Auditor/Controller is presumably legally responsible for the conduct of all financial and oversight functions of the office, the incumbent does not appear on paper to have the credentials necessary to carry out these duties. While the Grand Jury didn't find any legal restrictions in this respect, there is something fundamentally wrong with making the Assistant Auditor Controller the de factor Auditor/Controller without empowering the incumbent with the requisite authority.

The Assistant Auditor Controller is doing a superb job for the County, but the workload clearly appears to be too much for one person. For example, the incumbent has had, by force of events, to spend an inordinate amount of time on Hospital issues that should have been done by the Hospital management team. This is not only a drain on time, but might compromise the Auditor/Controller's oversight functions over the hospital enterprise fund. Consequently, there is not enough time to ensure that audits and other internal control functions, such as the Special Districts Financial Transactions Reports are submitted in a properly audited and timely manner.

RECOMMENDATIONS

The Board of Supervisors review the current organization of the Auditor Controller's Office to ascertain the duties and responsibilities of that office making sure they are properly delineated.

The Board of Supervisors review the workload of the Assistant Auditor/Controller to ascertain whether additional resources, personnel or otherwise, are required to free the incumbent's time up to focus on the real duties.

The Board of Supervisors establish mechanisms to monitor and enforce the timely performance of all audit functions in and for the County.

Tuolumne General Hospital

Introduction

Tuolumne General Hospital (TGH) has served Tuolumne County for over 100 years, with its beginning dating back to 1849. After the turn of the century, the legislature shifted from the state to the counties indigent health care as a County charge. The support, health care, medical treatment and welfare for the indigent sick, dependent poor and aged, residents of the County, became the responsibility of the respective counties. Currently, the support, maintenance and welfare for the sick, poor and aged residents of the County is partly provided through government health care and medical treatment programs such as Medicare (Federal), Medi-Cal (State) and County Medical Services Program (County) while the balance of charity care is paid by the County. Tuolumne General Hospital provides a full range of services ranging from intensive care to skilled nursing to outpatient and diagnostic services. In addition, this acute care facility provides several supplemental services which consist of diagnostic imaging, respiratory therapy, physical therapy, occupational therapy, social services, home care services, and adult day care.

Overall Performance: As a County enterprise operated under the overall supervision of the Board of Supervisors, Tuolumne General Hospital has failed to generate sufficient revenues to balance the hospital budget since July 1, 1998. It has experienced net operating losses in excess of approximately \$4 million dollars a year since Fiscal Year 1998-1999. In addition, the Hospital's financial data has been insufficient for the independent auditor, Macias, Gini and Company, to complete an independent auditor's report on the enterprise fund accounts and County hospital performance, since Fiscal Year 1998-1999. This lack of financial data to complete the independent auditor's report on Tuolumne General Hospital has been given as the reason for the failure to complete the independent auditor's report (accounting audit and performance audit) on the County of Tuolumne since Fiscal Year 1998-1999. Note: Macias, Gini & Company finally provided the Board of Supervisors (and Grand Jury) with a "DRAFT" of the County of Tuolumne, Independent Auditor's Report, March 20, 2002, for the fiscal year ending June 30, 1999.

Enterprise Fund

- (1) The Board of Supervisors operates Tuolumne General Hospital as an "enterprise fund". Government enterprise funds are used to account for operations that are financed and operated in a manner similar to private business enterprises. The intent is that the costs of providing goods or services to the general public be financed or recovered primarily through the user charges. However, the Hospital's financial records show net operating losses in excess of approximately \$4 million dollars a year over a period of four years since Fiscal Year 1998-1999.

Notwithstanding these net operating losses, there has not been an independent auditor's report on the financial statements (accounting) and internal controls (performance) since Fiscal Year 1998 -1999

- (2) The County's fiscal policy has been to consider these long-term basic budgetary shortfalls as temporary "short term cash flow" problems during the current fiscal year. Consequently, there is no budgetary accounting for the "estimates" of anticipated revenue and expenses in the income statements of the Hospital's Proposed Budgets, or estimates of appropriations and expenditures in the financial statements of the enterprise fund in the Final Budget for the Fiscal Year. Rather, these "short term cash flow" are considered matters of "routine" placed on the Board of Supervisors Agenda during the course of the current fiscal year. The Board of Supervisors by motion adopts recommendations to authorize so-called "operating transfers" of cash ("revenue") from the general fund to the County Hospital, and so-called "residual equity transfers" of cash ("capital") from the internal service fund(s) (e.g. workers' compensation) to the Enterprise Fund. This practice has the effect, whether intentionally or not, to obscure the visibility of the Hospital's operational losses.

Cash Flow Problems

- (1) The "operating transfers" of "cash" are accounted for as "other sources of non-operating revenue" on the income statements of the hospital enterprise fund in the "Actual Budget" at the end of the fiscal year. The operating transfers of "cash" (revenue) on the income statement(s) have the effect of reducing the "net operating losses" on the income statement. This is recorded as the so-called "net County cost" for the hospital enterprise fund in the "Actual Budget." The net operating losses, as reduced by "operating transfers of cash" are recorded as the so called "net County cost" for the hospital enterprise fund in the actual budget for the prior fiscal year and in the final budget of the current fiscal year.
- (2) The "residual equity transfers" of cash are not accounted for in the financial statements of the internal service fund(s) (workmen's compensation) or the hospital enterprise fund in the Final Budget and/or Actual Budget for the fiscal year. The "residual equity transfer", of so called "cash loans" may be accounted for under "fund equity" as "contributed capital" to reduce the net of the total fund liabilities, and to balance the net of the total fund assets on the balance sheet for the Hospital. However, the balance sheet of the Hospital is not part of the financial statement(s) of the enterprise fund for the Final and/or Actual Budget for the current fiscal year. In fact, the only accounting for the residual equity "transfer out" from the internal service fund is the decrease in the amount of "retained earnings" of the Worker's Compensation Fund in the "ending balance" for the fiscal year. The only accounting for residual equity "transfer" into the enterprise fund is the increase in the amount of "retained earnings" of the hospital fund in the ending balance for the fiscal year. There is no other government accounting of any

“expenditure” in the internal service fund or “revenue” in the proprietary fund. The only recording(s) of the “Residual Equity Transfer(s)” are in the County of Tuolumne, general purpose, and financial statements, for the fiscal year. Therefore, the net County “cost” to operate the County hospital as an enterprise fund has been in excess of approximately \$4 million for each fiscal year since July 1, 1998.

Internal Borrowing Program

The Board of Supervisors established the so-called “Internal Borrowing Program” by Resolution No. 114-93, adopted on May 25, 1993, as follows:

“WHEREAS, the Board of Supervisors desires to minimize the need for issuing Tax and Revenue Anticipatory Notes (TRANS) to cover dry period cash requirements; and

“WHEREAS, the responsible use of internal borrowing between various County funds can help achieve this goal; and

“WHEREAS, the Auditor/Controller is willing to administer such internal borrowing provided the Board of Supervisors adopts policy guidelines within which such borrowing would be conducted.

“NOW, THEREFORE, BE IT RESOLVED that the Auditor/Controller is authorized to execute and administer an internal borrowing program for the purpose specified above.

“BE IT FURTHER RESOLVED that said program must be conducted within the following policy parameters:

1. The Liability Insurance, Workers’ Compensation Insurance, the Telecommunications Internal Service Funds may be used as sources for short-term cash loans to any other County Fund;
2. Short-term cash loan activity, origination through repayment, must be limited to the fiscal year period. Loans can not originate sooner than July 1 and must be repaid by the following June 30;
3. Cash loans must be repaid to source funds as soon as practical. Regular installment payments may be established to accomplish this;
4. Internal cash loans can only be extended to those funds which are clearly experiencing temporary cash flow problems
As opposed to basic budget shortfalls;
5. At the time of loan origination, cash balances within source internal service funds must not be drawn down below twice the amount of each fund’s current fiscal year’s budgeted expenditures;
6. Simple interest will be paid to source funds on a monthly basis at a rate equal to the average rate earned during the month by the County Treasurer on “daily cash” pooled investments; and
7. A report summarizing internal cash loan activity must be prepared and disseminated to each member of the Board of Supervisors and the CAO each month that such loan activity occurs.”

Notwithstanding the purpose, guidelines, and parameters of the "Internal Borrowing Program," the Board of Supervisors has authorized the long term internal borrowings ("cash loans") from (workers' compensation) internal service fund(s), through "residual equity transfers" ("cash equity") to the County hospital ("contributed capital") and the "retained earnings" ("cash balances") of the enterprise fund at ending of the fiscal year, as matters of routine when:

- (1) the County hospital enterprise fund is clearly experiencing basic budget shortfalls (net operating losses), since 1997-1998 Fiscal Year, commencing July 1, 1997;
- (2) the County Auditor/Controller has made adjustments to revenue for bad debts for the County hospital enterprise fund (un-collectibles: accounts receivable), in excess of \$3.6 million dollars for the 1998-1999 Fiscal Year, ending June 30, 1999;
- (3) at the time of cash loan origination(s), cash balances within the (workers' compensation) internal service fund were drawn down below twice the amount of the fund's current fiscal year's budgeted expenditures, for the 1999-2000 and 2000-2001 Fiscal Years, ending June 30, 2000, and June 30, 2001; and
- (4) the cash loans have not been limited to or repaid by regular installments during the fiscal year; (cash loan balances have been carried since the 1998-1999 Fiscal Year; total borrowings from the workers' compensation fund were in excess of \$4.3 million dollars, for the 2000 - 2001 Fiscal Year, ending June 30, 2001, and total cash loan borrowings from various Internal Service and Enterprise Funds were in excess of \$5.4 million dollars as of April 30, 2002).

One example of administering the internal borrowing program is outlined in a letter from the Office of the Auditor/Controller to the Board of Supervisors dated March 26, 2001. In this letter, the Assistant Auditor- Controller, recommended that the Board of Supervisors waive the cash flow loan ceiling of \$5,500,000, for the month of March, 2001, based upon some unusual and unexpected expenditures by the hospital. It should be noted that appropriation of public funding of this nature generally requires public notice and opportunity to be heard before authorizing such expenditure of public fund. Yet, the Board of Supervisor's Minutes of March 27, 2001, indicate that the above matter was placed on the Consent Calendar (items considered to be routine and enacted by one motion); that the matter was found to have arisen subsequent to the posting of the agenda (no public notice); and that the matter was of sufficient urgency to be heard that day by the Board of Supervisors (no public hearing). The Board of Supervisors then voted to approve the consent calendar, considered the "Non-Agenda Cont. - TGH Loan" request from the Assistant Auditor- Controller, and waived the loan ceiling of \$5,500,000 for Tuolumne General Hospital, for the month of March, 2001.

The following shows the outstanding loan balances for the hospital, as of 04/30/02. It should be noted that balances are being carried over in spite the fact that Resolution

114-93 provides that "loans are provided to cover short term cash flow problems and are to be repaid within the fiscal year".

INTERNAL BORROWING PROGRAM
"RESIDUAL EQUITY TRANSFERS"
HOSPITAL LOAN BALANCES
(Fiscal Year ended June 30th 2001)

<u>Fiscal Year:</u>	<u>Cash Loans:</u>	<u>Balances:</u>
1997-1998:	\$ 375,000	\$ 375,000
1998-1999:	\$1,930,000	\$2,305,000
1999-2000:	\$ 425,000	\$2,730,000
2000-2001:	\$1,707,000	\$4,437,000
2001 -04/02:	<u>\$ 988,000</u>	<u>\$5,425,000</u>
TOTAL:	\$5,425,000	\$5,425,000

HOSPITAL LOAN BALANCES
(Internal Loans as 04/30/02)

<u>Internal Fund:</u>	<u>Cash Borrowed:</u>
Workers' Compensation Fund	\$3,565,000
Liability Fund	\$ 435,000
Unemployment Fund	\$ 156,000
Ambulance Fund	<u>\$1,269,000</u>
TOTAL:	\$5,425,000

Tuolumne General Hospital Budget

The Grand Jury found it exceedingly difficult to understand the budget and the budget processes for the County in general and the Hospital in particular. The unusual practices of using "Operating Transfers" as "revenue income," the use of residual transfers as "contributed capital" and the use of cash flow funding as "retained earnings" during the current fiscal year, are outlined in a August 16, 2001, letter to the Board of Supervisors from the County Administrator Officer regarding the final budget for fiscal year 2001-2002. This letter stated that the preliminary budget included a number of deficiencies in that the budget before the Board of Supervisors should be considered a second draft and that yet another budget would be supplied to the Board in 2001 supposedly with a number of improvements. The letter also discusses various cash flow remedies. The letter goes on to say, "even in the best of circumstances, as of the date of this report, the expected TGH budget will be \$2,515,000 under funded. This means that the cash flow need will be consistently high and that additional general fund

contingencies will likely be needed....” The letter finally recommends that the Board of Supervisors adopt the FY 2001-2002 budget as submitted.

A follow-up letter dated December 14, 2001, from the County Administrative Officer to the Board of Supervisors, outlined additional proposed modifications to the budget, intended to more accurately reflect and positively impact the operational loss at Tuolumne County Hospital. The letter then proposes options for reducing the \$2,459,981 projected operational loss at the hospital, which combined with other staff work would supposedly take care of the operational loss. The Board of Supervisors did approve the budget modifications proposed by the County Administrative Officer.

It was not possible for the Grand Jury to determine whether the actions proposed by the County Administrator and approved by the Board of Supervisors accomplished anything other than providing additional short term cash flow for long term budgetary shortfalls of net operating losses in excess of approximately \$ 5.4 million for Fiscal Year 2001-2002 ending June 30, 2002.

CONCLUSIONS

It is the opinion of the Grand Jury that:

Tuolumne General Hospital operational losses continue to grow every year. Yet, the Board of Supervisors have continued to make up the Hospital's operational losses through budget and accounting practices that do not follow the parameter and guidelines of the Boards of Supervisor's Resolution pertaining to the Internal Borrowing Program.

While the Board of Supervisors intention to keep the Hospital in operation may be commendable, the methods are very questionable. In addition, whether intentionally or not, the current practices make it all but impossible for the public to understand the magnitude of the Tuolumne General Hospital's financial crisis.

The Grand Jury finds it very difficult to understand how the Board of Supervisors can make informed and intelligent decisions on the continuing operation of the Hospital when there is insufficient financial data for completion of an independent audit of the accounts and performance of the County proprietary funds in general and the hospital enterprise fund in particular. The Grand Jury also finds it difficult to understand why the Board of Supervisors is seemingly not exercising leadership to make changes in the manner in which the Hospital operated that would reduce the predictable, escalating operational losses of the hospital. (See section on Tuolumne General Hospital on page 21).

RECOMMENDATIONS

A number of recommendations have been made above in the "Board of Supervisors" and the "Auditor/Controller" reports and in the section on Tuolumne General Hospital - pages 24 through 40 that pertain to this section as well.

JAMESTOWN MINE

Jamestown Mine Committee

Elmer Boden, Chairman

Ronald Degan

Nancy Franklin

Dave Sablotny

JAMESTOWN MINE

Introduction

The Grand Jury was interested in the environmental and closure issues and economic development opportunities that exist. In light of the Juvenile Hall project failed, the committee formed to see what options were open to the County.

Objective

It is the objective of the Grand Jury to investigate the current status of the Jamestown Mine, including financial impact, water quality, and a sound closure plan. This committee sought to determine if this property would ever pay for itself and/or benefit the community in any respect.

Methodology

Two inspection tours of the Jamestown Mine site were made. The first on Wednesday September 12, 2001 and the second on Tuesday October 9, 2001 accompanied by Daniel M. Richardson, Senior Administrative Analyst for Tuolumne County.

The committee received documentation supplied by the California Regional Water Quality Control Board, Tuolumne County, Patricia Jones Consulting and the 1998-1999 Tuolumne County Grand Jury report on the Jamestown Mine as well as various site and aerial maps.

Findings

The Jamestown Mine costs the county approximately \$240,000 (2001) per year for water monitoring, maintenance and salaries.

Conclusions

Past proposals for the mine included a Juvenile Hall Facility, Agricultural Vocational School, regional park and a rock crushing facility. The majority of these options are no longer in consideration.

The mine area can indeed be a boon to the county if a final closure plan is implemented.

The State of California filed a lawsuit against all present and past owners of the mine including Tuolumne County. This will slow further development plans until such time as all parties can reach a settlement.

Tuolumne County has provided a proposed budget plan, along with basic reclamation proposal to satisfy CEQA (California Environmental Quality Act) requirements. Tuolumne County is also in the process of negotiating with California Department of Transportation to meet its requirements related to removal of material (waste rock). Prior to further assessment of CEQA needs, a more formal closure plan needs to be developed.

On March 14th 2002, an answer to the State's complaint and a cross complaint for indemnity against certain of the other defendants named by the state was filed by County Counsel. On March 18, 2002, the Tuolumne Superior Court granted the state's request for a transfer venue and transferred the action to Stanislaus County Superior Court. As of this writing, Tuolumne County has not received notice from the Stanislaus court that it has received the files.

Recommendations

Since this matter is in litigation at this time, suggestions in regards to the Jamestown Mine would have to be made after the suit is settled by the County.

Financial Impact of Jamestown Mine

Jamestown Mine Agreement

Findings

The PURCHASE AND SALE AGREEMENT between SONORA MINING CORP ("SMC") and THE COUNTY OF TUOLUMNE ("BUYER") dated December 17, 1996, recited that The County of Tuolumne acquired the so-called "Jamestown Mine" from Sonora Mining Corp, in exchange for the following:

1. Bond Release: Buyer agrees to reduction of (SMC) Reclamation Bond No. 115522 in amount of \$2,752,000 to \$100,000;
2. Lease Assignment: Buyer agrees to assignment of Cameron Lease No. 2, with a term of 25 years, from August 1, 1981; and
3. Promissory Note: Buyer agrees to assumption of Promissory Note in amount of \$440,492.92.

The County of Tuolumne converted the remaining bond requirement with a pledge of revenue in the amount of \$2,226,000 million. The Board of Supervisors allowed the lapse of SMC "Pollution Liability Insurance" policy that provided coverage for costs of the cleanup and abatement of the discharge of pollution from Jamestown Mine.

The California Regional Water Quality Control Board, Central Valley Region ("BOARD") issued Waste Discharge Requirements Order No. 97-082 date April 25, 1997. In a meeting at the Board on October 30, 1998, Tuolumne County stated that they did not have the financial assurances as stated in Finding No. 67 of WDR No. 97-082, i.e., the release and reduction of the reclamation bond, and the failure to maintain the \$3 million liability insurance policy required for financial assurances for site closure. Therefore, the County (Discharger) was in violation of WDR No. 97-082.

Pursuant to the Board's Cleanup and Abatement Order No. 98-735 dated December 18, 1998, Tuolumne County ("Discharger") submitted the so-called "Work Plan" on or about March 7, 2000. The Discharger's "Work Plan" called for additional investigations and assessing data gaps instead of starting clean-up, which was required by July 1, 1999. Therefore, the Discharger was not in compliance with CAO No. 98-735.

On December 12, 2001, the State of California and the "Board," et al., filed a COMPLAINT FOR INJUNCTIVE RELIEF AND CIVIL LIABILITY" against Sonora Mining Corp., and the County of Tuolumne, et al. (Case No. CV 48619). On March 14, 2002, the County of Tuolumne filed an ANSWER TO COMPLAINT and CROSS-COMPLAINT FOR INDEMNITY. The venue for the case ("causes of action") has been moved to Stanislaus County.

Conclusions

Having reduced the Reclamation Bond, failed to maintain the Insurance Policy, and commenced the clean-up under the Work Plan, the County is exposed to multiple discharge and abatement fines and penalties, each of which is in excess of \$10,000 a day, and the costs of site closure or reclamation are estimated from between \$12 to \$14 million dollars and \$32 to \$34 million dollars.

Recommendations

Since this matter is in litigation at this time, suggestions in regards to the Jamestown Mine would have to be made after the suit is settled by the County.

Law Enforcement

Law Enforcement Committee

Joseph “Jay” Dugan, Chairman

Jeanie Pierce, Secretary

Vince DeAnda

Nancy Franklin

Robert “Bob” Wellwood

LAW ENFORCEMENT

Sheriff's Department

Introduction

Pursuant to Penal Code Sec. 919(b), the Grand Jury shall inquire into the condition and management of all public prisons within the county. The Grand Jury fulfilled this requirement as follows:

Preliminary meeting with Sheriff Richard Rodgers.

Tour of the County Jail.

Informal interviews with staff during tour.

Review of county & Sheriff's Department budget.

Review of previous year's Grand Jury reports and responses.

The Grand Jury received no citizen's complaints regarding the Sheriff's Department or the County Jail. Several Jurors did accept Sheriff Rodgers' invitation to take advantage of the citizen ride-along program and accompanied deputies while on patrol.

Findings

August 31, 2001, meeting with Sheriff Rodgers and members of the Law Enforcement Committee of the Grand Jury. Sheriff Rodgers outlined his department and operations. He is satisfied with his budget and personnel compliment at this time. Both patrol and correctional divisions are fully staffed. His concerns are centered on the current jail and administration facilities.

September 25, 2001, members of the Grand Jury toured the County Jail. The Tuolumne County Jail, located in downtown Sonora houses over 140 inmates. Men and women are quartered in separate areas of the facility. This is an old building, constructed in the early 1960's. It is kept in moderately good repair but it is apparent that renovation will be needed soon. Plumbing is a major concern. Prison/jail construction requirements of the 1960's place pipes within bearing walls. Replacement or repair is very costly. Ventilation in the garage area which serves as a Sally-Port, is non existent. Vehicle exhaust within the jail entrance is a constant problem. The operation and management of the jail is very efficient, safe and secure. The correctional officers on duty were very professional and informative.

Conclusions

The general impression of the Grand Jury is that the Sheriff's Department is doing a good job with the facilities at hand. However, it must be understood that the current jail buildings should be replaced in the very near future.

Recommendations

Site selection and land acquisition for a new County Jail and Sheriff's Administration Building should be completed as soon as possible. The concept of including a Juvenile Facility should also be considered.

SIERRA CONSERVATION CENTER

Introduction

The Grand Jury toured the Sierra Conservation Center on November 8, 2001. The California Penal Code requires this visit. There were no citizen's complaints or particular issues of concern pending; therefore the visit was primarily informative. The Sierra Conservation Center provides housing, programs and services for minimum to medium custody inmates. Its major program is the training and placement of inmates in one of the 21 conservation camps administered by the prison. The Conservation Center functions as the center for training and retraining staff and inmates in firefighting techniques.

The prison is separated into two dormitory type facilities for minimum and low-medium custody inmates and a separate high-medium custody facility.

Each of the 21 satellite camps under Sierra Conservation Center jurisdiction is a self-contained "prison without walls". The camps generally are located in rural or wilderness areas. During fire season, camp inmates are deployed to work on fire lines; at other times, they help with flood control and other community service projects.

All areas appeared to be well equipped and secure. Inmates are provided adequate eating and living facilities. The staff was found to be extremely professional and operations are well coordinated. The prison population exceeds 6000 and the staff numbers 1200. 70 percent of the employees live in Tuolumne County.

Conclusion

This is a State-run prison. It is not within the Grand Jury's venue to enter into inmate or personnel disputes or concerns. The Jury is confident that the State provides adequate channels to address and resolve prison issues, and therefore makes no recommendations.

REVIEW AND REPORT

Review Committee

Sandra Owen, Chairman

Betita Gamble

Hazel "Lynne" Waters

QUESTIONS AND RESPONSES TO REVIEW COMMITTEE FOLLOW-UP LETTERS

In the opinion of the Grand Jury, we needed to establish a committee to look into prior year Grand Jury Report recommendations and establish if the recommendations had actually been acted upon and if not, why not. It was the consensus of the jury that we go back three years and where responses had not been received, or the department/agency/special district was "working on implementing the recommendation" that a follow up letter of inquiry be sent for updated information. The following report states the recommendation in the form of a question and the response that we received back from the area as indicated. The dates in parentheses are those of the Grand Jury Report where the matter was first addressed. After review of the responses, the Grand Jury finds all to be in order.

SHERIFF DEPARTMENT/JAIL

(1) **QUESTION (98-99)** Has the computer digitized records management system as part of your DAD 911 CAD/CLETAS upgrade project been installed. Also has the optical-disk scanner that would be helpful in cutting down on paper records storage been installed?

RESPONSE: The computerized records management system (RMS) AS PART OF THE DATA 911 MILLENNIUM UPGRADE (CAD/CLETS/RMS) project was first installed in January of 2000. However, complete designed functionality has yet to be achieved on all parts of the system. Technicians from Data 911 are currently working with County Information Systems & Services Department (ISS) and my staff to accomplish this. Other law enforcement agencies that bought the data 911 system are currently experiencing similar problems.

(2) **QUESTION (98-99)** Did you install a new freezer as mentioned in the 98-99 Grand Jury report?

RESPONSE: A new Kenmore frostless freezer was installed in the property/evidence section shortly after the 98-99 Grand Jury report was released.

(3) **QUESTION (98-99 & 99-00):** What is the status at this present time for a new sheriff's department facility?

RESPONSE: The current status on the new Sheriff's complex is that our architects have completed the architectural program phase of the project for a new administration/operations facility, RRM Design Group in association with Beverly Prior Architects. The Board of Supervisors, who has authorized the second phase of the project, which is the site selection phase, has formally accepted the architectural program. We are currently in the middle of this phase, which includes establishing site

selection. The County's Community Development Department is now heavily involved in the project. The site selection criterion has been established for not only the Sheriff's Administration/Operations facility, but also for a future adult jail and a future juvenile hall to be co-located on the same site. We are currently doing site evaluations. We initially started with seven sites and are down to three. The remaining project phases to be accomplished for the Sheriff's Administration Operations facility complex are: Site acquisition, preliminary architectural planning and design, final design, final design and architectural plans, and finally constructions.

(4) QUESTION (99-00) The report was concerned with the dispatcher shortage. Have you received additional budget to hire additional full-time dispatchers? And do you feel that the involvement with the Human Resource Department as a recruiting tool has been helpful?

RESPONSE: Successful labor negotiations were completed earlier this year with the Deputy Sheriff's Association (DSA) and the salaries for dispatchers were increased. As a result we have been able to retain our dispatchers and hire qualified new personnel as additional full time dispatchers. The involvement of Human Resources in both labor negotiations and as a recruiting tool has been very helpful in filling our vacant positions. Four of our sworn deputy sheriff vacancies have been filled and we are now in the recruitment process to fill the remaining two.

(5) QUESTION (99-00) What was the outcome of the labor negotiations that were to be addressed beginning September 11,2000, with the start of labor negotiations between the County and the Tuolumne County Deputy Sheriff's Assn. (DSA), salary and benefit evaluation being part of this process?

RESPONSE: The labor negotiations between the County and the DSA that were concluded in March 2001 were very successful in establishing a five year memorandum of understanding (MOU) that resulted in significant pay increases, benefits and a new retirement system. Tuolumne County is now fiscally more competitive with other counties and jurisdictions. Additionally, several necessary (MOU) modifications were made concerning administration rights versus employee rights, which have made basic operations run more effectively and efficiently.

SIERRA CONSERVATION CENTER

(1) QUESTION (98-99): Are the inmates being treated for mental health problems still housed with the other inmates?

RESPONSE: Approximately 400 of the 4000 inmates housed at Sierra Conservation Center are taking medication for mental health related problems. These inmates function normally, have job assignments and participate in the full range of activities available to all general population inmates. Inmates identified as having mental health

problems more severe than our 400 are transferred to another prison that is equipped to handle such medical situations

(2) **QUESTION (98-99)** How often is SCC inspected by State/and or Federal Agencies and could you please list what these agencies are and what they are looking for during their inspections of this facility?

RESPONSE: The Department of Health Services conducts an annual environmental health survey at SCC and each of its 20 conservation camps. The Environmental Protection Agency and CALOSHA can inspect the facility at any time. Sierra Conservation Center furnished the Review Committee with (1) a list of agencies with which SCC has permits, licenses, and certificates and (2) a list of reports they have to submit on various institution operations and the agencies involved.

(3) **QUESTION: (98-99)** Have you found it necessary to add additional personnel to the medical clinic since 99-00? If so, please explain. How many are employed in the medical clinic at this time?

RESPONSE: Court mandates have increased our budgeted positions in the medical department. Currently there are 70 positions in the medical department and that includes dental and mental health. This is an increase of 9 from 1999. All the increases in staffing have been for mental health.

(4) **QUESTION (99-00):** Why does SCC use an out of county hospital for more serious medical needs? And could you please explain how the situation is handled when an inmate must be admitted into a local hospital if an emergency situation should arise.

RESPONSE: Sierra Conservation Center contracts with Doctor's Hospital, Manteca (DHM) for routine medical care. DHM has a prison wing used by SCC and four other prisons to house inmates and custody coverage is provided by Deuel Vocational Institute in Tracy. SCC does have a contract with Tuolumne General for emergency care. Once an inmate has been admitted and stabilized, he is transported to DHM.

(5) **QUESTION (98-99 and 99-00)** What is the status of the new wastewater treatment plant as well as the proposed pipeline to transport the tertiary treated water?

RESPONSE: The new wastewater treatment plant is on line and performing beyond expectations. The environmental impact report for the pipeline has been completed and funding has been secured for the design drawings with construction expected to begin within a year. An unexpected benefit to the operation of the new plant is that two storage ponds previously required for secondary treatment are not necessary for the tertiary treatment. This means that SCC will have two storage ponds available for the winter rains that have not been available in the past. This additional storage should provide a cushion for the heavy rain periods and greatly reduce the possibility of trucking the wastewater off site.

ANIMAL CONTROL

(1) **QUESTION (98-99)** Has the position of Animal Control Officer which was to be added to the department as part of the FY 1999-00 budget actually been filled?

RESPONSE: A new officer was hired in January 2000.

(2) **QUESTION (98-99)** Our committee is interested to know if the Assistant County Administrative Officer and Community Service Unit (CSU) are still working to develop and implement a specific plan to aid in controlling the animal population for the county?

RESPONSE: A number of meetings were held with representatives of the Community Service Unit to discuss ways in which the (CSU) could assist animal control in general. As a result, the CSU is now providing assistance in the following ways: 2) handing out literature and leashes (provided by animal control) to individuals observed walking dogs off lease b) checking on transitory situations if animal control officers cannot respond immediately and notifying animal control of their status; c) service subpoenas; d) limited on scene assistance to animal control officers; and e) traffic control in livestock situations.

(3) **QUESTION (99-00)** It was mentioned that the new holding periods for animals, which we understand were to take effect on July 1,2000, would make it necessary to expand the shelter. We would like for you to comment on how this expansion is coming.

RESPONSE: After issuing a request for qualifications (RFQ) for architectural services, Architecture Plus was hired to develop options for expansion of the shelter. The original concept was to build a second floor, mezzanine level kennel. Two options were investigated by Architecture Plus; a) build above the "common area" of the building. The original building architect had represented that this area had been pre-designed for this purpose; and b) build above the existing kennel area. Architecture Plus review found expansion above the existing kennel to be the most viable given structural inadequacies and other issues involved in building above the "common area". The county received two estimates for expanding above the kennel, which ranged between \$549,000 and \$629,000. The projected cost is more than double the original project budget and is simply unacceptable.

Since receiving estimates, county staff has: a) discussed with the Humane Society the potential of leasing some of its kennel area to help with immediate overflow needs while expansion alternatives are re-worked. To date, there has not been a need to exercise this option; and b) asked the architect to evaluate two other more modest, ground floor options for expansion of the kennel. Once these options have been fully explored, a final recommendation will be presented to the Board of Supervisors.

(4) **QUESTION (99-00)** The report mentioned that the Animal Control Manager and Assistant County Administrator had been actively working with our state assemblyman in Sacramento in an effort to reduce some of the impacts of the new law (Senate Bill 1785) Could you explain what has been accomplished in this regard?

RESPONSE: Staff worked with Assemblyman George House and Assemblywoman Virginia Strom-Martin to introduce and ultimately achieve passage of AB2754 (House, 2000). As originally introduced, this bill would have significantly undone the most onerous provisions contained in SM1785 (Hayden). Unfortunately, the lobby associated with Mr. Hayden and extreme animal rights groups proved strong enough to substantially water down the final version of AB 2754. The final bill was successful in putting off application of longer holding periods for owner released (vs. stray) animals until July 1, 2002 (providing a little more time to address our shelter needs in Tuolumne County), provided much needed clarification to various sections of the law added by SB 1785 and gave shelters more flexibility in the handling of known "vicious" dogs. Perhaps the greatest benefits of this effort were the coalition of Humane Society, Veterinary, Animal Control and other groups built to lobby for AB2754 and the accuracy of information and level of debate introduced in Sacramento on this issue. People are generally better informed and aware today than they were before this effort.

(5) QUESTION: Have the alternative methods of encouraging spay/neuter efforts for our county been presented to the Board of Supervisors as part of the FY 2001-02 budget?

RESPONSE: Animal control has been involved in the formation of two different groups that are taking steps to combat pet overpopulation. Presentations were made to the Board of Supervisors regarding both groups in FY 2000-01. The two groups are: **Friends of Animal Control (FOAC) and Spay/Neuter Task Force.**

ALCOHOL/DRUG AND MENTAL HEALTH SERVICES

(1) QUESTION: (98-99) Is the new location of Mental Health Services (the old Employment Development Department building on Mono Way) now considered the permanent location?

RESPONSE: The Mono Way site is the new Main office for outpatient behavioral services under Kings View. Administration and access (or intake) are located there plus services to children and families. This is a leased facility and will be the Kings View Main office for any of the foreseeable future. There are four other primary sites for the other parts of the behavioral health program locally and numerous other places in the county where outpatient behavioral health services are provided. A new brochure, which is almost completed, will show all those sites.

(2) QUESTION: (98-99) In the response to the 98-99 report, it was mentioned a group of community agencies and Kings View were meeting to develop a 24-hour drop-in-center for the youth. Has this been implemented?

RESPONSE: Kings View, The Probation Dept, Human Services Dept, County Administrative Officer's office, Sierra Health Alliance, and the Work Incentive Board have worked on this issue since the 98-99 fiscal year. The plan for a teen drop in

center has developed into two projects after visiting other such projects and looking at the needs of this County. Funding for these projects could not be found, although applications for a number of grant opportunities were made. Currently, the two projects are expected to be presented to the Board of Supervisors in November 2002 for funding through incentive funds, a part of The Human Services' Funding. (Since the initial follow-up letter was answered, information was obtained from Ms. Readell that in fact both have been funded.) The two projects are: Teen Shelter and the Teen Recovery Community. The Teen Shelter will provide a two-week out of home program for high-risk teens. The teens and their families will be involved in an intensive schedule of evaluation and intervention to determine the cause of the dangerous behavior and provide interventions and ongoing plans. The teen recovery Community will provide after school activities developed by a teen community board, which will include alcohol and drug treatment, education, and family groups. Also included are leadership training, job development and placement.

(3) QUESTION: (98-99) Since this is a follow up of 98-99 and we know many things have changed; could you please detail what programs for juveniles have either improved, expanded or been implemented since the 98-99 jury report. Such as the need for a local drug treatment program, including a detox center.

RESPONSE: At the time of the 98-99 Grand Jury report alcohol and drug services had been in place in Tuolumne County for many years. There has been ongoing reorganization and the development of services based on improved understandings of the problems. There are also other arrangements for long term/out of home care for clients with either mental health or alcohol/drug care. An in-county detoxification program has not been fiscally possible to develop. Regular meetings are held including a weekly meeting to plan and review planning for children in the behavioral health, education and probation or welfare systems. These meetings provide a lot of on going updating on agency resources.

(4) QUESTION: (98-99) It was mentioned in the conclusion section, they felt not enough tracking was being done on information and perhaps a central system would be helpful. Are all the agencies involved with programs for our juveniles aware of what the other agencies have to offer by way of additional support?

RESPONSE: A central system to facilitate tracking for all agencies working with juveniles has not been possible for a variety of reasons, although each agency has the capability to provide the tracking required by the State or other funding sources. The services for most of the children in the public system are organized under the Children's System of Care. Regular meetings are held including a weekly meeting to plan and review planning for children in the behavioral health, education, and probation or welfare systems. These meetings provide a lot of on going updating on agency resources. Since none of these programs in any way static, ongoing consultation about resources continues.

(5) QUESTION: (98-99) Could you please explain how the alcoholic/drug assessment trust fund is funded and how these funds are allocated. The report mentioned funds have been accumulating for several years and have not been spent. Why not?

RESPONSE: The alcohol/drug assessment trust is a part of the funding for the Probation Department. This fund has been utilized in one way under an agreement between Kings View and the Probation Department to provide services to children whose families have no insurance or to provide interventions (like drug education) not paid for by insurance. The fund is used as Probation and the rest of the Children's System identify problems. The amount is insufficient and unstable enough that planning on-going programs on the funding is untenable.

GROVELAND COMMUNITY SERVICES DISTRICT

(1) QUESTION: (99-00) One of the concerns of this report was the issue of reported workplace violence.

RESPONSE: This year's Review Committee requested and received a copy of the section of their Memorandum of Understanding Manual pertaining to workplace violence. Said resolution was passed and adopted by their board of directors December 13, 1999. A copy of same is part of the response letter from the District and is available for review.

TUOLUMNE COUNTY OFFICE OF EDUCATION

(1) QUESTION: (99-00) How has the Brown Act training opportunity that you mentioned in your response to this jury report actually been implemented by your office? We are interested to know the approximate number of Board Members attending these instruction meetings.

RESPONSE: The response from Mr. Dan White was that his office considers Brown Act training important for school Board Members and keeps the Districts aware of scheduled workshops as well as their office having workshops before and after elections. They have a Board Member workshop scheduled for 1-17-02 for new and continuing school Board members with the Brown Act as a large part of that workshop.

(2) QUESTION: (99-00) Our Review Committee obtained a copy of the Sonora Area Foundation Report mentioned in your response and we would like to know if you feel this report has been beneficial to the School Districts and their communities.

RESPONSE: Mr. White supports the concept of how school districts might better work together and has shared this report with local District Superintendents. The local Special Education Unit is called TCSEU. District Superintendents serve on the

board. Mr. White has agreed to provide more direct oversight on their behalf, even though his oversight has limitations, as Special Education is only part of their office responsibilities.

(3) **QUESTION: (99-00)** Has the facilitator as mentioned in one of your responses been selected? And if so, do you feel that this has helped the relationship between yourself and the District Superintendents?

RESPONSE: Tom Guigni, retired superintendent, was brought in as a facilitator on September 9, 2000. We are not a year down the road from this meeting and relationships have been strengthened overall. I think everyone has worked to improve communications (it is a 2-way street). We have held two (2) superintendent meetings so far this year and they have gone well. I asked Diana Page (now one of our more experienced superintendents) to be a sounding board as to how the meetings were going. She has indicated that the meetings have been very good and positive.

(4) **QUESTION: (99-00)** Problems in the business office were mentioned having to do with personnel turnover, posting errors and the installation of a new computer. Their report stated most of these errors have been corrected or are in the process of being corrected. We would like to know if your office is running more smoothly. Have all employees been properly trained on this new computer? Are employees cross-trained to ensure work continues if a key employee is absent?

RESPONSE: Admittedly there were significant changes in personnel and implementation of a new software package. Problems were typical in the industry. Arrangements were made for FCMAT (Fiscal Crisis Management Assistance Team) to come and assess the business operation office. This expert team actually gave the business office high marks and stated the office was doing well working through the implementation period. Because of the implementation process (normally a 2-year process but changed to a 1-year process at the request of school districts) being difficult, our office provided additional support and training to our employees as well as district staff. The operation is not perfect but we continue to make improvements. Wherever there are opportunities to cross-train our personnel, it is done.

TUOLUMNE UTILITIES DISTRICT

Mountain Springs Committee

Robert "Bob" Wellwood, Chairman

Jack Haney

Dave Sablotny

TUOLUMNE UTILITIES DISTRICT

Introduction

The Grand Jury decided to review the Tuolumne Utilities District from hereon referred to as TUD with regards to the amount of water available for growth in the county and specifically, that required by the Mountain Springs Development. In addition, a concern of the Grand Jury was the disposal of sewage for that development. During the investigation, the Mountain Springs Development was withdrawn from the table but the Grand Jury decided to continue to review TUD.

Methodology

Members of the committee interviewed two members of the TUD staff, one member of the TUD Board of Directors, attended several TUD Board of Directors meetings, and requested several documents. The documents included two HDR Engineering Inc. reports, dated 1996 and 1999, Water Master Plan of 1996, budget for 2000 and 2001, Government Code Section 66013 pertaining to collecting, maintaining, and accounting for the use of reserves, Chapter 4 of the District Wastewater Ordinance No. 1 pertaining to wastewater capital reserves charges, Regulation No. 3 "Water Service Charges and Rates" contained in the District's Water Rules and Regulations pertaining to the booking of water capital reserves, Mission statement, Purchase agreement between PG&E and Tuolumne County for the Tuolumne water system, Environmental Review Documentation for the New One-Million-Gallon Waster storage Tank to serve the New Sonora. Reviewed the Little Hoover Commission report Title "Relics of the Past or Resources for the Future" dealing with independent special districts.

Findings

The Tuolumne Utilities District was created in July of 1992 from the merger of the Tuolumne Regional Water District and Tuolumne Water Services. Tuolumne Utilities District is responsible for the service of water and sewer to five geographic areas. These are identified as West County, Phoenix, Tuolumne, Upper Basin, and Upper Ridge. In September of 1996 TUD develop a Water Master Plan to service the above areas thru the year 2015. The master plan spells out the following goals:

Provide increased system reliability for supply and distribution of water by the District.
Meet the projected water demand needs of the District through the year 2015.
Increase the efficiency of the existing ditch system for delivery of raw water.
Reduce reliance on groundwater by the District as a primary source of domestic water.
Establish a main distribution system for transmission of potable water by the District and plan and prioritize the orderly implementation of water system interconnections.
The District is planning on a moderate growth rate of approximately 2.25 percent per year.

The Little Hoover Commission was concerned about special districts cash reserves that were large compared to their budget. TUD cash reserves restricted for Facility improvements and Debt Servicing are \$4,086,425 and unrestricted cash reserves are \$5,241,216 as reported in the Comprehensive Annual Financial Report for 2001. The reserves are within the range of acceptability according to the Little Hoover Commission.

The following paragraphs are excerpts from the HDR Engineering Inc. reports of 1996 and 1999. To obtain the full reports contact the TUD office and request the copies at your expense.

ⁱThe HDR Engineering Inc. was retained by the TUD in 1996 to prepare an operational study of the South Fork Stanislaus River watershed and its tributaries. The primary objective of this study was to assess the current system's ability to meet present and future demand requirements placed on the system. Key components of the system reviewed in this study are the regulations of Strawberry Reservoir (Pinecrest Lake), consumptive withdrawals of water from the system by Pacific Gas and Electric (PG&E) for their Spring Gap and Stanislaus Hydroelectric projects, regulation and future sizing of Lyons Reservoir, and consumptive demands downstream of Lyons Reservoir through the Tuolumne Main Canal and Section IV Ditch.

HDR simulated the operation of the system using 25 years of complete daily records provided by TUD. The results presented were based on a firm yield analysis using a cumulative mass balance approach. The firm yield is defined as a demand that can be met 100% of the time.

The undeveloped yield after maximum diversion to Spring Gap is estimated to be 4,250 acre feet during dry years, 50,250 acre feet during average years, and 145,200 acre feet during wet years.

The firm yield of the system is currently about 17,000 acre feet which is approximately equal to the TUD's annual demand. The firm yield is influenced by PG&E's operation of the Spring Gap diversion. If PG&E maximizes their diversions, the firm yield of the system is approximately 12,500 acre feet.

The current average annual water demand is about at the present firm yield of the system. During dry conditions in the future, the District may have to implement demand side management practices to ensure adequate supply of water. An increased Lyons Reservoir would meet TUD requirements well into the 21st century. However, it is estimated that it would take 5-7 years to get the larger facility put into service.

ⁱⁱHDR Engineering, Inc. was retained by TUD in 1999 to conduct an operational study of the South Fork Stanislaus River watershed. This work expands upon the 1996 study previously conducted by HDR Engineering, Inc.

The object of the 1999 study was to assess the South Fork Stanislaus system's response to potential increases in consumptive demand levels within TUD downstream of Lyons Reservoir, while employing an operational strategy that places top priority on maintaining Lyons Reservoir's target storage levels. This model was used to perform a sensitivity analysis in which TUD's annual consumptive demands at Lyons's Reservoir

were increased in successive simulations runs. The water available to TUD is diverted from the South Fork Stanislaus River into the Main Canal at Lyons Reservoir. "Consumptive demands" at Lyons Reservoir means the water delivered to TUD, as measured at diversions from the South Fork Stanislaus at Lyons Reservoir. Several changes were made to the simulation model of the South Fork Stanislaus system previously developed in the HDR's 1996 operation study. An important aspect of the new simulation model is that its operational priorities differ from current practices. In this model, Strawberry Reservoir's primary operation objective is to meet Lyons Reservoir's minimum storage requirements. Strawberry Reservoir makes supplemental release to meet Lyons Reservoir's requirements while Philadelphia Canal demands were considered to be secondary in order to maximize Lyons Reservoir's system yield. Model input parameters were updated utilizing historic hydrologic data from water years 1992 to 1996. Local inflows into each reservoir were back-calculated from daily historic data on stream flow and reservoir storage. The model was further modified to calculate reservoir releases at a monthly time step and allow end-of-month storage targets to be specified for each reservoir. Several targets were incorporated into the model to track system response in each month. The minimum storage target of 1,200 acre feet of water at Lyons Reservoir was set by TUD as a practical limit for water quality deterioration (turbidity). The minimum storage target of 3,500 acre feet of water at Strawberry Reservoir was set by PG&E as a practical limit for winter maintenance flushing of the Philadelphia Canal. FERC Project 2130, Article 29 states: "Licensee shall, consistent with operational demands, maintain the maximum surface water elevations in Strawberry Reservoir during the period of June 1 to September 15 and maintain a minimum pool of about 10 acres with a depth of not less than 10 feet at all other times, except under emergency conditions." It was recognized that water that would otherwise spill below Lyons could be diverted instead to the Philadelphia Canal for power generation.

Separate analyses were performed for June 1, 1976 to May 31, 1978, the critical period of record; and June 1, 1985 to September 30, 1996, an extended drought period. All simulation runs were begun on June 1, assuming that both Strawberry and Lyons reservoirs were at full storage capacity and that no supplemental releases had previously been made.

For each successive run, Lyons Reservoir demand was increased in 50 acre feet increments from a base of 15,600 acre feet up to 37,000 acre-feet. A run was made at a 17,353 acre feet demand to assess the impacts of increasing demands by approximately 2,000 acre feet. System response was monitored to determine the demand where the following events were observed during the simulations:

Water Purchase begins

Strawberry Reservoir storage drops below it Summer Storage Targets

Strawberry Reservoir fails to refill

Strawberry Reservoir Storage drops below 3500 acre-feet

Lyons Reservoir Storage drops below 1,200 acre-feet

Lyons Reservoir Storage drops below 300 acre-feet

All storage targets are met in both Strawberry and Lyons Reservoir for demands up to 19,350 acre feet. Water purchase begins when demands reach 18,500 acre feet. At demands of 19,400 acre feet and above, Strawberry Reservoir's targeted summer storage is not maintained, first dropping below its Labor Day storage target of 17,400 acre feet in 1977. When demands exceed 26,600 acre feet, Strawberry Reservoir fails to refill in 1977. Strawberry Reservoir drops below its minimum storage target of 3,500 acre feet when demands exceed 26,650 acre feet. As demands increase further, Strawberry Reservoir remains below its minimum storage target of 3,500 acre feet from February to March 1977 and November to December 1977. Once Strawberry Reservoir storage drops to zero acre feet, Lyons Reservoir storage drops below 1,200 acre feet in the end of November 1977, at a demand level of 29,850 acre feet.

Water purchase begins when Lyons Reservoir's demand reaches 18,150 acre feet. The amount of free supplemental water used and supplemental water purchased in each year increases with increasing demands. Conversely, Lyons Reservoir spill decreases as its demands are increased.

For simulations runs of 1985-1996 all targets are met until the demand at Lyons reaches 19,250 acre feet, when Strawberry Reservoir drops below its Labor Day target of 17,400 acre feet in 1987. Water purchase begins by the end of December 1987 at a slightly lower demand level of 15,950 acre feet. Strawberry Reservoir storage drops below 3,500 acre feet in 1991 when Lyons Reservoir demands reach 27,500 acre feet. As demands are further increased to 32,350 acre feet, Strawberry Reservoir storage drops to zero during the simulation and Lyons Reservoir cannot maintain its minimum storage of 1,200 acre feet. Lyons Reservoir storage drops below 300 acre feet when demands reach 33,600 acre feet. Strawberry Reservoir refills in every year for the entire range of demands simulated.

This analysis shows that changing the operational priorities of the South Fork Stanislaus system to favor Lyons Reservoir has the potential to significantly increase the water available to meet consumptive demands of Lyons Reservoir.

Conclusion

Tuolumne County is continuing to grow. Expected growth is estimated to be 2.25%. TUD currently has sufficient water to supply its **current demand** and for the near term. Even if large scale housing developments are not realized, additional water resources will be needed.

The staff of TUD are doing a good job of running, and planning for the future business of supplying water and sewage disposal for Tuolumne County. The Grand Jury had all of its questions answered and the personnel were very knowledgeable in all areas of concern addressed by the committee.

Recommendations

That the Tuolumne Utilities District service area continue to have the availability of water and that the Lyons Reservoir should be expanded to insure that those people who have undeveloped lots have access to water use. Whether it is expanded to 25,000 acre feet or 50,000 acre feet is a matter for the voters serviced by Tuolumne Utilities District to decide. ⁱⁱⁱThe 2001 construction cost in millions of dollars is \$48.2 for 25,000 acre feet and \$62.0 for 50,000 acre feet.

That the Tuolumne Utilities District continue to pursue with Pacific Gas and Electric the assurance that the 1983 purchase agreement will be upheld in any transfer of assets that Pacific Gas and Electric may enter into.

That the Tuolumne Utilities District should research what is required to implement a tertiary or third stage treatment of wastewater so that any discharge into Woods Creek may be done at anytime and not be restricted to high flow requirements.

That the Tuolumne Utilities District should look to expand water storage capacity at Lyons Reservoir to meet the inevitable growth that will take place in Tuolumne County.

ⁱ HDR Engineering Inc. Report 1996 page 1

ⁱⁱ HDR Engineering Inc. Report 1999 Pages 1-10

ⁱⁱⁱ Christensen Associates Presentation to TUD Directors February 5, 2002

