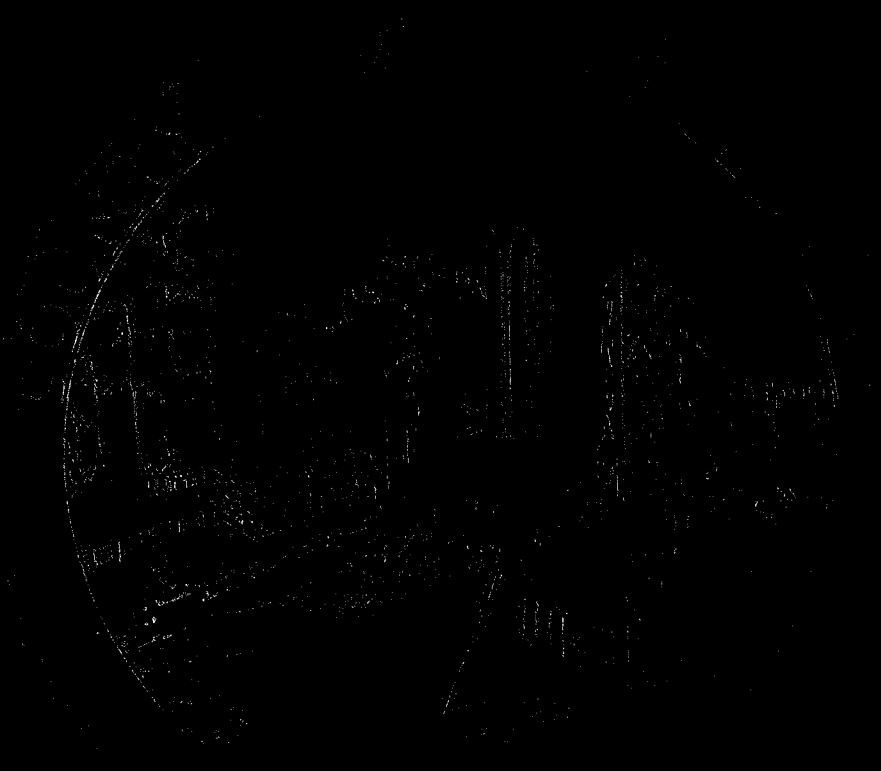


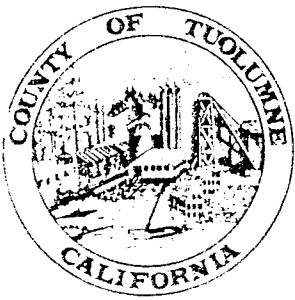
CONSTITUTION OF THE UNITED STATES



Article I  
Section 1  
All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2  
The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors in that State.

Section 3  
The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have the Qualifications requisite for Senators in that State.



## Grand Jury — County of Tuolumne

Tuolumne County Administration Center  
2 South Green Street  
Sonora, CA 95370

June 30, 2000

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

Dear Judge Polley:

The 1999-2000 Tuolumne County Grand Jury is pleased to submit its final report to you, to the County Board of Supervisors, and the citizens of Tuolumne County.

This report is the result of dedicated, hard-working Jurors who volunteered thousands of hours of their time and energies in investigations, on-line computing, and review of county function. The Grand Jury of nineteen persons worked in endless meetings, even on holidays, persevering to serve the citizens of our county, even while enduring personal hardships and tragedies.

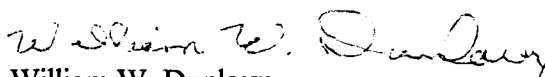
This Grand Jury wishes to thank you, the District Attorney, County Counsel, and county investigators for your support and advice. Also, a special thanks to your court secretary for her patience and help.

The Grand Jury is a once in a lifetime experience for all. Our mission is to not only look into the activities of county officials and departments, but to provide a positive impact on county businesses and employees, thus making Tuolumne County a better place to live for all citizens.

In an effort to reach the widest audience possible, we have decided to publish not only the standard, bound report, but to also publish our report as a special section in the Union Democrat newspaper.

We sincerely hope that our findings and recommendations will be of value and benefit, through increased awareness, to our county government and all of our citizens.

Respectfully submitted,

  
William W. Dunlavy  
Foreperson, 1999-2000 Tuolumne County Grand Jury

## 1999 - 2000 TUOLUMNE COUNTY GRAND JURORS

### ACTIVE MEMBERS

William Dunlavy, Foreperson	Sonora
Gary Sipperley, Foreperson Pro-Tem	Twain Harte
Mary Sohl, Secretary	Sonora
Paula Bickford	Columbia
Marlene Cannon	Jamestown
Dora Chambless	Columbia
Judy Clardy	Soulsbyville
Margaret Eilrich	Soulsbyville
Michael Gibbs	Twain Harte
Alberta Harris	Jamestown
Deborah Hicks	Soulsbyville
Claudette Hill	Jamestown
Kip Ramirez	Sonora
Kevin Schmidt	Sonora
James Segale	Soulsbyville
Thomas Sharboneau	Sonora
Martha Stolp	Sonora
Jennifer Thurman	Sonora

### RESIGNED MEMBERS

Sandra Ahlf	Twain Harte
Marsha Lynn Becker	Columbia
Darren Bogle	Sonora
Janine Geissler	Sonora
Norman Graham	Sonora
Ronald Jones	Groveland (now Sacramento)
Daniel Lawson	Long Barn

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## INTRODUCTION

For the members of the Grand Jury, this has been an unusual and exciting year. When Judge Polley read the Charge to the Grand Jury last July, none of had any idea of what the next twelve months would bring. We didn't realize the amount of time that would be required to make decisions about what we should investigate, to actually conduct the investigations and to write, edit and finalize the report. The Board of Supervisors found it necessary to authorize an additional expenditure to cover some of the expenses of our investigations, and we are grateful for their support. We have spent close to 6000 hours in meetings, gathering evidence, interviewing witnesses and the subjects of investigations, and in preparing this report. We fervently hope that the product of this effort results in making local government work better and helps make Tuolumne County a better place to live.

While we made decisions to conduct specific reviews, many of the paths we took were, in effect dropped on us. There are, therefore, many aspects of county government which we did not have time to investigate. While our report discusses some areas of concern, it is important to keep in mind that we found most county officials and employees to be exceptionally dedicated and qualified. We recognize that our county budget is extremely limited, but we hope the resources can be found to fund a pay structure that is competitive with surrounding counties and has built-in increases which aren't subject to political whim. We note with some dismay the recent decision for members of the Board of Supervisors to vote themselves a 32% raise over two years. We understand that the demands on each of those five individuals are great. We believe, however, that it is a grave mistake to take that action while we are unable to retain trained, qualified employees or to fully staff numerous offices to a satisfactory level. We also urge the Board to follow the model set by the U.S. Constitution, and make any such pay raise effective after their current term expires.

During our term we received a number of complaints from concerned citizens. All such complaints were given careful consideration by the entire Grand Jury. However, not all grievances were investigated; some fell outside our jurisdiction, others required more time than was available to this year's Grand Jury.

California is one of only a small number of states with a statutory civil Grand Jury. We have come to believe that this process is a vital component of honest, effective local government. The simple fact that county agencies and offices can be reviewed in depth by ordinary citizens provides a substantial safeguard against misdeeds. This year's Grand Jury spent a great deal of time learning how local government works. This required sacrifices by Grand Jurors and our families. We feel very strongly, however, that this investment in time was worth the effort. It is essential that the public – especially through the Grand Jury – keep watch over the way in which the people's business is conducted. We sincerely hope that the citizens of Tuolumne County take the time to read this report, find its conclusions and recommendations worthwhile and demand action from the elected and appointed leaders responsible for making decisions on these issues. We believe that our government — at the local, state and federal level — works effectively only with informed, involved citizens constantly monitoring the decisions made in their name.

## **ONE SPECIAL EMPLOYEE**

Over the past year we have had the opportunity to speak with dozens of employees of the County of Tuolumne. We found most of them to be intelligent, hard working and dedicated to serving the public. However among all of the people who work for Tuolumne County, one stands out.

Every time the Grand Jury needed information, one person could give us what we needed at a moment's notice. When the Board of Supervisors, other offices within the county or in Sacramento needed to know what was happening with county finances, one person's name repeatedly came before us.

For the contributions she makes to the overall operations of county government, the Grand Jury wishes to formally recognize Assistant Auditor-Controller Deborah Russell for her outstanding service to the people of Tuolumne County. Ms. Russell is exceptionally knowledgeable about county finances and diligent in her attention to detail. She is collaborative in her approach and exemplifies the finest attributes of a public servant. We are truly fortunate to have Ms. Russell at work on behalf of the people of Tuolumne County.

From the entire Grand Jury to Deborah Russell, we say a heartfelt "Thank you!"

## **A BIT OF HISTORY**

On the eve of publication of this report, the Grand Jury was entrusted — temporarily — with a rare and fascinating set of documents. These fragile papers represent the work of our compatriots nearly 150 years ago: the Tuolumne County Grand Jury Reports for the years 1853, 1856 and 1857.

We are pleased to present a copy of the report dated February 7, 1856, immediately following this page. It is interesting to note that some of the concerns of a Grand Jury do not change, even in 144 years. The 1856 Grand Jurors reported on the prison, the acquisition of a County Hospital and care of the indigent, weapon control, and the Office of County Schools. However, there are a few differences — we did not find that “all houses of Ill Fame situated on Washington Street in the City of Sonora are Public Nuisances and recommend their removal immediately”!

Yonkers Feb 7 1856

To the Honorable Court of Sessions  
of Dutchess County

The Grand Jury for the February term  
having closed their session would  
respectfully submit that they have had  
under consideration 7 cases, of which  
the following true bills have been found viz  
Murder 1. Improper & criminal use of deadly  
weapon 2. Assault with a deadly weapon.  
Grand Larceny 1

The Grand Jury have visited the County  
Prison and find that the business of the  
Prison is conducted as well as it possibly  
can be considering the limited space and  
insecure state of the building

The Prisoners seem to be well cared for  
in every respect and <sup>the</sup> building is kept clean  
and in good order and as secure as possible  
but we think the building is entirely unfit  
for the purposes of a Prison

We approve of the course of the Board of  
Supervisors in petitioning the Legislature of  
the state to allow them to levy a special  
tax for the purpose of building a substantial  
County Prison.



There are 4 persons imprisoned at the present time on the following charges viz  
for Murder 1 For improper use of deadly weapon  
For Grand Larceny 1, For Petit-Larceny 1

① ~~The Jury have visited the Hospital where~~

p  
It has been suggested to the Grand Jury that it would be advisable to purchase Brown & Kendall's Hospital (so called) though it having been offered for sale but it is the opinion of the Jury that a more judicious arrangement can be made and a more suitable building & location can be selected and with more economy to the County Treasury.

It is the Opinion of the Jury that the building should be fire proof and that the Hospital shall include a County Poor house for the reception of the County poor.

It is also the opinion of the Jury that of the inmates admitted into the Hospital many are capable of doing some labor towards their support; therefore we would recommend that land not to exceed ten (10) acres be purchased in some location in this vicinity (which can be irrigated) for the purposes above named and a suitable fire proof building be erected thereon.

We would also recommend that the cost of said house & land shall not exceed the sum of eight thousand (\$8000.00) dollars and we would also recommend that for the above mentioned house & land an Overseer be appointed with full power to take charge of the same, he to be paid for the same per annum, he also to give bonds as security for the faithful discharge of his duties, the aforesaid office to be given to the person who will perform the duties of the office for the lowest sum in a satisfactory manner as shall appear to the board of supervisors. And we would further recommend that a Physician be appointed at a stipulated sum that may be agreed upon by the Board of Supervisors.

The Grand Jury present to the Hon. Court that all houses of Ill Fame situated on Washington street in the City of Iowa are Public Nuisances and recommend their removal immediately.

The Grand Jury would also call the attention of the Court to the practice of the use of deadly weapons and think that the most stringent measures should be taken to put a stop to this evil practice.

(1)

The Grand Jury have visited the Hospital  
 into which are admitted the Indigent sick  
 of the County. They find on examination of  
 the Books of the Hospital that it has  
 been established eighty two weeks that  
 there has been admitted in that time into  
 the institution one hundred & twenty two  
 122 Patients. That the whole number of days  
 that the Hospital has been occupied by Patients  
 is 6392 days being 913 <sup>weeks</sup> which at the rate of  
 \$25.00 per week amounts to the sum of \$22825.00  
 twenty two thousand eight hundred and  
 twenty five dollars.

Since the establishment of the institution ~~there~~  
~~the~~ patients have died 4 & 101 been discharged  
 present number of inmates 21

82) 913  
 82  
 ---  
 93

25  
 25  
 ---  
 22825

It is the Opinion of the Jury that the present School System is too complicated and expensive and does not meet the wants of the people. The larger portion of the School fund is expended in the Salary of the County Superintendent of the County Schools

We would recommend that the Legislature be petitioned to abolish <sup>the office of County Superintendent of Schools</sup> and that the Trustees of the Schools should report direct to the State Superintendent of Public Schools

We are of the Opinion that the County Assessor could do the duties of the Marshals, thereby saving their fees to the School fund

All of which is respectfully submitted

John R. Vallance

Frank A. Rutherford

Foreman

C. L. Street

Geo. A. Darrow

James Kerrick

A. S. Dexter

David H. Twinner

Wm. Keefe

Wm. A. Clark

Daniel J. Collins

Chas. Parsons

J. W. Clawson

C. C. Hooper

H. A. Knight

Paul Decker

Joseph Amittage

Charles Brudenberg

## ADMINISTRATIVE OFFICER

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### OVERVIEW

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The County Administrative Officer (CAO) is the highest-ranking unelected official in Tuolumne County. This individual, appointed by the Board of Supervisors, is essentially responsible for the overall operation of all facets of county government. He or she serves at the pleasure of the Board and can be replaced at any time. The CAO is the county's budget officer, purchasing agent and chief personnel officer. He or she is the county Emergency Services Coordinator and has ultimate responsibility for risk management, facilities management and information systems. Our County Administrative Officer oversees all departments which are not lead by an elected official, and is responsible for budgetary decisions for every department. In short, the CAO is at the heart of the operations of county government. While many of the day-to-day functions are delegated to others in the CAO's office, or to Department Heads or managers in other departments throughout county government, the job done by the CAO is critical to the success or failure of county government.

C. Brent Wallace assumed his current position as Tuolumne County's CAO approximately two years ago. He held similar positions in Inyo and Siskiyou Counties, and has worked in public administration for approximately 14 years.

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### REASONS FOR INVESTIGATION

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Each year a new Grand Jury is impaneled in Tuolumne County. It is charged to conduct annual reviews of various departments in, and aspects of, the operations of county government. Jurors are mandated by law to conduct a review each year of some specific areas (jails and prisons, for example) and are encouraged to review various other departments in a pattern that ensures that all aspects of county government are reviewed every few years. In our review of past Grand Jury reports, the 1999-2000 jury noted that the office of the CAO had not been reviewed in at least ten years.

In addition, at the beginning of its term, this year's Grand Jury met with a number of county officials for basic background information on the operations of various departments in county government. One of those officials was C. Brent Wallace. Mr. Wallace confirmed that his department had not, to his knowledge, been reviewed in a number of years.

In our routine introductory meetings with county officials, the Grand Jury also met with then-Tuolumne County District Attorney (DA), Nina Deane. While the intent of – and expectation for – that meeting was simply to gain routine background information about the operation of the DA's office, Ms. Deane informed the Grand Jury that she would soon resign from the position to which she had only recently been re-elected. The reasons Ms. Deane provided the Grand Jury differed substantially, however, from those released to the press. Ms. Deane cited differences with the County

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Administrative Officer which indicated potentially serious problems with the most important appointed official in the county.

Thus, the Grand Jury had both a routine reason to look into the CAO's performance and was also presented with a number of allegations about actions and behaviors which were potentially damaging to the county. With this as background, the Grand Jury would have been derelict in its duty if it had not conducted an investigation of the CAO's performance.

And finally, as our initial investigation proceeded, we were led to many new issues and concerns, including a number of questionable statements made by Mr. Wallace, and allegations he made concerning Ms. Deane. These led to further investigation and interviews.

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**METHODOLOGY**

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Because of the extremely sensitive nature of the allegations we received, the Grand Jury was compelled to exercise great caution. It was imperative, for example, that something as insignificant as a personality conflict or other petty concerns not be the basis of an investigation into an individual's performance. It was also necessary to seek independent confirmation of as many facts as possible to confirm or refute the allegations made to the Grand Jury by the then- District Attorney.

Thus, the Grand Jury again called upon Ms. Deane to expand upon and clarify the statements she made in her first meeting with us. With her permission, this interview was taped. In addition, Ms. Deane sent the Grand Jury a letter [figure 1] stating the basis for her dissatisfaction with Mr. Wallace's leadership. She authorized the release of this letter for any report the Grand Jury should make on the CAO's office. Ms. Deane also waived her right to the privacy normally attached to investigations of this nature.

The 1999-2000 Tuolumne County Grand Jury then began a series of interviews with employees in virtually all departments of county government, in positions ranging from lower-level workers to Department Heads to current- and former elected county officials. In all, the Grand Jury interviewed over 50 individuals who currently work for Tuolumne County, or who worked as county employees at some time in the past two years. We also interviewed several other individuals outside of the county who have had official dealings with Mr. Wallace since he was appointed CAO.

In addition, Mr. Wallace was again interviewed at length concerning the allegations brought against him. Mr. Wallace declined permission to tape this interview, which was clearly within his rights. Statements made during that interview, recorded in notes taken by a number of members of the Grand Jury, were closely examined. Evidence to corroborate or refute information he provided was sought from as many sources as possible. Some of the information Mr. Wallace provided had the effect of sending the Grand Jury on fruitless, unproductive quests. Some of the statements he made during the interview, and in the follow-up letter he sent, became part of a separate finding which is addressed below. The Grand Jury asked Mr. Wallace to provide a number of documents to which

his oral statements referred. He provided the documents we requested in a prompt and cooperative manner. He also gave us additional documents of his choosing to back up statements he had made to us during his interview.

Due to the number of issues involved, we will present first a list of the allegations made against Mr. Wallace, followed by findings and conclusions for those allegations. Next is a list of the additional issues raised and investigated — including the allegations made by Mr. Wallace — then the findings and conclusions for each of those items. Recommendations on all issues follow that section, and the report ends with a final conclusion.

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### ALLEGATIONS

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An “allegation” is a statement or an assertion made or offered, generally without any proof. Serious allegations, such as those made by and against Mr. Wallace, must be investigated. The nature of the allegations or complaints raised against Mr. Wallace fell into two categories: hostile workplace issues, and actions which put Tuolumne County at risk. Specific allegations were:

- ▶ That Mr. Wallace’s method of interacting with elected officials, subordinates, and individuals performing services for the county was, in many cases, intimidating, inappropriate, or hostile.
- ▶ That a number of individuals feared retaliation by Mr. Wallace if they did or said anything which differed from his wishes.
- ▶ That certain actions were motivated by possible gender-based discrimination.
- ▶ That state funding for the expenses incurred by Tuolumne County in the investigation and upcoming prosecution in the Sund-Pellosso murder trial had been adversely affected by Mr. Wallace’s decisions and behavior.
- ▶ That a Workers Compensation claim filed against Tuolumne County was mishandled by Mr. Wallace, and that his actions put the county in additional, unnecessary, financial jeopardy by denying access to information which could minimize future risks.
- ▶ That Mr. Wallace had been involved in awarding contracts in an illegal or inappropriate manner.

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FINDINGS AND CONCLUSIONS: ALLEGATIONS

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From the nature of the allegations brought against Mr. Wallace, his response to those allegations, and the allegations he made in return, it is fair to say that there was a deep-seated dislike and mistrust between Mr. Wallace and Ms. Deane. Why this is so is a question beyond the scope or ability of a body such as the Grand Jury to determine. Human interaction is a complex and challenging area of study, and allegations of this nature are difficult to cast in black-and-white terms. However, the specific allegations made against him, and the statements he made in response, required a fair and thorough investigation. We have determined that some of the statements made to the Grand Jury by both individuals were complete and accurate. Others were clearly untrue. In addition, some of Mr. Wallace's statements could be characterized as derogatory, misleading or false.

ALLEGED HOSTILE WORKPLACE

The Grand Jury interviewed several people who reported nothing to validate the charges made against Mr. Wallace. However substantially more individuals reported that Mr. Wallace displays demeanor which is intimidating or confrontational. We were told that some Department Heads are reluctant to attend "Department Head Meetings" because of an expectation that they may be berated in front of their peers by the CAO. His behavior was described by a long-term county official as, "condescending, abrasive...[and] obnoxious." Mr. Wallace's management style was described to the Grand Jury as autocratic and tyrannical. Another county employee described him as, "a loose cannon" who will get the county into a great deal of trouble. A number of witnesses described an incident in which a county employee was publicly berated outside the Board of Supervisors' chambers.

Asked about communication between himself and other county employees — particularly Department Heads — Mr. Wallace told the Grand Jury that, "while improvements can always be made...we do a fairly decent job." In addition, Mr. Wallace told the Grand Jury that he believes that county employees like him and trust him. All Department Heads, he said, know that he is one hundred percent available at any time, and he believes there is a successful flow of vital information to and from his office.

Mr. Wallace confirmed that he criticized an employee in public, but attributes such responses to what he calls his "strong personality." However when individuals who are responsible for significant portions of county operations openly distrust the CAO and are reluctant to provide information directly to him about departmental operations, the county is in jeopardy.

Most of Mr. Wallace's subordinates are intelligent, hard working, dedicated employees. That said, it is safe to assume that the performance of most county offices could be improved in some way. When the CAO determines that a department is performing at a less-than-optimal level, he is obligated to take steps necessary to improve that performance. Those steps, however, must be taken with an approach that is calm, constructive and professional in nature. Unacceptable performance on the part of any subordinate should be addressed — in private — by establishing clear goals and



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objectives, and by holding that individual accountable for meeting these objectives. No one should ever be publicly berated or otherwise treated with a lack of respect.

FEAR OF RETALIATION

Several employees and other county officials were extremely reluctant to speak about their interactions with Mr. Wallace out of fear of retaliation. When asked by the Grand Jury about the manner in which he treats subordinates, Mr. Wallace demanded to know who had made negative comments about him. He then stated, "I have the right to face my accusers." His response was of a nature that lends credence to the fear of retaliation felt by several of the employees who spoke with us. In addition, the "right to face [one's] accusers" is a Constitutionally guaranteed right of a defendant in a criminal trial. Mr. Wallace was speaking with us as part of an informal inquiry, and we expect that he would understand the difference.

ALLEGED GENDER-BASED DISCRIMINATION

In addition to local, state and federal law, common sense says that individuals should not be mistreated because of gender, race or other factors unrelated to their performance. Members of the Grand Jury interviewed a large number of individuals to ascertain whether there was any indication that such discrimination had played a part in any action taken by the CAO. We found no evidence of discrimination of this nature.

ALLEGED MISHANDLING OF FUNDING FOR SUND-PELOSSO CASE

As of the date of this report, Tuolumne County has received no state funding for costs incurred in the investigation and prosecution of the Sund-Pelosso murder case. In both her interview and written statements given to the Grand Jury, Ms. Deane alleged that this was due, in large part, to Mr. Wallace's refusal to explore options and to work with state officials who offered their support to Tuolumne County.

In 1999, on the recommendation of Mr. Wallace, the Tuolumne County Board of Supervisors authorized the expenditure of \$10,000 to hire a lobbyist to help secure funding for our expenses through the state legislature. That lobbyist was selected exclusively by Mr. Wallace. He had worked with Mr. Wallace in Siskiyou County, and may have been involved in lobbying for the legislation that ultimately was successful in providing funding for a high-profile murder case being tried in Siskiyou County. The Grand Jury learned that, before he was hired by Tuolumne County, the lobbyist has not been permitted in the office of the State Senator who represents our county. According to the Senator's staff members, he was banned because, "on more than one occasion, he outright lied to the Senator." While legislation was passed last year which would have covered county expenses, that bill was vetoed by the governor. In contrast, funding for another high-profile trial in another rural county was included in this year's state budget which was signed into law.

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During the February 24,2000 interview with the Grand Jury, Mr. Wallace stated that he did not want funding efforts to get fouled up due to “bungling by DAs who don’t know what they’re doing.”

We conclude that the actions taken by Mr. Wallace in this matter were both unwise and unproductive. Rather than accept the help offered by both the state Attorney General and the District Attorney, and pursue a variety of options, Mr. Wallace insisted in going forward with only his plan, done his way. In spite of his stated concerns about “bungling DAs,” it is hard to see how any effort could be less effective than the result we have reached to this point.

Mr. Wallace told the Grand Jury that legislation currently pending would restore lower “threshold” limits imposed by the Rural Homicide Act, a law which authorizes some state funding for expensive trials in rural counties. However, even if this law is changed back to its former limits, it appears to the Grand Jury that we will receive little state assistance through this law. The course of action taken in this issue both cost the county money — the \$10,000 paid to the lobbyist — and has resulted in no state funding to date for the county’s expenses. Furthermore, to hire a lobbyist who does not have access to our legislator makes no sense!

Related information concerning this issue is discussed in later sections of this report.

ALLEGED MISHANDLING OF WORKERS COMPENSATION CASE

The second issue brought to the Grand Jury’s attention concerned a Workers Compensation claim filed by a county employee in early 1998. The county routinely contracts with a private firm to investigate claims of this nature. This firm prepared a report in May of that year describing potential problems in the workplace. Mr. Wallace stated that he became aware of this report in September 1998, shortly after assuming the position of CAO. However, information contained in that report was deliberately withheld from the head of the employee’s department, then-DA Nina Deane, despite her repeated requests to view the report. According to the Human Resources staff, files on Workers Compensation cases are routinely available to the Department Head in charge of that employee. We were told by at least two high-ranking individuals that Mr. Wallace cited his own authority to withhold this information, in spite of advice from County Counsel and the Deputy County Counsel. We were also told that he stated that even if the Board ordered him to release it, he would not do so.

A meeting took place between Mr. Wallace, Ms. Deane and a “mediator” to resolve the dispute. Both parties told the Grand Jury that it was an acrimonious meeting. Mr. Wallace stated that he reacted to that meeting in a very negative way. Ms. Deane stated that Mr. Wallace lost his temper, screamed at her, and threatened to take her to the Grand Jury on a charge of incompetence. Subsequent to that meeting, in July 1999, Mr. Wallace finally provided the information that she had requested. In addition, he presented a written apology for his behavior to Ms. Deane. In defense of this behavior, Mr. Wallace told the Grand Jury that the meeting was, “a total setup” designed to “humiliate” him.

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Mr. Wallace, the person in charge of managing and minimizing Tuolumne County's exposure to legal risk had, in the meantime, held this report on his desk for at least ten months. He took no action himself to minimize future risks, and he delayed any action which might have been taken by the Department Head. Further, he accused Ms. Deane of incompetence for failure to take action on this matter, when he himself was the one withholding the information that she needed to take such action.

The Grand Jury finds Mr. Wallace's assertion that the meeting was "a setup" to be a ludicrous statement. How, we wonder, could the other party set him up to "humiliate" him if it was his own actions in that meeting which prompted his written apology?

Related information concerning this issue is discussed in a later section of this report.

ALLEGED INAPPROPRIATE MANNER OF AWARDING OF CONTRACTS

The Grand Jury looked into the contract awarded to the lobbyist chosen to represent Tuolumne County to ascertain if it was within legal guidelines. In addition, we reviewed a number of other contracts in which Mr. Wallace was involved to determine their propriety. While Mr. Wallace had, in fact, previously done business with some of the people to whom contracts were awarded, we found no evidence that Mr. Wallace had awarded any contracts in violation of law or policy.

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ADDITIONAL ISSUES

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These issues originated from statements made to the Grand Jury during our interview with Mr. Wallace of February 24, 2000, and in the letter he sent with the documents we had requested. As we sought evidence to corroborate or refute this information, certain discrepancies were apparent between the information given by Mr. Wallace and that given by outside sources. The specific areas of concern were:

- ▶ Conflicting information concerning funding issues for the Sund-Pelosso murder trial.
- ▶ Conflicting information concerning the recommendation to hire a lobbyist to help secure funding for the Sund-Pelosso murder trial.
- ▶ Conflicting information concerning the CAO's demeanor with state officials.
- ▶ Allegation made by Mr. Wallace to the Grand Jury that Ms. Deane was "incompetent," and "negligent in her duties."
- ▶ Allegation made by Mr. Wallace to the Grand Jury that Ms. Deane was "feared and hated" in her department, to such an extent that the DA's office was "thrilled and cheered" when told that she had resigned.

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- ▶ Misleading information given to the Grand Jury concerning classification of confidential employees.
  
- ▶ Concern about Mr. Wallace's qualifications with respect to managing the Department of Human Resources.

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**FINDINGS AND CONCLUSIONS: ADDITIONAL ISSUES**

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In statements he has provided to the Grand Jury, to the Board of Supervisors, to elected officials and to the public, we found evidence that Mr. Wallace has provided false or misleading information on several occasions. While he was not under oath at the time he made these statements, the Grand Jury is extremely concerned about his veracity and its potential impact on the future of the County. In addition, as noted in a prior section of this report, some of Mr. Wallace's statements with respect to former DA Nina Deane could be characterized as derogatory and inflammatory. While these statements have also been addressed to some extent in a separate Grand Jury report, we felt they were of sufficient importance to be included in this report as well.

CONFLICTING INFORMATION CONCERNING FUNDING ISSUES  
FOR THE SUND-PELOSSO MURDER TRIAL

The Sund-Pellosso homicide case has cost Tuolumne County approximately \$221,350 as of last November. Most of this was incurred during the investigations done in the early days of the case, before the suspect confessed to the murders. Numerous attempts have been made to date on a number of fronts to secure state funding, including at least four pieces of legislation. We have consulted many sources, within Tuolumne County, Calaveras County, and State Government, and have gathered information, including information about both Senate and Assembly bills down-loaded from government web-sites. While we do not claim to understand the complexities of the state budget process, and the political maneuvering that often accompanies this, we do feel that we have a fairly clear picture of what has been done so far, by whom, and with what results.

With respect to Mr. Wallace, our concern is that he has provided conflicting and/or incorrect information to us, and according to independent sources, to Ms. Deane and the Board of Supervisors. For example, both he and his lobbyist cited the incorrect bill number when referring to pending legislation. He also made reckless, derogatory statements to the Grand Jury, accusing Ms. Deane of causing the failure to secure funding.

In our interview of February 24<sup>th</sup>, he discussed the Rural Counties Homicide Act (RCHA). He explained that this provides funding to small counties when their expenditures for certain murder trials exceed a threshold, which is based on the total assessed property values of that county. The state then reimburses 85% of the costs that exceed that threshold amount. Effective January 1, 2000, that threshold has been doubled. Mr. Wallace stated, and it is true, that our expenses are not likely to reach this higher level, and therefore we will not be eligible for any reimbursement.

The alternative, according to Mr. Wallace, was to submit a line-item into the state budget, to provide 100% funding of all costs, as had been done by Calaveras County for the Ng trial. This was the purpose for which the lobbyist was hired. In his memo of April 1, 1999 to the Board of Supervisors, while discussing the effective efforts made by a prior Legislative Representative (lobbyist) Mr. Wallace states:

the Legislative Representative kept the money in the budget each year by closely watching the budget bill and making sure the funds were not deleted during budget committee hearings or when the final budget was sent to the Governor for signature. There is also considerable effort expended...to make sure the funds remain in the required line item of the State Budget.

However, Mr. Wallace went on to tell the Grand Jury that although we did have a line item in the budget, "through the bungling efforts of Nina Deane" the line item got pulled. Now we ask: if Mr. Wallace's chosen lobbyist was the one responsible for keeping the line item in the budget, why is it that the DA of the county in question would be at fault for its failure? We see this at yet another attempt on the part of Mr. Wallace to shift blame to another person.

He further stated in his interview "she [Ms. Deane] was bound and determined" to go through House and Monteith. Monteith's bill, SB 161, states that "funds...shall be available to reimburse 100 percent of any costs incurred by the Counties of Tuolumne and Mariposa for the homicide trials...for the Polosso murder and the Sund murders" (figure 2). This bill was passed by both the Assembly and the Senate, but was vetoed by the governor. In his veto message, Governor Davis states that the provisions of current law (the Rural Counties Homicide Act) cover the issue of such funding. Mr. Wallace insinuated to the Grand Jury that the failure of this legislation was also due to Ms. Deane and partisan politics. However, the lobbyist, in written reports of actions taken on behalf of Tuolumne County, takes credit for the passage of Monteith's bill, although he does cite the incorrect bill number (AB 161, on the topic of Osteoporosis). As we stated in another part of our report, Senator Monteith will have nothing to do with this lobbyist. Trying to follow the path of responsibility is confusing indeed — everyone seems to take credit for the passage of bills, but suddenly no one is around when a line item "gets pulled."

Mr. Wallace's current efforts center on working with Senator Chesbro on SB 815, which will rescind the new threshold of the RCHA, and on AB 1740, the Budget Bill. Language is to be added as a line item to AB 1740 that will increase the funding for five counties to include the additional 15% of the amount over the RCHA threshold. Although this would provide 100% funding of the amount *over the threshold*, neither of these bills will provide the 100% funding of the entire cost that was written into SB 161.

The Grand Jury is also concerned that Mr. Wallace is determined to handle this alone, and has again turned down assistance from the DA and the Sheriff. He stated that everyone agreed the CAOs of the five counties should carry this effort, to ensure that it will "not get fouled up by bungling DAs who don't know what they're doing." We feel that the assistance that could be provided by a combined effort among all parties would have a much higher chance of success.

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RECOMMENDATION TO HIRE A LOBBYIST TO HELP SECURE FUNDING  
FOR THE SUND-PELOSSO MURDER TRIAL

This section is not concerned with whether or not the hiring of a lobbyist was a good idea, but rather with the issue of who made the recommendation, and who did or did not support it.

In his April 1, 1999 memo to the Board of Supervisors, in which he recommends hiring a lobbyist, Mr. Wallace states:

County staff and the District Attorney [Nina Deane] recently met with staff from the Office of the State Attorney General to discuss the procedures for securing State financial assistance [for the trial]. During the meeting the Attorney General representatives supported the use of a lobbyist to coordinate the county's effort with the various State agencies, including the Controller, Department of Finance and Attorney General.

In our interview of February 24<sup>th</sup>, Mr. Wallace told the Grand Jury that it was the Attorney General's staff who recommended that we use a lobbyist to secure funding from the legislature, and that this decision was supported by Nina Deane. He was asked again: "Ms. Deane supported hiring the lobbyist?" He replied that, "Yes, she did."

Our findings tell a different story. In her interview with the Grand Jury, Nina Deane stated that she did not feel that the county needed a lobbyist at all. In her public letter to us dated September 30, 1999 Ms. Deane states, "...Further, my experience with [Mr. Wallace] regarding the hiring of a county lobbyist led me to mistrust him." In other material provided to us, Ms. Deane states, "My second issue with Brent, and the reason I do not trust him, is the handling of the homicide funding issue and the hiring of [the person with whom the county contracted] as Tuolumne County lobbyist."

In March 1999, staff members from office of the California Attorney General (AG) did set up a meeting between the former District Attorney, Mr. Wallace, and another individual involved in the funding effort, to discuss the methods by which funding for the county's additional costs could be secured. Mr. Wallace's behavior at that meeting was reported to be brusque, condescending and unprofessional. He appeared unwilling to listen to any options suggested by others, including using the Rural Counties Homicide Act. At the time of this meeting, it was not known what the eventual costs would be, so it was certainly a possibility that the county would be eligible for reimbursement under this law.

One of the staff members from the California Attorney General's Office who attended this meeting told the Grand Jury: "Brent Wallace's basic response was, 'Yeah, yeah, yeah. I've got a guy; he's a lobbyist. We'll hire him and he'll be our representative in Sacramento and, basically there's nothing to worry about.'" In addition, we were told by this same person, "To be real blunt about it, we [the Attorney General's office] could and would function in a much better way [to secure funding] than any lobbyist possibly could." Finally, the Grand Jury was told that, "But what [Mr.] Wallace was apparently interested in doing was ignoring the Rural Homicide Act and going for legislation and

using this lobbyist as the means to achieve that end. It appeared to me to be, honestly, a stupid plan.” The other staff member concurred with that assessment of Mr. Wallace’s approach to securing funding, and added “Anyone who has ever worked with the legislature ...knows you need to pursue all options. Had he been more flexible and more of a team player, he would have been more successful.”

Of grave concern to the Grand Jury is his apparent attempt to mislead the Board of Supervisors to suit his own agenda. The written statement Mr. Wallace gave to the Board of Supervisors, “*the Attorney General representatives supported the use of a lobbyist*”, does not appear to be supported by the facts. In addition, the oral statement Mr. Wallace made to the Grand Jury, *that it was the Attorney General’s staff who recommended that we use a lobbyist to secure funding from the legislature, and that this decision was supported by Nina Deane*, does not appear to be supported by the facts.

#### DEMEANOR WITH STATE OFFICIALS

As mentioned in the prior section, according to people in attendance at the March 1999 meeting, Mr. Wallace’s behavior at that meeting was condescending and unprofessional. We were told by Ms. Deane, “Mr. Wallace was rude [to the AG staff members], cut them off and told them the same thing he had told me about any help that they could offer – basically that he didn’t need any.” One member of the AG staff told us that Mr. Wallace, “acted as if he’d already done it, he knew what had to be done, and didn’t have time or the inclination to listen to us or pay much attention.” Later we were told, “He was just brusque, and unnecessarily so.” Another AG staff member said that while he may not have been rude to them, he did come close to exhibiting overt rudeness to the member of his own staff in attendance at the meeting. She told us that she got the impression from his demeanor that they were wasting his time.

We were also told by AG staff, regarding Nina Deane, “She’s a qualified person with high ethics” who had tried to work with Mr. Wallace responsibly in this matter.

In his February 24<sup>th</sup> interview with the Grand Jury, Mr. Wallace was asked about his behavior in that meeting. Specifically, he was asked, “We have heard from a number of individuals that your behavior in that meeting was extremely unprofessional and abrasive. Would you please comment?”

Mr. Wallace told the Grand Jury, “I deny it. I was extremely courteous and professional.” Because of his work in Inyo County [where he worked earlier in his career], he claimed that has a great rapport with the AG’s office. He invited us to call the former California Attorney General and a number of staff members who were not in attendance at that meeting to corroborate his rapport with the AG office. That supposed rapport in no way excuses his behavior in this instance.

In written material he provided to us after his interview, Mr. Wallace made this statement: “I will make the assumption that the response from the Attorney General staff regarding these statements were [sic] prepared in advance by the former District Attorney.”

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It is understandable that a person might see his own actions differently than others do in any given situation. However, Mr. Wallace's written response is a preposterous statement! It requires a great leap in faith to assume the Tuolumne County District Attorney somehow prepared statements for AG staff, before she resigned from her position, which they would then blindly repeat to the Grand Jury at some later date on the off chance that there might be an inquiry. We have concluded that this was but one of Mr. Wallace's attempts to direct the scrutiny of the Grand Jury away from himself and onto others with whom he has had disagreements.

ALLEGATION MADE BY MR. WALLACE THAT MS. DEANE WAS  
"INCOMPETENT," AND "NEGLIGENT IN HER DUTIES."

In his second interview with the Grand Jury, Mr. Wallace characterized District Attorney Nina Deane as "incompetent," and "negligent in her duties." The specific information he cited involved personnel issues which are not the proper subject of a Grand Jury report. It can be reported, however, that he accused Ms. Deane of taking no action with regard to a specific problem under her jurisdiction which arose during her tenure. He implied that Ms. Deane failed to issue performance evaluations to a specific employee in a timely manner, in that there were no evaluations at all between 1989 and 1995. He also said that the evaluations she did provide included, "no negative comments at all." He told us that the subject employee's evaluations were, in most years Ms. Deane was in office, rated at 57 points out of a possible 57.

Members of the Grand Jury reviewed the personnel file in question. First, we noted that a review of the subject employee's performance was conducted some four months after Ms. Deane took office. The absence of evaluations from 1989 until 1995 was, of course, before Ms. Deane took office. We also noted that the employee evaluation system in place during the time Ms. Deane was in office had a possible 62 points, rather than the 57 point maximum that Mr. Wallace alleged in his statement to us. Finally, we noted that the subject employee's file was exceptionally thoroughly documented with both positive comments as well as areas in which the employee needed to improve.

We found Mr. Wallace's assertions of negligence and incompetence, at least concerning this issue, to be completely unjustified and reckless charges which deliberately misled the Grand Jury. While he made these charges in his own defense, they were clearly inaccurate, and are inexcusable. We have also concluded that such charges are also beyond the scope of an appointed official commenting on the performance of a person twice elected by the voters of Tuolumne County.

ALLEGATION MADE BY MR. WALLACE THAT MS. DEANE WAS "FEARED AND HATED"

As discussed in the report on the District Attorney's Office, we investigated the charges made about the former District Attorney by the County Administrative Officer, by means of many hours of interviews. We found that the statements he made to the Grand Jury were simply untrue. Virtually none of the employees interviewed confirmed the allegations that she was "feared and hated." Nor



did they cheer when she announced her retirement. We consider these to be reckless statements and unworthy of the CAO.

MISLEADING INFORMATION GIVEN TO THE GRAND JURY CONCERNING  
CLASSIFICATION OF CONFIDENTIAL EMPLOYEES.

Mr. Wallace made a decision that a Department Head was not entitled to review a file which contained information about a Workers' Compensation claim. That person sought this information in order to take actions which could minimize future claims. Mr. Wallace cited his own authority for this decision and ignored advice to the contrary from both County Counsel and the Deputy County Counsel. He later relented, and provided the requested information.

In his second interview with the Grand Jury, Mr. Wallace was asked to identify which employees within county operations were considered "confidential" employees, with access to other employees' personnel, payroll or other private matters concerning county employees. He responded that under state law – the "Myers-Milias-Brown Act (California Government Code Sections 3500 – 3510), Department Heads and elected officials were not considered "confidential" employees – unless they are directly involved in labor relations.

The Grand Jury obtained both an employers' guide to this law and the actual text contained in it. This law specifically allows local governments to adopt their own rules for designating who is considered such an employee (Sec. 3507.5). The law (figure 3) makes no such determination.

We believe that Mr. Wallace's interpretation of the Myers-Milias-Brown Act is patently inaccurate. In addition, we believe that he cited this law to justify withholding information from the Department Head in question, and deliberately mislead the Grand Jury. This apparent misinterpretation of state law and his unwillingness to accept legal advice provided by County Counsel leave the Grand Jury quite concerned about decisions that Mr. Wallace has made, and may make in the future, with respect to personnel issues.

QUALIFICATIONS: HUMAN RESOURCES DEPARTMENT

Several individuals who spoke to the Grand Jury told us that Mr. Wallace considers himself to be an expert in personnel matters. Given the evidence cited above with respect to the handling of the Workers Compensation case, the confidential employee classification, and the fact that Mr. Wallace has ignored the advice of County Counsel regarding personnel issues, we do not agree with his self-assessment. In our second interview with him, Mr. Wallace told us that he strongly believes he must retain direct control of Human Resources because of its impact on county finances. However, all aspects of the county's budget are under the CAO's control. Therefore, he can control the Personnel budget through his oversight of the budget of each department, without being in direct control of Human Resources.

Tuolumne County has a large workforce, with approximately 825 full-time employees with benefits,

and an additional 300 – 400 relief- or intermittent employees. State and federal personnel laws and regulations are constantly changing. We have determined that a Human Resources Manager is a full-time job requiring specific, technical knowledge, formal education, and substantial experience in this field. No CAO can reasonably be expected to possess all these qualifications and, at the same time, perform the vast array of other duties expected of him.

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#### RECOMMENDATIONS

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1. Mr. Wallace should contact the Attorney General's office to secure their assistance in obtaining funding for the Sund-Pelosso case. Legislation is allegedly currently pending in this regard. However we have seen the results of relying on a single approach to resolve this aspect of county finances. Instead, the county must use a multiplicity of approaches to secure funding for the expenses we have incurred to date, and which we face in the months and years ahead.
2. Mr. Wallace should engage District Attorney Tim Clancy's assistance and input in securing funding for this trial. While the District Attorney is deeply involved with other operational issues he faces in his new position, his input and leadership are essential to a successful prosecution of these murders. In addition, the District Attorney's contacts in the statewide law enforcement community can be an exceptionally valuable asset. We need all of our resources working together to pursue necessary funding with a coordinated, team approach.
3. County policy should clearly state that all reports of investigations on Workers Compensation claims should be immediately provided to the Department Head of the division or office for which the employee works; such policy should be universally and promptly followed. While there is a legitimate concern for an employee's confidentiality, that can be addressed by the redacting (deleting) of specific information deemed confidential by County Counsel. In addition, that concern is far outweighed by the risks at which the county is placed when problems in the workplace are withheld from those who could take action to resolve those problems.
4. The County Board of Supervisors should amend county code to make the Human Resources (Personnel) Department an independent department, led by a Department Head of stature equal to that of the heads of other major departments in county government. The Administrative Officer cannot reasonably be expected to maintain the specific knowledge needed to provide adequate leadership in this area while, at the same time, carrying out all of the other duties demanded of him.
5. The 2000-2001 Grand Jury should conduct follow-up interviews with Department Heads and other employees to ensure that county officials work in an environment which is open to communication, positive in its tone and free from fear of retaliation for legitimate differences in opinion.

6. Finally, the Board of Supervisors must vigorously and continually exercise its oversight responsibilities of the performance of the County Administrative Officer. Individual members of the Board of Supervisors should hold regular discussions with Department Heads, supervisors and employees to ensure that decisions are made with the best, in-depth information available. Information provided to the Board by the CAO must be thoroughly and independently verified through outside sources. The voters and taxpayers deserve no less.

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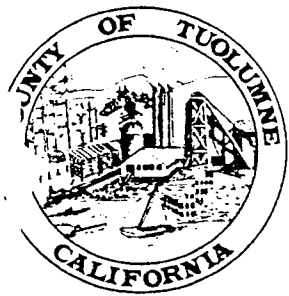
### CONCLUSIONS

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The CAO holds a position of great responsibility. When the county Board of Supervisors hired C. Brent Wallace in 1998, they appointed a person who is exceptionally intelligent and hard working. However they also put at the head of county government an individual whose performance must be carefully monitored for several specific reasons.

Mr. Wallace has shown himself to be a “hands-on” manager capable of making great strides with difficult problems facing the county. For example, various investigations by this Grand Jury found that he was somewhat slow in recognizing the depth of the financial problems facing Tuolumne General Hospital. He has made progress in recent months, however, in learning the extent of these problems and in taking steps to get the hospital’s finances in order. This is not a task for the faint-of-heart.

Mr. Wallace has been effective with a number of problems facing Tuolumne County. However he has also made poor decisions for reasons which, at times, appear to be unworthy of the highest appointed official in the county. Some of these actions have cost the county money; others have the potential for future fiscal liability. He has, on occasion, been less than honest with information he has provided to others. These aspects of his performance must be addressed by the Board of Supervisors, by others within county government, and by the public. We have concluded, however, that our County Administrative Officer is a complex individual who must take concrete actions to improve some aspects of his performance, and who must bear the scrutiny of the people to whom he is ultimately accountable – the people of Tuolumne County.



# District Attorney

Nina B. Deane  
District Attorney

Phone (209) 533-5655  
2 S. Green St.  
Sonora, CA 95370

## MEMO

TO: Foreman William Dunlavy and  
members of the Grand Jury

FROM: Nina B. Deane, District Attorney

DATE: September 30, 1999

RE: Resignation as District Attorney

I am sending this memo to you at your request after our meeting regarding my resignation as district attorney. As you are aware, I plan to go sailing for an indefinite period of time with my husband George. I have very much enjoyed my (almost) five years as district attorney and believe the office is currently running smoothly.

As we discussed, one of the deciding factors in my resignation was the relationship that developed with Mr. Brent Wallace, Tuolumne County's Administration Officer. For approximately the first year Mr. Wallace was with the county, I found him to be decisive, bright and organized. I found, however, that he did not tolerate disagreement with his decisions or opinions and was extremely uncooperative when he was not in charge. Further, my experience with him regarding the hiring of a county lobbyist led me to mistrust him. In June of this year I requested a copy of the report to which I was entitled by law; Mr. Wallace denied my request. This disagreement brought us to a meeting during which he lost his temper, yelled, screamed, and threatened me. Consequently, I believed our professional association was irretrievably damaged.

Even though the district attorney is an independently elected official, he or she must work within the county framework, particularly on budget, personnel, and risk management issues. Mr. Wallace is at the center of these functions. Because of our broken relationship, I believed I could not serve the district attorney's office or the county in a manner in which both deserve. I have therefore decided to resign my position as district attorney and hope that my successor, with a fresh start, will be able to work cooperatively and successfully with all county personnel, including Mr. Wallace.

BILL NUMBER: SB 161      ENROLLED  
 BILL TEXT

PASSED THE SENATE      SEPTEMBER 10, 1999  
 PASSED THE ASSEMBLY    SEPTEMBER 10, 1999  
 AMENDED IN ASSEMBLY    SEPTEMBER 10, 1999  
 AMENDED IN ASSEMBLY    JUNE 16, 1999  
 AMENDED IN SENATE      APRIL 27, 1999  
 AMENDED IN SENATE      APRIL 12, 1999  
 AMENDED IN SENATE      APRIL 5, 1999  
 AMENDED IN SENATE      FEBRUARY 25, 1999

INTRODUCED BY    Senator Monteith

JANUARY 11, 1999

An act to add Section 15205.5 to the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 161, Monteith.    Local government.

Existing law authorizes counties that are responsible for the cost of a homicide trial or trials or any hearing of a person for the offense of homicide to apply to the Controller for reimbursement by the state for the expenses incurred according to specified percentages based on population only until January 1, 2000, and, then, on or after January 1, 2000, by a different formula.

The bill would provide that moneys appropriated in the Budget Act of 1999 for local assistance payments to counties for the cost of homicide trials shall be available to reimburse 100% of any costs incurred by the Counties of Tuolumne and Mariposa for the homicide trials of individuals that may be arrested for the Pellosso murder and Sund murders.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1.    Section 15205.5 is added to the Government Code, to read:

15205.5.    Notwithstanding any other provision of law, funds appropriated in the Budget Act of 1999 for local assistance payments to counties for the cost of homicide trials shall be available to reimburse 100 percent of any costs incurred by the Counties of Tuolumne and Mariposa for the homicide trials of individuals that may be arrested for the Pellosso murder and Sund murders.

3500. It is the purpose of this chapter to promote full communication between public employers and their employees by providing a reasonable method of resolving disputes regarding wages, hours, and other terms and conditions of employment between public employers and public employee organizations. It is also the purpose of this chapter to promote the improvement of personnel management and employer-employee relations within the various public agencies in the State of California by providing a uniform basis for recognizing the right of public employees to join organizations of their own choice and be represented by such organizations in their employment relationships with public agencies. Nothing contained herein shall be deemed to supersede the provisions of existing state law and the charters, ordinances, and rules of local public agencies which establish and regulate a merit or civil service system or which provide for other methods of administering employer-employee relations nor is it intended that this chapter be binding upon those public agencies which provide procedures for the administration of employer-employee relations in accordance with the provisions of this chapter. This chapter is intended, instead, to strengthen merit, civil service and other methods of administering employer-employee relations through the establishment of uniform and orderly methods of communication between employees and the public agencies by which they are employed.

3501. As used in this chapter:

(a) "Employee organization" means any organization which includes employees of a public agency and which has as one of its primary purposes representing those employees in their relations with that public agency.

(b) "Recognized employee organization" means an employee organization which has been formally acknowledged by the public agency as an employee organization that represents employees of the public agency.

(c) Except as otherwise provided in this subdivision, "public agency" means every governmental subdivision, every district, every public and quasi-public corporation, every public agency and public service corporation and every town, city, county, city and county and municipal corporation, whether incorporated or not and whether chartered or not. As used in this chapter, "public agency" does not mean a school district or a county board of education or a county superintendent of schools or a personnel commission in a school district having a merit system as provided in Chapter 5 (commencing with Section 45100) of Part 25 and Chapter 4 (commencing with Section 88000) of Part 51 of the Education Code or the State of California.

(d) "Public employee" means any person employed by any public agency, including employees of the fire departments and fire services of counties, cities, cities and counties, districts, and other political subdivisions of the state, excepting those persons elected by popular vote or appointed to office by the Governor of this state.

(e) "Mediation" means effort by an impartial third party to assist in reconciling a dispute regarding wages, hours and other terms and conditions of employment between representatives of the public agency and the recognized employee organization or recognized employee

organizations through interpretation, suggestion and advice.

3501.5. As used in this chapter, "public employee" also means an employee of any superior court or an employee of any municipal court, except those employees whose job classification confers safety retirement status. These municipal and superior court employees shall be considered employees of the county for all matters within the scope of representation.

The county's established labor relations office shall represent the county in negotiations with any employee organization recognized to represent the municipal court or superior court employees.

3501.6. (a) In any transfer of functions from county employees to superior or municipal court employees occurring on or after January 1, 1992, the court shall continue to recognize the employee organization which represented the employees performing those functions at the time of the transfer of duties. The court shall also be bound by the terms of any memorandum of understanding that is in effect as of the date of the transfer of functions for the duration thereof, or until replaced by a subsequent memorandum of understanding.

(b) Notwithstanding Article 8 (commencing with Section 69890) of Chapter 5 of Title 8, merit personnel systems including the county civil service system and a system of discipline for cause only, shall be within the scope of representation by employee organizations for court employees affected by a transfer of functions as described in subdivision (a) unless otherwise prohibited by the charter of the county.

3502. Except as otherwise provided by the Legislature, public employees shall have the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations. Public employees also shall have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relations with the public agency.

3502.5. (a) Notwithstanding Section 3502, or any other provision of this chapter, or any other law, rule, or regulation, an agency shop agreement may be negotiated between a public agency and a recognized public employee organization which has been recognized as the exclusive or majority bargaining agent pursuant to reasonable rules and regulations, ordinances, and enactments, in accordance with this chapter. As used in this chapter, "agency shop" means an arrangement that requires an employee, as a condition of continued employment, either to join the recognized employee organization, or to pay the organization a service fee in an amount not to exceed the standard initiation fee, periodic dues, and general assessments of such organization for the duration of the agreement, or a period of three years from the effective date of such agreement, whichever comes first. However, any employee who is a member of a bona fide religion, body, or sect which has historically held conscientious objections to joining or financially supporting public employee organizations shall not be required to join or financially support any public employee organization as a condition of employment. Such

employee may be required, in lieu of periodic dues, initiation fees, or agency shop fees, to pay sums equal to such dues, initiation fees, or agency shop fees to a nonreligious, nonlabor charitable fund exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, chosen by such employee from a list of at least three such funds, designated in a memorandum of understanding between the public agency and the public employee organization, or if the memorandum of understanding fails to designate such funds, then to any such fund chosen by the employee. Proof of such payments shall be made on a monthly basis to the public agency as a condition of continued exemption from the requirement of financial support to the public employee organization.

(b) An agency shop provision in a memorandum of understanding which is in effect may be rescinded by a majority vote of all the employees in the unit covered by such memorandum of understanding, provided that: (1) a request for such a vote is supported by a petition containing the signatures of at least 30 percent of the employees in the unit; (2) such vote is by secret ballot; (3) such vote may be taken at any time during the term of such memorandum of understanding, but in no event shall there be more than one vote taken during such term. Notwithstanding the above, the public agency and the recognized employee organization may negotiate, and by mutual agreement provide for, an alternative procedure or procedures regarding a vote on an agency shop agreement.

(c) An agency shop agreement shall not apply to management, confidential, or supervisory employees.

(d) Every recognized employee organization which has agreed to an agency shop provision shall keep an adequate itemized record of its financial transactions and shall make available annually, to the public agency with which the agency shop provision was negotiated, and to the employees who are members of the organization, within 60 days after the end of its fiscal year, a detailed written financial report thereof in the form of a balance sheet and an operating statement, certified as to accuracy by its president and treasurer or corresponding principal officer, or by a certified public accountant. An employee organization required to file financial reports under the Labor-Management Disclosure Act of 1959 covering employees governed by this chapter, or required to file financial reports under Section 3546.5, may satisfy the financial reporting requirement of this section by providing the public agency with a copy of such financial reports.

3503. Recognized employee organizations shall have the right to represent their members in their employment relations with public agencies. Employee organizations may establish reasonable restrictions regarding who may join and may make reasonable provisions for the dismissal of individuals from membership. Nothing in this section shall prohibit any employee from appearing in his own behalf in his employment relations with the public agency.

3504. The scope of representation shall include all matters relating to employment conditions and employer-employee relations, including, but not limited to, wages, hours, and other terms and conditions of employment, except, however, that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order.



3504.5. Except in cases of emergency as provided in this section, the governing body of a public agency, and boards and commissions designated by law or by such governing body, shall give reasonable written notice to each recognized employee organization affected of any ordinance, rule, resolution, or regulation directly relating to matters within the scope of representation proposed to be adopted by the governing body or such boards and commissions and shall give such recognized employee organization the opportunity to meet with the governing body or such boards and commissions.

In cases of emergency when the governing body or such boards and commissions determine that an ordinance, rule, resolution or regulation must be adopted immediately without prior notice or meeting with a recognized employee organization, the governing body or such boards and commissions shall provide such notice and opportunity to meet at the earliest practicable time following the adoption of such ordinance, rule, resolution, or regulation.

3505. The governing body of a public agency, or such boards, commissions, administrative officers or other representatives as may be properly designated by law or by such governing body, shall meet and confer in good faith regarding wages, hours, and other terms and conditions of employment with representatives of such recognized employee organizations, as defined in subdivision (b) of Section 3501, and shall consider fully such presentations as are made by the employee organization on behalf of its members prior to arriving at a determination of policy or course of action.

"Meet and confer in good faith" means that a public agency, or such representatives as it may designate, and representatives of recognized employee organizations, shall have the mutual obligation personally to meet and confer promptly upon request by either party and continue for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation prior to the adoption by the public agency of its final budget for the ensuing year. The process should include adequate time for the resolution of impasses where specific procedures for such resolution are contained in local rule, regulation, or ordinance, or when such procedures are utilized by mutual consent.

3505.1. If agreement is reached by the representatives of the public agency and a recognized employee organization or recognized employee organizations, they shall jointly prepare a written memorandum of such understanding, which shall not be binding, and present it to the governing body or its statutory representative for determination.

3505.2. If after a reasonable period of time, representatives of the public agency and the recognized employee organization fail to reach agreement, the public agency and the recognized employee organization or recognized employee organizations together may agree upon the appointment of a mediator mutually agreeable to the parties.

Costs of mediation shall be divided one-half to the public agency and one-half to the recognized employee organization or recognized employee organizations.

3505.3. Public agencies shall allow a reasonable number of public agency employee representatives of recognized employee organizations

reasonable time off without loss of compensation or other benefits when formally meeting and conferring with representatives of the public agency on matters within the scope of representation.

3506. Public agencies and employee organizations shall not interfere with, intimidate, restrain, coerce or discriminate against public employees because of their exercise of their rights under Section 3502.

3507. A public agency may adopt reasonable rules and regulations after consultation in good faith with representatives of an employee organization or organizations for the administration of employer-employee relations under this chapter (commencing with Section 3500).

Such rules and regulations may include provisions for (a) verifying that an organization does in fact represent employees of the public agency (b) verifying the official status of employee organization officers and representatives (c) recognition of employee organizations (d) exclusive recognition of employee organizations formally recognized pursuant to a vote of the employees of the agency or an appropriate unit thereof, subject to the right of an employee to represent himself as provided in Section 3502 (e) additional procedures for the resolution of disputes involving wages, hours and other terms and conditions of employment (f) access of employee organization officers and representatives to work locations (g) use of official bulletin boards and other means of communication by employee organizations (h) furnishing nonconfidential information pertaining to employment relations to employee organizations (i) such other matters as are necessary to carry out the purposes of this chapter.

Exclusive recognition of employee organizations formally recognized as majority representatives pursuant to a vote of the employees may be revoked by a majority vote of the employees only after a period of not less than 12 months following the date of such recognition.

No public agency shall unreasonably withhold recognition of employee organizations.

3507.1. In the absence of local procedures for resolving disputes on the appropriateness of a unit of representation, upon the request of any of the parties, the dispute shall be submitted to the Division of Conciliation of the Department of Industrial Relations for mediation or for recommendation for resolving the dispute.

3507.3. Professional employees shall not be denied the right to be represented separately from nonprofessional employees by a professional employee organization consisting of such professional employees. In the event of a dispute on the appropriateness of a unit of representation for professional employees, upon request of any of the parties, the dispute shall be submitted to the Division of Conciliation of the Department of Industrial Relations for mediation or for recommendation for resolving the dispute.

"Professional employees," for the purposes of this section, means employees engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction,

including, but not limited to, attorneys, physicians, registered nurses, engineers, architects, teachers, and the various types of physical, chemical, and biological scientists.

3507.5. In addition to those rules and regulations a public agency may adopt pursuant to and in the same manner as in Section 3507, any such agency may adopt reasonable rules and regulations providing for designation of the management and confidential employees of the public agency and restricting such employees from representing any employee organization, which represents other employees of the public agency, on matters within the scope of representation. Except as specifically provided otherwise in this chapter, this section does not otherwise limit the right of employees to be members of and to hold office in an employee organization.

3508. (a) The governing body of a public agency may, in accordance with reasonable standards, designate positions or classes of positions which have duties consisting primarily of the enforcement of state laws or local ordinances, and may by resolution or ordinance adopted after a public hearing, limit or prohibit the right of employees in these positions or classes of positions to form, join, or participate in employee organizations where it is in the public interest to do so. However, the governing body may not prohibit the right of its employees who are full-time "peace officers" as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal **Code**, to join or participate in employee organizations which are composed solely of those peace officers, which concern themselves solely and exclusively with the wages, hours, working conditions, welfare programs, and advancement of the academic and vocational training in furtherance of the police profession, and which are not subordinate to any other organization.

(b) (1) This subdivision shall apply only to a county of the seventh class.

(2) For the purposes of this section, no distinction shall be made between a position designated as a peace officer position by Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal **Code** at the time of the enactment of the 1971 amendments to this section, and a welfare fraud investigator or inspector position designated as a peace officer position by any amendment to that Chapter 4.5 at any time after the enactment of the 1971 amendments to this section.

(3) It is the intent of this subdivision to overrule San Bernardino County Sheriff's Etc. Assn. v. Board of Supervisors (1992) 7 Cal.App.4th 602, 611, with respect to San Bernardino County designating a welfare fraud investigator or inspector as a peace officer under this section.

(c) The right of employees to form, join and participate in the activities of employee organizations shall not be restricted by a public agency on any grounds other than those set forth in this section.

3508.5. Nothing in this chapter shall affect the right of a public employee to authorize a dues deduction from his or her salary or wages pursuant to Section 1157.1, 1157.2, 1157.3, 1157.4, 1157.5, or 1157.7.

3509. The enactment of this chapter shall not be construed as

making the provisions of Section 923 of the Labor ~~Code~~ applicable to public employees.

3510. This chapter shall be known and may be cited as the "~~Meyers-Milias-Brown Act.~~"

## **ANIMAL CONTROL**

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### **OVERVIEW**

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The Tuolumne County Department of Animal Control is located in a modern facility at 10400 Victoria Place in Jamestown. Its stated purpose is to “provide for public safety and animal welfare through the enforcement of local and state animal control and humane laws, to provide a rabies control program, and to provide for the proper care and housing of impounded animals.” The county budgets \$340,000 annually toward the fulfillment of this purpose.

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### **REASON FOR INVESTIGATION**

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There is a natural, high level of interest among many county residents regarding the treatment of animals. Following in the steps of prior Grand Juries, we investigated Animal Control to provide the inspection and accountability that this kind of public interest deserves.

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### **METHODOLOGY**

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Members of the Grand Jury inspected the entire facility, interviewed the Animal Control Manager, had an extensive question and answer session with one of the Shelter Attendants, and gathered pertinent data.

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### **FINDINGS**

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Though its visit was unannounced, the Grand Jurors arrived at Animal Control to find an orderly, spotless environment overseen by an informed, friendly and professional staff dedicated to the health and welfare of our citizens, as well as to the health and welfare of animals. There are exact, regimented procedures in place to provide humane care for resident animals and curtail the spread of disease. In addition to its on-site activities, Animal Control also teams up with local veterinarians to provide convenient rabies clinics in various neighborhoods throughout the county.

Animal Control deals with a great variety of animals. Besides dogs and cats, they house rats, goats, rabbits, chickens, birds, snakes, lizards, ferrets and pot-bellied pigs. Following this report are graphs (figures 4-6) showing the number of animals impounded, and showing their disposition: those adopted out directly from Animal Control, those transferred to the Humane Society, and those euthanized. Sadly, the vast majority fall into the last category.

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Effective July 1, 2000, Senate Bill 1785 will require all Animal Control facilities in the state to increase their required period of impoundment of stray animals from the current three days to six business days. This mandate will greatly increase the animal population at every Animal Control facility and have an enormous fiscal impact on every county. In order for Tuolumne County to be in compliance, we will need to double the existing facility at a projected cost of \$200,000. The construction of this second story expansion is slated to begin on July 1, 2000 — the same time the new requirement becomes effective. This late construction will, no doubt, cause great overpopulation problems at Animal Control, possibly requiring the temporary construction of outside kennels. The Animal Control Director and the Assistant County Administrator have actively been working with our State Assemblyman in Sacramento in an effort to reduce some of the impact of this new law.

Animal Control and the Humane Society share the same building. This close proximity provides good communication and interaction between the two entities and results in clear benefits to the animal population. As mentioned above, some animals are transferred from the Animal Control side of the building to the Humane Society side. In the 1999 calendar year 202 dogs, 178 cats and eight other animals were so transferred, providing for their adoption instead of their death.

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**CONCLUSIONS**

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Animal Control is staffed by an excellent team, operating an excellent facility. All aspects of their stated purpose are being performed in an outstanding manner. The Grand Jury urges all residents of our county to join with the Animal Control staff in addressing the ongoing animal overpopulation problem by taking seriously the call to spay and neuter their pets.

ANIMAL CONTROL

# Disposition of Animals

1999

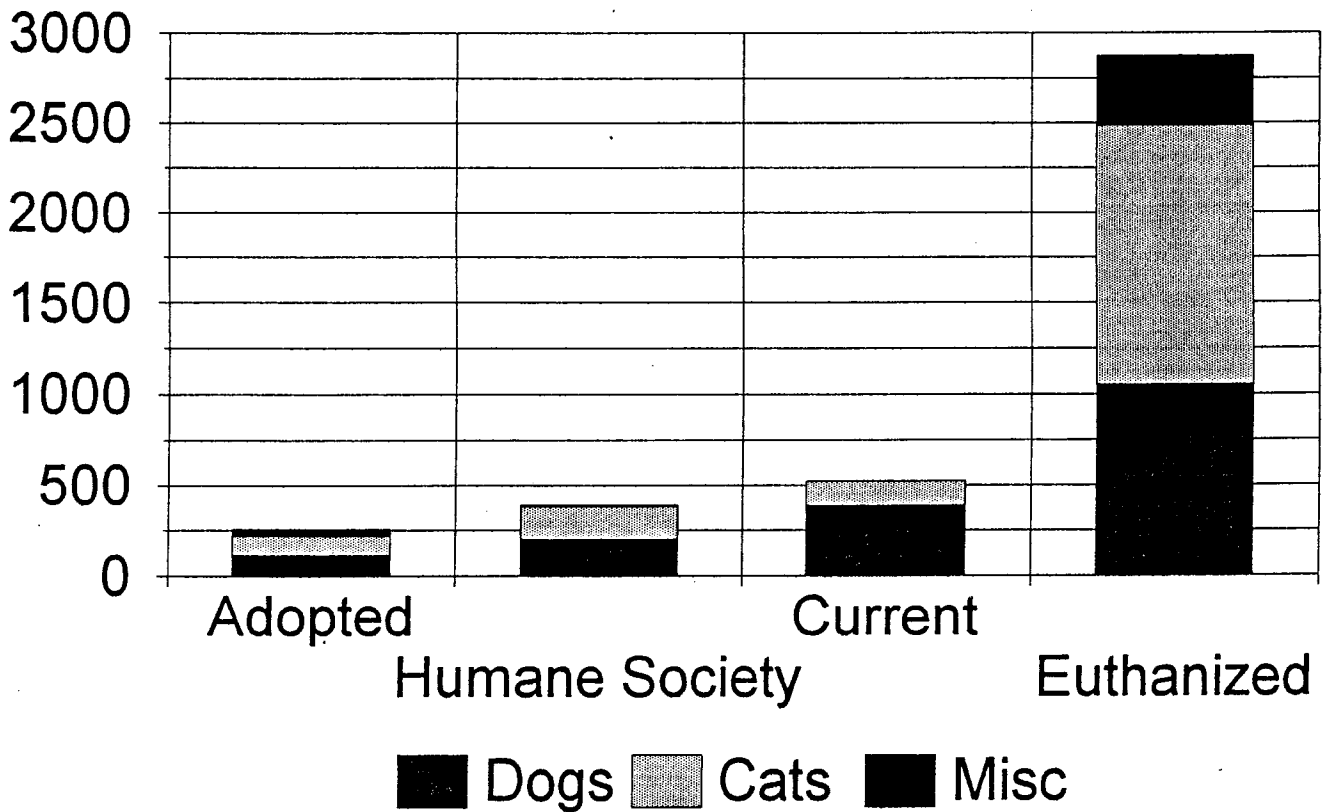


Figure 4

## ANIMAL CONTROL

# Cats

## 1999

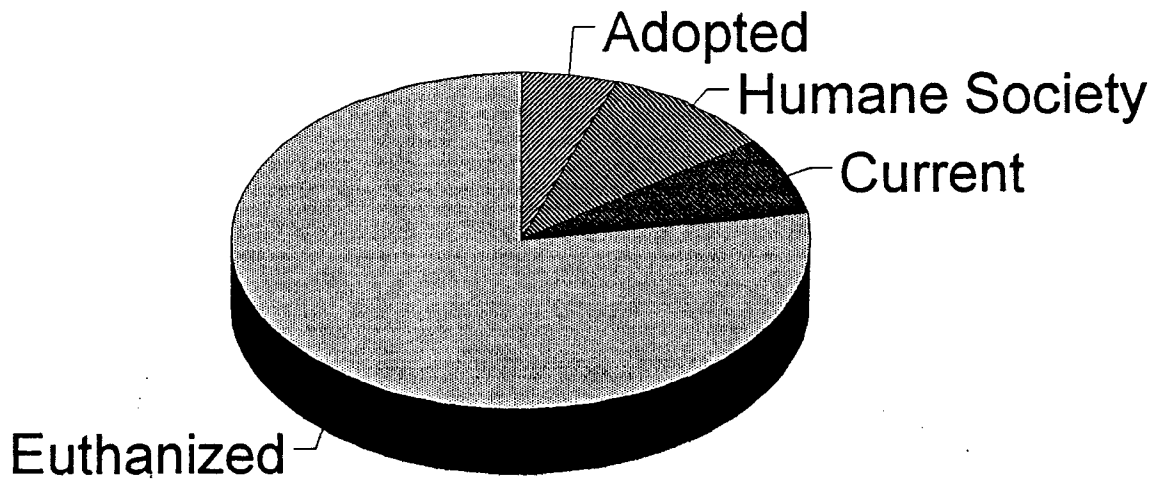


Figure 5



## ANIMAL CONTROL

# Dogs 1999

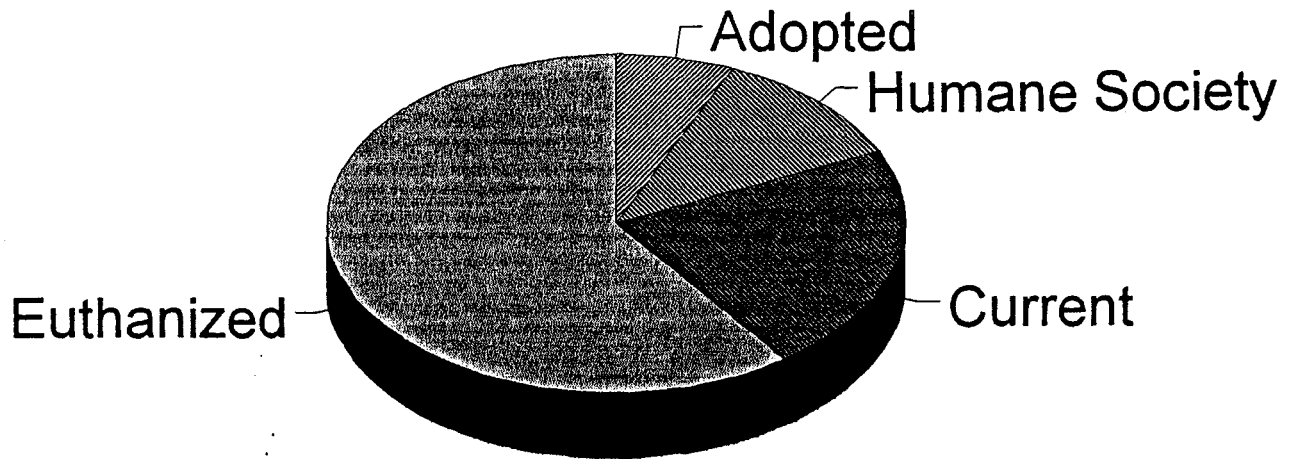


Figure 6

## OFFICE OF THE COUNTY CLERK ELECTIONS DIVISION

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### OVERVIEW

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The Tuolumne County Clerk/Elections is a division of the Office of the County Clerk/Auditor-Controller. They are located in the County Administration Building at 2 South Green Street. The division is responsible for the conduct of all local, state and federal elections, and a variety of other related duties.

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### REASONS FOR INVESTIGATION

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The 1998-1999 Grand Jury reviewed the Office of the County Clerk/Auditor-Controller. The Clerk/Elections Division was not included in the report, and had not been investigated for six years. During our tenure of 1999-2000, there have been two elections, with the General Election in November 2000 still to come. We felt these elections would provide a good opportunity to observe the procedure and operations of the department before, during and after an actual election.

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### METHODOLOGY

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On November 2, 1999, members of the Grand Jury met with the County Director of Elections at the County Administration Building. We were introduced to the schematic flow of ballot tabulation, given job descriptions and a chart of "Election Central".

On March 2, 2000, six Grand Jurors attended an Election Poll Instruction Meeting in the Board of Supervisors Chambers, in the Administration Building.

On March 7, 2000, members of the Grand Jury observed all phases of the Primary Election. The precincts were observed, as was the final vote counting at Election Central.

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### FINDINGS

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The Clerk/Election department is responsible for duties that include marriage licensing, DBA (Doing Business As), Notary filings, Power of Attorney filings and others. During an election when special districts such as fire, schools, water, or parks have issues on the ballot, this department is responsible for billing those districts for the associated election costs. The office staff consists of three full time positions, two part time positions and one supervisor position.

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During the elections there are two scanners used to tabulate ballots, a used scanner that was purchased in 1998 at a cost of \$4,000, and a new machine that uses a programmed disc to process information and count absentee ballots. In the November election, the older, used machine had a mechanical breakdown, which slowed the process of tabulating votes and caused some confusion. The other machine was used to count the regular as well as absentee ballots. After the election, it was determined that the breakdown was caused by the use of the wrong size fuse. This was replaced with the correct fuse, and both scanners were operative prior to the the Open Primary Election, held in March .

Polling Instruction meetings were informative and well presented. Ballot boxes, ballots, color-coded envelopes, voter rosters and a 21-page instruction guide were given to each of the 45 inspectors. Each precinct has one inspector and three to four workers. They are required to be at the precinct from 6:30 a.m. to 8:00 p.m. when the polls close. After the polls are closed, they must process the used and unused ballots. The packet contained instructions on setting up, opening and closing the polls and provided information on what to do with problems such as invalid addresses, names not on the roster, and provisional ballots. The large amount of necessary information contained in the packet is well defined and user friendly.

On March 7, 2000 several members of the Grand Jury were sworn in by the County Clerk as Election Officials. A tour was given of the facility — Election Central. The ballots are placed on tables where officials check the contents to ensure that all is in order, prior to the actual count. The tabulation of results took longer than usual this year due to the new Open Primary system. In effect since 1998, this system allows the voter, regardless of the party with whom they are registered, to receive a ballot with candidates from all seven political parties. The voter may vote for any candidate they choose. However, a distinction is made between a vote cast for the Presidential candidate with the same party affiliation as the voter, and those votes cast that cross party lines. According to election officials, the Presidential Primary By-Laws have not yet been updated to address this new system. Therefore, those cross-over votes may or may not be included in the official tally for that candidate. At the precinct level, the ballots are sorted according to a color-coding system. This process required additional processing time by the inspectors. A minor glitch, also contributing to the later than usual count, was that an inspector from a Twain Harte precinct was snowbound and unable to deliver those ballots. Two election officials were dispatched in a four-wheel drive vehicle to pick up the ballots. The Twain Harte precinct was in and all votes were counted by 10:00 p.m.

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**CONCLUSIONS**

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Operations in the Elections Division are executed at a highly competent level. A well-trained, knowledgeable, and experienced staff maintains the office. The department should be commended for the excellent service they provide to the citizens of Tuolumne County.

## OFFICE OF THE DISTRICT ATTORNEY

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### OVERVIEW

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The District Attorney in Tuolumne County is elected by the voters every four years. The individual chosen becomes the leader of a department which is composed of three separate divisions. The **Criminal Division**, composed of attorneys and clerical support, prosecutes adults and juveniles charged with violating criminal laws in the county, and serves as the county's public administrator. Its offices are located in the Courthouse in downtown Sonora. The **Family Support Division** enforces Court-Ordered Child Support in the county, collecting funds from non-custodial parents on behalf of children and, in those cases in which family members receive public support, of County Social Services. Family Support is located at 975 Morningstar Drive, off Greenley Road. **Victim Witness** provides support, referrals and guidance to people who have been the victims of crimes or who will play a part in the trials of accused criminals. Victim Witness is located in the Francisco Building, 48 West Yaney Street, in downtown Sonora. In all, the DA's office has roughly forty employees at any given time. Its budget for fiscal year 1999-2000 is approximately \$2.45 million. Of that, \$1.8 million comes from self-generated income or funding provided by the state, leaving approximately \$650,000 funded by county revenues.

Tim Clancy was appointed to the position of District Attorney by the County Board of Supervisors in November 1999 after the resignation of Nina Deane. He was a Deputy District Attorney (DDA) and Assistant District Attorney in this county prior to assuming his current duties, and has been on the staff of the Tuolumne County DA's office since 1993.

### REASONS FOR INVESTIGATION

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Tuolumne County has been served by four different District Attorneys in the past eight years. In itself, that would be sufficient reason for the Grand Jury to investigate a department providing a wide range of critical services to county residents. In addition, the voluntary departure of Nina Deane soon after she was reelected to a second term, provided an opportunity to review a department which found itself in an unusual situation. Finally, when the Grand Jury interviewed County Administrative Officer (CAO) C. Brent Wallace, he made a number of extremely disparaging statements about the former District Attorney which were of such magnitude that we felt compelled to investigate. For example, Mr. Wallace told the Grand Jury that Ms. Deane was "incompetent," and "negligent in her duties." He claimed that she was "feared and hated" in her department, to such an extent that the DA's office was "thrilled and cheered" when told that she had resigned. These serious charges required investigation.

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**METHODOLOGY**

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Members of the Grand Jury interviewed more than twenty current and former employees of the three divisions of the DA's office. Documentation on various departmental functions was also sought and provided. Our questions focused on the allegations made by the CAO, the transition from an elected District Attorney to her appointed successor, employee morale, and the internal functioning of each of the three divisions.

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**FINDINGS**

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ALLEGATIONS AGAINST FORMER DISTRICT ATTORNEY

Since the focus of our investigation began with charges made about the former District Attorney by the County Administrative Officer, it was essential that these charges be addressed in depth. We found that some of the more inflammatory statements he made to the Grand Jury were simply untrue. Virtually none of the employees interviewed confirmed the allegations that she was "feared and hated." It is true that a number of employees were dissatisfied with Ms. Deane's leadership. Many DDAs lacked respect for her trial experience and the fact that she never tried a case in court while in office. Others felt she badly mishandled a number of personnel actions. Conversely, many employees found her to be an able administrator. In short, not all aspects of the operation of the District Attorney's office were always handled in the best, most adept manner under her leadership. However, it is also true that the essential work of the office was accomplished during her nearly five years in office.

Shortly after assuming his new position, District Attorney Tim Clancy made a point of talking with virtually every employee of each division of the DA's office. This simple act was a highly effective measure which was extremely well received by staff in all three divisions.

CRIMINAL DIVISION

In 1999 the DA's Criminal Division processed 3057 "reports." Actions taken on these cases included 555 felony prosecutions, 1691 misdemeanors, 99 juvenile cases, 31 "other" cases (extraditions, habeas corpus cases, etc.), and 681 cases rejected for various reasons. The number of overall cases worked in 1999 was down by 156 cases from 1998; the time and energy spent during last year on the investigation of the Sund-Pelosso homicides is the primary reason for the drop in the number of cases worked by the DA's office.

Mr. Clancy inherited a staff of well-trained trial lawyers and support staff. While the office had been providing acceptable service while Ms. Deane was in office, morale and productivity have generally improved since Mr. Clancy's appointment. The Sund-Pelosso murder case and the recent discovery of an alleged plan to commit acts of violence at Summerville High School have put significant

pressure on this office. Nevertheless, the office appears to be functioning extremely well. Morale is high, cases are being worked and the public's business is being handled in an efficient manner.

Before his appointment to the position of District Attorney, Mr. Clancy was one of the attorneys in the office who was most widely respected by other attorneys and staff members throughout all three divisions of the office. This gives him a solid foundation upon which to build for the next three years. He has stated that he will continue to try cases in court during his tenure as DA, a pledge which is laudable even if it will be difficult to balance with his other managerial duties. In summary, the Criminal Division appears to be a well-run operation in capable hands.

#### FAMILY SUPPORT DIVISION

The staff of this division is composed of a Chief Investigator, two Supervising Family Support Officers, six Family Support Officers (FSOs), and eleven clerical- and support staff. There are, at the time this report was prepared, five vacant positions in the office, including two FSO positions. Family Support Officers have primary responsibility for developing and adjudicating the cases to which they are assigned.

This division is consistently one of the highest ranked operations of its kind in the state. According to information provided by the State Office of Child Support, Tuolumne County's Family Support Division is ranked in the top seven of California's 58 counties for cost-effectiveness. For fiscal year 1998-1999 our county collected \$4.85 in child support for every dollar we spent. The statewide average for that period was \$3.36. In addition, Tuolumne County exceeds the average for California counties in the rate in which paternity is established, in cases with support orders, and in the collections on current support. As a reference point, in fiscal year 1990-1991, the Family Support division collected a total of \$1.72 million in child support. In fiscal year 1998-1999 this figure had grown to over \$4.6 million (figure 7).

However, the success of the operation of this division has come at a high price. At the time the Grand Jury conducted its review there were approximately 4600 pending cases, or an average of over 700 cases per FSO. With a pending caseload of this size, and a maximum of 2080 hours (at 40 hours per week for 52 weeks) in a work-year, the result is little time to devote to any individual case.

Employee turnover has been unacceptably high. Since January 1999, a total of five FSOs — with tenure ranging from five months to just over three years — resigned from Family Support. Seven new employees were hired during the same time. Other county offices of similar size lost far fewer employees during the same period. By way of comparison, one office with 17 employees lost one employee during the same period; another with 27 employees on duty also had only one resignation. Although the numbers quoted are for the most recent year, the high rate of turnover in Family Support has been a problem for many years.

Morale among many staff members is low, and has been cited by former employees as a major factor in their decision to leave. Because of high turnover there is a dramatic absence of stability in the

workforce. Training needs are virtually constant, but no one has adequate time to devote to this vital function. Management must frequently be responsible for working the caseload of an FSO who has resigned, leaving less time for management responsibilities. The pay at which Family Support Officers are hired (\$9.79 per hour) is low, given the responsibilities of the job and the rate at which FSOs are paid in surrounding counties (\$11.52 in Calaveras County, \$11.97 in Mariposa County, for example). This low rate of pay is also cited as a major factor in morale problems facing this office. However, few positions in other departments of Tuolumne County government are paid at rates which equal or exceed surrounding counties.

A number of employees, holding different positions in the office, told us that the description of the job for which they applied differed dramatically from the actual duties required of their position. Current and former employees noted an oppressive atmosphere in which even sharing technical information about cases or procedures is discouraged. The basis for this policy is a legitimate concern for accurate information. However, this practice leads to substantial inefficiency and additional stress for positions which are already inherently stressful.

A Procedures Manual, which has been requested by staff members for years, has recently been drafted by an outside consulting firm. This manual should be a valuable resource for technical actions required by the staff. However, in itself, no manual can take the place of wise management and sound personnel practices. The office has recently been restructured in a manner which should provide more management support. There are now two supervising FSOs, one of whose primary responsibilities is the training of staff. Members of the staff have attended a number of training seminars on various topics (figure 8). We encourage further outside training, with a strong focus on management practices and leadership techniques for the management team of Family Support.

Because of a recently enacted state law, day-to-day management of this office will switch from an operation of the County District Attorney's office to state control in approximately two years. Nevertheless, that leaves significant time for the county to make improvements in the functioning of this division of the DA's office. Given the success the Family Support Division has achieved, even with the problems it has faced, its potential for greater success – with lower turnover and higher morale – seems great indeed.

#### VICTIM WITNESS DIVISION

The District Attorney's Victim Witness Assistance Center provides services to victims of, or witnesses to, crimes committed in Tuolumne County. Their mission is to reduce the trauma and insensitive treatment that victims or witnesses may experience in the wake of a crime. Services include crisis intervention, emergency assistance with food, shelter and clothing, orientation to the criminal justice system, court escort and several other services for people caught up in the justice system (figure 9). The core employees of this office are called, "Advocates," a title that accurately describes their role in the judicial system. The staff of Victim Witness includes a Coordinator (manager), four Advocates and a support staff of three additional employees. At the time of our visit,

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one Advocate position had been vacant for over a year. One of the Advocates is “on-call” 24 hours a day to respond to after-hours emergency situations.

Victim Witness has received a number of awards for the level of service it provides to its clients, and has been innovative with programs such as the multi-disciplinary “KIT” (Kids Interview Team), which helps children cope within a system that can be frightening and impersonal. The other members of this team include the Tuolumne County District Attorney’s Office, Child Welfare Services, Sheriff’s Department and the Sonora Police Department (figure 10).

Employee turnover in this division has also been high, including the recent resignation of two experienced Advocates. The “senior” Advocate has been on the staff for approximately two and a half years. A number of current and former employees have described a “dysfunctional” atmosphere of inter-office conflicts and competition that has hindered the effectiveness of the office. An outside facilitator has done some initial “team building” with the staff, but the results of that effort leave much to be accomplished. Advocates frequently work exceptionally long hours when responding to after-hours emergencies. While very beneficial to the public, this program puts additional strain on employees already spread thin, in part because of the unfilled Advocate position.

As one of the employees we interviewed told us, “This office does important work.” However, improvements must be made in the manner in which Victim Witness is managed for it to continue to provide the valuable services for which it rightly takes great pride.

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**RECOMMENDATIONS**

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CRIMINAL DIVISION

The Grand Jury is confident that the Criminal Division is being managed well. We have no recommendations for its improvement.

FAMILY SUPPORT DIVISION

1. Regularly scheduled, systematic training of all staff, including utilization of the new Procedure Manual should be of the highest priority.
2. The vacant positions, especially those of Family Support Officers, should be filled. A full complement of staff would relieve the pressure of the overwhelming caseloads, reducing stress and tensions among the staff.
3. Management should immediately implement an open communication policy in which FSOs and other staff members are encouraged to share information in a collaborative and professional manner.



4. All members of management should attend professional training on management and leadership techniques, and should be held accountable for the implementation of sound, creative policies.
5. The manager and supervisors should be evaluated both on the efficiency of the office's operation and, just as importantly, on the morale and rate of turnover among its staff.
6. The District Attorney should meet with the entire staff of the Family Support Division on a regular – not less than monthly – basis. He should make his open-door policy clear to all members of the staff, and actively seek input from staff members in an effort to reduce the highly unproductive turnover rate.

#### VICTIM WITNESS DIVISION

1. The vacant Advocate position should be filled immediately. The reasons for this long-standing vacancy are not at all clear, but adding one position – which has already been budgeted – would do much to relieve stress and reduce tensions among the staff.
2. Office management should attend professional training on management and leadership techniques, and should be held accountable for the implementation of sound, creative, proactive policies.
3. Management should hold regular, mandatory staff meetings with all employees and, if necessary, an outside facilitator, to air disputes and resolve problems. Results of these meeting should be communicated regularly to the District Attorney.
4. The District Attorney should meet with the entire staff of Victim Witness on a regular – not less than monthly – basis. He should make his open-door policy clear to all members of the staff, and actively seek input from staff members in an effort to reduce the unproductive turnover rate and improve office morale.

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#### CONCLUSIONS

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The District Attorney's Family Support Division is extremely important in the lives of thousands of our residents. It generates significant income for the county, state and individuals in Tuolumne County. It has done so with results that compare very favorably with other counties throughout the state. The Victim Witness Assistance Center likewise provides an invaluable service to County residents traumatized and frightened in the wake of often violent crimes. Their help and support has touched many lives, especially those of children. With a new emphasis on sound management practices within both Divisions, these dedicated, hard-working employees will be better rewarded for their efforts. The positive change in working conditions, better morale and reduced turnover can only make these successful operations work even better.

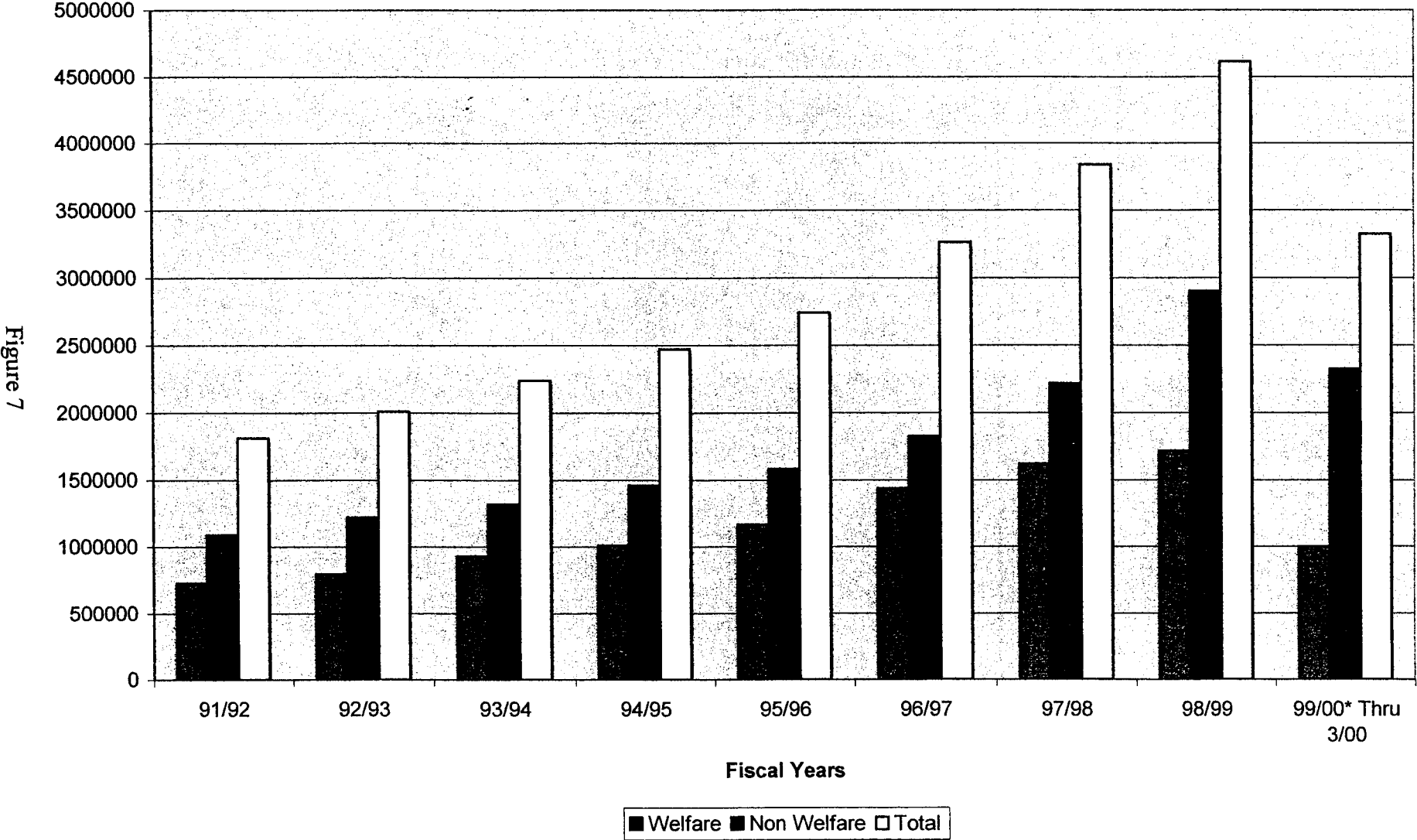
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Nina Deane's resignation last fall could have created overwhelming problems for the three divisions of the District Attorney's office. Instead, the Grand Jury has found that it presented opportunities for significant improvement in all three operations. Tim Clancy faces formidable challenges in the years ahead, whether or not he chooses to seek election to the position to which he was appointed. We have made a number of recommendations which will, if implemented, require him to actively manage all three divisions, two of which are housed in other locations. This will make it even more difficult for him to achieve his stated goal of continuing to take cases to court himself.

The Grand Jury notes with mild bewilderment the unseemly controversy about the manner in which the Board of Supervisors chose to replace Ms. Deane. Those Supervisors who proposed to openly flaunt state law in the manner they chose to fill this position did neither themselves nor their constituents a service. Fortunately, a majority of the Board voted to follow the law. Thus the Board took the right action and selected an individual who is doing a first-rate job. We wish him great success with the challenges he faces.

# Child Support Collections



TRAINING HISTORY FOR FAMILY SUPPORT STAFF  
1/99 THRU 5/2000

January 1999 3 Family Support Officers attended FSO College (4 day training)

February 1999 4 FSD Staff (1 Attorney, 1 Supervisor, 2 FSO's) attended the Family Support Council Annual Training Conference (4 day conference)

May 1999 2 Family Support Officers attended FSO College (4 day training)

May 1999 2 FSD Staff (1 attorney, 1 Supervisor) attended the Family Support Council Quarterly Meeting (4 day training)

July 1999 FSD Supervisor attended the Family Support Council Quarterly Meeting (4 day training)

September 1999 5 FSD Staff (1 Supervisor, 2 FSO's, 1 clerical, 1 Accounting) attended the Annual Small County Conference (2 day conference)

October 1999 FSD Supervisor attended the Family Support Council Quarterly Meeting (4 day training)

November 1999 Director's Retreat (2 day training)

January 2000 3 Family Support Officers attended Internet Training (1 day training)

February 2000 5 FSD staff (1 Attorney, 1 Supervisor, 3 Family Support Officers) attended Family Support Council Annual Training Conference (4 day training)

March 2000 4 FSD Staff (1 Supervisor, 1 FSO, 1 Clerical, 1 Accounting) attended training for Supervisors (1 day training)

March 2000 In house training for entire staff on ergonomics (1 day training)

April 2000 5 FSD Staff (1 Supervisor, 1 FSO, 2 Clerical, 1 Accounting) attended training on how to deliver excellent customer service (1 day training)

April 2000 3 FSD Staff (2 Supervisors & 1 Accounting) attended training on sexual harrassment and violence in the workplace (1 day training)

April 2000 Entire staff of Family Support Officers, Legal Clerical and Clerical staff attended training on

Figure 8

genetic testing (1 day training)

April 2000 Supervisor attended training on Risk Management (1 day training)

May 2000 2 Family Support Officers attending FSO College (4 day training)

**VICTIM OF CRIME  
COMPENSATION**  
(Pursuant to Penal Code  
Sections 13959-13969.3)

Qualifying victims of crime may receive financial assistance for losses resulting from a crime when these losses cannot be reimbursed by other sources. The State Board of Control, Victims of Crime Program, administers California's Crime Victim Compensation Program.

Victims of crime may be eligible for financial reimbursement for:

- Medical and Hospital Expenses
- Loss of Wages or Support
- Funeral and Burial Expenses
- Professional Counseling
- Job Re-training or Rehabilitation

•Applications for adult victims must be filed within one year of the date of the crime.

•Applications resulting from a crime against a minor must be filed before the minor's 19th birthday. The Board may, for "good cause", grant an extension for applications up to the minor's 21st birthday.

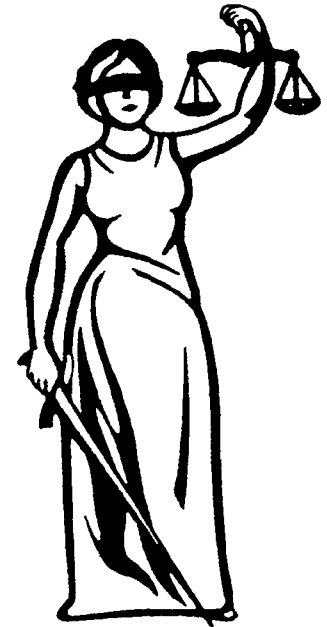
•Applications filed more than three years after the date of the crime against an adult or after a minor's 21st birthday cannot be accepted.

**VICTIM WITNESS  
ASSISTANCE CENTER**

**MISSION STATEMENT**

It is the mission of the Tuolumne County Victim Witness Assistance Center, in accordance with Penal Code Section 13835, to reduce the trauma and insensitive treatment that victim/witnesses may experience in the wake of a crime, to improve the criminal justice system's understanding of the needs of victims, and to attempt to decrease the incidence of unreported crimes by establishing trust in the criminal justice system. The Victim Witness Assistance Center is mandated to provide services to victims and witnesses of all types of crime and not restrict services to victims/witnesses where there is an identified suspect. However, due to the ever increasing crime rate and the inability of staff to respond to all crime victims, this agency will provide comprehensive services to all crime victims upon request and provide outreach to those crime victim/witnesses who have special needs. Special needs can be defined, but not limited to, victims of child abuse, sexual assault, child sexual abuse, domestic violence, drunk driving with injury or death, homicide or aggravated assault. In addition, special needs can be defined as a victim with a physical, mental, or developmental disability, the elderly, non-English speaking, or hearing impaired.

**TUOLUMNE COUNTY  
DISTRICT ATTORNEY**



**VICTIM WITNESS  
ASSISTANCE CENTER**

FRANCISCO BUILDING - 3RD FLOOR  
48 YANEY STREET  
SONORA, CA 95370  
(209) 533-5642

OFFICE HOURS  
M-F 8 A.M. TO 4 P.M.

MAILING ADDRESS:  
2 SOUTH GREEN STREET  
SONORA, CA 95370

**A MESSAGE TO VICTIMS AND  
WITNESSES FROM THE DISTRICT  
ATTORNEY**

*You, as a victim or witness of a crime committed in Tuolumne County, may feel forgotten, neglected or ignored by the Criminal Justice System. However, there is a unit within the District Attorney's Office set up to help you with your special concerns and needs. It is known as the Victim/Witness Assistance Center and it offers many helpful services to you.*

*Many resources are available to you through the Victim/Witness Assistance Center. Victim/witness advocates and other staff are caring and supportive. They are trained and available to answer your questions and help you cope with the trauma you have already experienced as well as the sometimes difficult and frustrating justice system.*

*The process of justice takes time. During the course of your case, you may feel discouraged, frightened or overwhelmed. Your patience and commitment are needed to make our American justice system work. Without your voice in court, we cannot do our job and the system breaks down.*

*Thank you for your help and cooperation.*

*Sincerely,*



**Nina B. Deane  
District Attorney**

**RIGHTS OF  
VICTIMS AND WITNESSES  
(Pursuant to Penal Code 679.02)**

- To be notified of changes in court proceedings for which you have been subpoenaed.
- To be notified that you may be entitled to witness fees and mileage.
- To be notified, upon request, of the final disposition in your case.
- To be provided with information concerning your rights to civil recovery and compensation from the Victim's Restitution Fund.
- To be notified, in the case of a violent felony, of a pending pre-trial disposition.
- To be notified, upon request, in any felony, of a pre-trial disposition.
- To the return of property when it is no longer needed as evidence.

This list constitutes a brief and incomplete synopsis of the statutory rights of victims and witnesses of crime enumerated in Penal Code Section 679.02.

**VICTIM SERVICES  
(Pursuant to Penal Code Section 13835.5)**

Priority of services shall be given to clients based on the client's trauma response needs, the capability of the client, and to the victims serving as witnesses. The primary services are as follows:

- Crisis Intervention
- Emergency Assistance  
(food, shelter, clothing)
- Resource and Referral Counseling
- Follow-Up Counseling
- Property Return
- Orientation to the Criminal Justice System
- Court Escort/Court Support
- Case Status/Case Disposition
- Notification of Family and Friends
- Impact Statement Assistance
- Victim of Crime Claims Assistance
- Restitution Assistance

# K \* I \* T

## *Kids Interview Team*

### \* WHAT IS KIT?

The Kids Interview Team (KIT) is a multi-disciplinary interview team that responds to child sexual abuse investigations. The purpose is to create the least traumatic, best coordinated and most effective system for interviewing victims of abuse age 13 and younger.

The goal is to reduce the number of interviews child victims must undergo and insure a procedure that will provide continuity and security for the victim and will contribute to a timely resolution.

### \* WHO WILL INTERVIEW MY CHILD?

A specially trained Child Interview Specialist will conduct the interview and consult with the investigator, deputy district attorney and social worker involved with the case. The Child Interview Specialist has extensive training and experience in child development and interviewing techniques. The Specialist is aware of your child's emotional needs and recognizes when your child needs to take a break. Be assured the goal is to help your child be as comfortable as possible.

### \* WHAT HAPPENS DURING A KIT INTERVIEW ?

Because your child's case is in the investigative stage of the process, only those professionals directly involved with the case may observe the interview. They must be allowed to freely and objectively discuss the case. The investigator or social worker will be available afterwards to discuss the interview with you.

### \* HOW LONG WILL THE KIT INTERVIEW TAKE?

Usually, the actual interview process will take approximately forty-five minutes. The time needed to comprehensively interview your child depends primarily upon the needs of your child as well as the amount of time it takes to gather the forensic information necessary to tape a complete interview.

### \* WHAT HAPPENS AFTER A KIT INTERVIEW?

If necessary, a physical exam by a specially-trained local doctor will be arranged. Further investigation will be conducted and the case will be submitted to the District Attorney's Office to decide if charges will be filed.

### \* WILL THIS INTERVIEW BE RECORDED?

Your child's interview may be recorded and observed by a deputy district attorney, law enforcement and social services professional. The tape is evidence in the investigation and will be reviewed by the professionals officially involved with the case.

### \* IS THE KIT INTERVIEW CONFIDENTIAL?

Yes. Only the professionals directly involved in your case will have the opportunity to review the tape. The only other access to the tape is by court order.

### \* WHAT SERVICES ARE AVAILABLE?

Your child's advocate will assist you with community referrals and applying for Victims of Crime Compensation for therapeutic intervention. Call the Victim Witness Assistance Center at (209) 533-5642 for further information.

### \* PARTICIPATING MEMBERS OF KIT

Tuolumne County District Attorney's Office  
Tuolumne County Child Welfare Services  
Tuolumne County Sheriff's Department  
Tuolumne County Victim Witness Center  
Sonora Police Department

### \* WHERE IS KIT LOCATED?

Tuolumne County District Attorney  
Victim Witness Assistance Center  
Francisco Building - 3rd Floor  
48 West Yaney Street,  
Sonora, CA 95370  
(209) 533-5642

Office Hours

Monday-Friday 8:00 A.M - 4:00 P.M.



Figure 10

**Tuolumne County**  
*Together To Make A Difference*



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## WHY CHILDREN DON'T TELL....

### The Child May:

- \* love the abuser, have strong emotional ties with him/her, or may be dependent on that person.
- \* fear the consequences of reporting, i.e., removal from the home, divorce, family disruptions and concern that the abuser will go to jail.
- \* feel deserving of or responsible for the abuse.
- \* feel helpless and have little hope that the situation can be changed, especially if the child tried to tell but was not believed or helped the first time.
- \* have been threatened or told to keep the abuse a secret.
- \* lack assertiveness skills or vocabulary necessary to tell.
- \* feel shame or isolation.
- \* not know what to do.

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## CHILDREN DO NOT ALWAYS USE THEIR VOICES WHEN THEY ARE ASKING FOR HELP!

Oftentimes there are behavioral, physical and/or emotional signs to alert you that something has disturbed your child. Your child **MAY** have some of these problems or **NONE** at all. Be aware that therapeutic intervention may be indicated. No one knows for sure the long-term emotional effects, but we believe if the situation is handled in a direct and sensitive way, at the time of the disclosure, child victims need not suffer permanently from the incident.

### Common Problems:

- \* changes in sleep pattern
- \* eating disturbances
- \* bed wetting
- \* excessive fears or phobias
- \* stomachaches or headaches
- \* avoidance of certain people or places
- \* changes in behavior at home or school

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## WHAT SHOULD I DO IF A CHILD DISCLOSES ABUSE?

**Believe The Child:** Children rarely lie about being abused. Most, in fact, try to hide their abuse and protect the abuser. Generally, the children who do tell, are only able to give part of the story initially.

**Stay Calm:** Your response to the child is critical. If the child sees you upset, he/she may think they have done something wrong and may change his/her story to spare your feelings.

### In Your Response The Child Needs To Hear:

- 1) They did the right thing and you are proud of them for being brave enough to tell.
- 2) You are sorry this happened to them and it is not their fault.
- 3) Your reassurance that he/she is safe.

**A child who has been physically or sexually abused or neglected may need medical attention or therapeutic intervention for injuries or conditions caused by the abuse.**

## OFFICE OF EDUCATION

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### OVERVIEW

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Tuolumne County has twelve school districts that serve approximately 8,000 students from Kindergarten through Twelfth grade. The role of the Tuolumne County Office of Education, commonly called the Tuolumne County Schools Office, is to:

- ▶ Assist districts in an effort to improve services to students.
- ▶ Support districts in complying with state law.
- ▶ Provide centralized services to districts related to budget management, data processing, curriculum and instruction, media services, technology, credentials and staff development.
- ▶ Educate specific groups of students not served by school districts, including Community Schools, Pregnant Minors, Independent Study and Preschools.
- ▶ Function as the Lead Education Agency for Special Education Local Plan Area (SELPA), and the Joint Powers Authority (JPA) for insurance coverage.

The County Schools Office is located at 175 South Fairview Lane in Sonora. It is managed by an elected Superintendent and overseen by a seven member County Board of Education. In November 1998 a new superintendent was elected to the position. The prior Superintendent of County Schools retired after serving in this office for 20 years. The County Schools Office has been revamped under the new leadership to include two assistant superintendents, responsible for Curriculum/Instructional Services and Business Services.

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### REASON FOR INVESTIGATION

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The Grand Jury is charged to periodically review County departments, including the County Schools Office. Both the 1997-1998 and the 1998-1999 Grand Juries investigated and reported on the issue of "Schools Consolidation." We, the 1999-2000 Grand Jury, chose to not focus on the consolidation/unification issue, but rather to review the County Schools Office.

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### METHODOLOGY

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The Grand Jury interviewed past and present County Schools Office Superintendents and staff personnel. Also interviewed were local school district superintendents, past and present members of

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both the County Board of Education, and the boards of local school districts. Additionally, we interviewed individual school district personnel, parents, and students. Members of the Grand Jury attended school board and public information meetings, and toured the County Schools Office. We reviewed documents from the County Schools Office including the Annual Report for 1998-1999, the new Vision Statement, and an organizational chart dated February 2000.

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**FINDINGS**

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During our investigation we found that the County Schools Office (CSO) staff received many compliments. They were said to be “hardworking,” and “competent” employees. They have made a positive effort towards a smooth transition to working under a new superintendent. Although some CSO staff interviewed declined to comment, others are pleased with the new superintendent. They found the superintendent “very supportive and dedicated” with several new ideas to lead the County Schools Office into the future.

Over the past fiscal year the County Schools Office has, among other things, increased technology with major additions to their computer lab overseen by a certificated employee. The CSO runs computer training sessions for staff and district personnel, and also offers fee-funded classes to the public. The CSO has improved the Internet connections to school districts, increased grant writing for curriculum, expanded a state preschool program by working with the local Head Start Program, and improved student health by working with local hospitals through the “Wellness Health Education Evaluation at Local Schools”, or WHEELS, program. The County Schools Superintendent has been actively lobbying to reinstate the funds from federal forest receipts, which will assist all of the Tuolumne County schools districts financially. If this effort is successful, the county road department will also receive similar federal funding.

In spite of these positive actions, during our review we found that there is a tremendous conflict between the CSO Superintendent and most local school district superintendents. Our findings with respect to specific areas are as follows:

COMMUNICATION

Members of the Grand Jury interviewed nine of the twelve district superintendents and found that all of those interviewed experience a feeling of “distrust” and a “lack of communication and collaboration” with the current CSO Superintendent. The CSO Superintendent is perceived by these district superintendents to be unwilling to build a consensus. He has been called an “inept administrator” because of his unwillingness to listen to them. They believe their concerns and input have fallen on deaf ears. This has led them to rely on each other and not on the County Schools Office for assistance and support. They stated that programs have been taken out of the districts’ hands without their consent or input, resulting in a feeling of resentment. Most interviewed were concerned that the County Superintendent falls short in serving the needs of the districts and serves

a non-consensus agenda. This situation has deteriorated to the point that district superintendents often avoid attending meetings with the CSO Superintendent.

There are several examples of this conflict. One of the more troubling concerns in the eyes of the local district superintendents is that successful, viable programs — and their funding — have been taken away from local schools and redirected to the County Schools Office. Other programs, generated by the CSO, are being forced upon the local districts. Another example of conflict is that minutes are not taken during the regularly scheduled meetings between the County Superintendent and the local district superintendents. Although this is not a violation of the Brown Act, it is troubling because there is no record of dissenting opinions. Thus, there is no evidence to refute the CSO Superintendent's assertion of consensus on a variety of issues.

The County Superintendent told the Grand Jury that the relationship with district superintendents is "stressed" because he is more "pro-active" than his predecessor. Another factor is the unification issue which, he says, is having a negative effect on district superintendents. The CSO Superintendent stated that his responsibility as Superintendent of County Schools is to serve "all students in the county" including any students that do not, for whatever reason, fit into regular public education programs. To this end the County Schools Office has an interest in starting new programs beyond school district boundaries.

While this goal of "serving all the students" has merit, it is being presented to the district superintendents in what many of them perceive as a condescending manner. We were told that he even went so far as to tell district superintendents in a meeting, "You people don't care about kids."

#### UNIFICATION

Many superintendents interviewed, several of whom are relatively new to our county, left the Grand Jury with the impression that the CSO Superintendent would not be neutral in presenting the controversial unification issue to the public. All with whom we spoke agreed that the County Superintendent's primary function is to serve the districts' and schools' needs. In October 1999, a petition drive began calling for the merger of Sonora High School and seven feeder elementary schools. This petition has generated much controversy in the educational realm of this county. Aside from the controversy concerning the unification issue itself, concerns were also raised about the petition itself. These included the possible illegal use of the County Schools Office's legal assistance, and the possibility that the County Superintendent assisted in this petition drive in some way. If true, these actions would constitute a conflict of interest. This Grand Jury found no documented wrongdoing by anyone at the County Schools Office with respect to these concerns.

The Sonora Area Foundation has launched a study to help all of the county schools explore options for better serving students. "How Can Tuolumne County Schools Work Together to Better Serve Our Students?" is the study's theme. A public policy firm has been hired to lead this community study. The study focuses on a combination of areas, including educational delivery services, financial considerations, governance structures, reorganization issues and community identity. It is not simply

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a study of unification, but includes that component. This study will be conducted from an impartial point of view. At the time of this writing the public policy firm is meeting with school personnel and the general public and collecting data. They plan to have the report finished by July 2000.

OTHER ISSUES

During our investigation the Grand Jury was presented with compiled documents alleging that several area school boards violated the Ralph M. Brown Act. For example, they were accused of conducting meetings that included non-agenda items. These boards were also accused of serious offenses concerning students' rights. Because of the scope of these alleged violations, the Grand Jury deferred these documents to the Office of the Tuolumne County District Attorney. After their review of the documents, we were informed that no "actionable violations were identified."

The Business Services Department of the County Schools Office was investigated. Several school districts had complained that their school's cash flow reports had not balanced with those kept by the CSO, since the beginning of the current fiscal year. There appeared to be posting errors as well. The Grand Jury found that a state mandated computer system had been installed last year. There had also been a turnover of personnel in the Business Services Department during this same time. These factors had left the department behind in some areas for most of the school year. Upon follow-up, we found that most of these errors have been corrected or are in the process of being corrected, and should be completed before fiscal year end in June 2000. Each district contacted agreed with these findings.

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CONCLUSIONS

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Although the County Schools Office staff received high approval from those interviewed at the district level, there does appear to be a dysfunctional relationship between school district superintendents and the CSO Superintendent. Last years Grand Jury also noted that a "CSO vehicle for mediation" was needed between superintendents. However, this Grand Jury sees it has not been implemented. It is obvious this area of conflict has not been resolved.

The Sonora Area Foundation's grants supply funds for the enhancement of the area and the quality of life in Tuolumne County. Their goal is to fund projects that have the greatest effect on the largest number of people. To this end, they have funded a study to explore education options in this county. As a result of a request from the Tuolumne County Chamber of Commerce and the recommendation of the 1998-99 Tuolumne County Grand Jury in their Final Report, the Foundation started their study prior to the unification petition, which began circulating in October 1999. The study is gathering unbiased information on ways to improve the quality of education in this county. This Grand Jury would like to publicly thank the Sonora Area Foundation for sponsoring this study; we look forward to its findings.

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The 1998-99 Tuolumne County Grand Jury issued a report on "School Consolidation." They in part were following up on this issue from prior Grand Juries to "monitor any progress that has been made towards consolidation ." Much research and interviewing was accomplished in that report. Some of their recommendations have been achieved, including the independent Sonora Area Foundation study. Others include increased grant writings, and the implementation of a common calendar for most districts, which will start next school year. Independent from the County Schools Office, an ongoing communication between both Summerville High School and Sonora High School and their respective feeder elementary schools is producing programs to ensure "continuity of articulation" for incoming high school freshman. This will ensure that all incoming students have received the same basic curriculum.

The 1999-2000 Grand Jury sees its responsibility as investigation and inquiry. While we may make recommendations, we refrain from taking sides on issues of controversy. Therefore, it is not the Grand Jury's place to make a decision on the issue of school unification — whether we should have one large school district or eight smaller districts. The Grand Jury's aim and purpose is to monitor the process and ensure that our elected leaders take responsible actions in doing their jobs, while bringing unbiased and correct information to the voters and citizens of the county.

All school boards in this county must be aware of and implement the Ralph M. Brown Act. The Brown act governs meetings conducted by local legislative bodies, including school boards at local and county levels. Although no "actionable violations" were found in documents brought to the Grand Jury, and subsequently turned over to the District Attorney, it is imperative that all school board members follow the spirit, as well as the letter, of the law.

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**RECOMMENDATIONS**

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1. Not all aspects of the County Schools Office were addressed in this years' investigation. Therefore we recommend next years' Grand Jury follow up and review such areas as Special Education, Charter Schools, and staff morale.
2. All members of all area school boards should attend training on the Brown Act. Such training has been available on a regular basis from Tuolumne County Counsel.
3. All Tuolumne County voters are encouraged to read the findings from the Sonora Area Foundation study and stay informed. It is very important that the voters educate themselves as to how changes in our public schools would affect the education of our children now and in the future.
4. A management training specialist or facilitator should be called on in order to bring district superintendents and the County Superintendent together to work out issues. This Grand Jury believes that it is the responsibility of the Tuolumne Country Board of Education to implement a vehicle for facilitation or resolution between CSO Superintendent and district superintendents.

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5. District superintendents are furthermore encouraged to take their issues before the County Board of Education. The support of all superintendents is necessary for this conflict resolution to be implemented and successfully achieved. Only once these lines of communication and collaboration are opened will the dysfunctional relationship be resolved. The Tuolumne County taxpayers deserve no less. The Tuolumne County children deserve no less.

## GROVELAND COMMUNITY SERVICES DISTRICT

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### OVERVIEW

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The Groveland Community Services District (GCSD) is responsible for water, fire protection, parks, and wastewater collection and treatment for the Groveland, Pine Mountain Lake and Big Oak Flat areas. GCSD serves approximately 4,000 water customers and 1,500 wastewater (sewer) customers.

Water for the community comes from the watershed within Yosemite National Park, and is collected behind O'Shaughnessy Dam in the Hetch Hetchy Reservoir. This facility is owned by the City and County of San Francisco, which continually monitors water quality to ensure its safety. The District draws water from two air shafts – Big Creek Shaft and Second Garrotte Shaft – using two large pumps at over three million gallons per day. Water is stored and chemically treated in two, 2-million gallon storage tanks owned by GCSD.

The District also operates its own "Class 3" wastewater treatment plant. Treated water from a Class 3 plant meets the highest quality standards established by the state. Fully treated water from this plant is recycled as irrigation water on land owned by the District and, under an agreement with Pine Mountain Lake, onto their golf course. The treatment plant has a maximum rated capacity of 400,000 gallons of wastewater per day; it normally processes approximately 150,000 gallons per day.

### REASONS FOR INVESTIGATION

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In its charge, the Grand Jury is encouraged to periodically review operations of various components of County Government, along with "any special purpose assessing or taxing district" located within the county. We could find no evidence that the Groveland Community Services District has ever been reviewed by a Tuolumne County Grand Jury. In addition, we received a complaint about the District's handling of the removal of dirt from Reservoir #2, part of the wastewater treatment facility. The specific concern about Reservoir #2 involved charges that the District might have paid for the removal of dirt which was not actually removed. Finally, the former General Manager of GCSD was charged with, and later convicted of, releasing untreated wastewater into a creek in April 1999, just prior to his resignation from the District. These issues led us to begin our investigation into the overall District operations.

In the course of our investigation, the Grand Jury received information which gave us cause for additional specific concerns, leading to an expanded investigation. These included:

- ▶ The manner in which GCSD announces and awards bids for District projects.
- ▶ Weapons and threats of violence in the workplace.



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- ▶ Possible violations of the Ralph M. Brown Act.
- ▶ Possible violations of the Public Records Act.
- ▶ District documentation practices.
- ▶ Employee morale.

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**METHODOLOGY**

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Members of the Grand Jury toured District facilities, attended meetings of the GCSD Board of Directors, and reviewed District documents. In addition we interviewed members of the public, over 20 current and former employees, and individuals who have performed work for GCSD.

Due to the number of issues involved, we have chosen to vary this report's format and present our findings and conclusions together, for each item to be addressed. Recommendations on all issues follow that section, and the report ends with a final conclusion.

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**FINDINGS AND CONCLUSIONS**

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**RESERVOIR #2**

The project began, documents show, as a "maintenance project" initiated by the former General Manager. Sometime after its inception a decision was made to expand this project into a cost-effective means to expand this reservoir to meet future needs and provide extra capacity in case of heavy rains. The Grand Jury finds no fault with the intent of this project; sound management practices will always look for cost-effective methods to improve performance and plan for future contingencies. However, the way this project was administered is a virtual textbook on how to try to do the right thing by using almost every wrong practice imaginable.

After interviewing numerous District officials and employees, reviewing hundreds of documents, and inspecting the facility, the Grand Jury was ultimately unable to ascertain a satisfactory answer to one simple question: *How much dirt was removed from Reservoir #2?*

What we have found was that the District paid the contractor who did the work \$360,000 to dig dirt out of the reservoir. This amounts to \$2.25 for each of the 160,000 cubic yards that GCSD states was removed from this holding pond. This should result in an added capacity in the reservoir of the same 160,000 cubic yards. The District, under its former General Manager, made – at best – feeble attempts to monitor how much dirt was actually trucked out. The contractor believes that his employees accurately and conscientiously counted and recorded each load they removed, and

invoiced the District according to these records. The District paid the contractor based on these records generated by the contractor, and not on records generated by the District itself.

The District hired three separate engineering firms to determine how much dirt had been removed. All studies show that the capacity of the reservoir after the work was completed is about 89,000 cubic yards greater than when the reservoir was originally completed in 1981. These studies also show that roughly the same 89,000 cubic yards was redeposited on District property. Thus there is a presumption that the contractor was paid for the removal of 71,000 cubic yards which were not actually removed.

This difference of 71,000 cubic yards was the basis for complaints received by the District, the Grand Jury, and the District Attorney. This missing dirt would make up a pile 300 feet long, 150 feet wide and 42.6 feet deep, but the District simply cannot account for the discrepancy. The most recent explanation is that there were no studies made immediately before the work began, making the actual fact of a discrepancy questionable. Both the District and the contractor state that additional dirt was spread on roads and other areas on District property, explaining why the missing dirt cannot be found. The District also cited the “fluff factor”— the tendency of dirt to expand when it is disturbed — as a possible explanation for the difference. Although this could indeed cause the dirt to take up a greater volume in the trucks than it did in its original, undisturbed site, could the volume of the “fluffed” dirt really be 180% greater than the original?

None of these explanations are sufficient. However, the Grand Jury has been unable to reconcile the discrepancy because of the shoddy, unprofessional record keeping in place under the General Manager on duty at the time the project was completed. We referred this incident to the Office of the District Attorney (DA) to see if the Groveland Community Services District had violated any laws in their conduct surrounding this project. The DA determined that there had been no actionable criminal activity. Thus the Grand Jury joins the concerned citizens who are extremely frustrated with the history of this undertaking. We have found no evidence that the contractor was either negligent or culpable in the mismanagement of this project. Instead, we have determined that it is the District that must bear the responsibility for the mistakes it made.

It must be noted that, for a number of reasons, GCSD has begun to make substantial changes in the way it manages projects of this nature. This is a positive step, and the Grand Jury supports these efforts. Some of our recommendations have already been implemented. It is clear, however, that the District deserves the criticism and scrutiny it has already received. The current Board of Directors and management staff have much work to do to restore the public’s trust squandered by those in positions of authority at the time the work was done at Reservoir #2.

#### DISTRICT BIDDING PROCESS

The work on Reservoir #2 originally began as an emergency maintenance project. By a series of so-called “change orders,” this undertaking became a full-fledged construction project. As such, formal bids should have been solicited and a formal contract awarded. Because of the size to which the

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project grew, Prevailing Wage laws applied, but were not paid. The Grand Jury has concluded that controls and practices in place at that time were far too loose. The current GCSD Board of Directors has taken recent steps to ensure that future projects are in compliance with all applicable laws.

CONCERNS ABOUT WEAPONS AND THREATS OF VIOLENCE IN THE WORKPLACE

While the Grand Jury was conducting interviews concerning Reservoir #2 and other management practices and policies, we talked to a number of employees who had legitimate concerns for their own safety. We learned that at least one District employee routinely brought a firearm into the workplace. The employee was licensed to carry the weapon. However, this fact, along with other tensions confronting the District, caused several employees to work in an environment of legitimate fear. The District, like most other local and county agencies, had no specific policy on weapons in the workplace.

The employee cited the need for a weapon while traveling on District business in remote areas, apprehension which the Grand Jury found understandable. Nevertheless, we found no reason that any weapon should ever be permitted in the District office or at other GCSD worksites. The perceived threat implied by simply having a weapon in such a setting could create a hostile workplace, and should not be tolerated.

Since the Grand Jury's inquiries began, the District has amended their personnel policies, and weapons are now prohibited in all GCSD facilities.

POSSIBLE VIOLATIONS OF THE BROWN ACT

The Ralph M. Brown Act is a state law which requires public legislative bodies, such as the Board of the Groveland Community Services District, to conduct most of their business in public. The Grand Jury received a complaint that members of the District board were secretly polled about the purchase of office equipment. We also became aware that the Board has, on occasion, canceled regularly scheduled meetings and then rescheduled them without following proper Brown Act protocol.

The Grand Jury has determined that there is merit in the charges brought to its attention. It should be noted that questions posed to board members by staff or employees are not, in themselves, violations of the Brown Act. Only when elected officials answer such questions does the board risk making decisions in a manner which circumvents the law. Such actions are called, "serial meetings," and actions of this nature are prohibited. The Grand Jury is compelled to put the Groveland Community Services District on notice that their improper actions have been noted. Even the appearance of secret, illegal decisions is extremely damaging to public confidence in the GCSD.

POSSIBLE VIOLATIONS OF THE PUBLIC RECORDS ACT

The Public Records Act requires that most of the materials provided to a majority of members of a board such as the GCSD must be provided to members of the public without delay. The Grand Jury

has found that the staff in the District's office has been, on occasion, abrasive, rude or unprofessional when asked to produce public documents. The public has a right to access most of the documents used by the board to make decisions or take action on District business. Staff, management and elected officials alike are accountable for following the letter and the spirit of this law.

#### DISTRICT DOCUMENTATION PRACTICES

In our investigation of the history of Reservoir #2, the Grand Jury discovered a confusing, misleading pattern of documentation that invited abuse. In one instance, a signature required for payment authorization was made on the photocopy of an earlier decision. This had the appearance of tampering with an official document. Change orders were made with little or no record of the basis for these actions. The decision to change the scope of the project from emergency maintenance to an expansion of the reservoir was virtually impossible to track with any accuracy. In short, the District's record-keeping system was out of control. This pattern appears to exist in actions that go far beyond this one project.

#### MORALE

The issue of employees' morale arose during the extensive investigation of the district conducted by the Grand Jury. The morale of the workforce has a great impact on their productivity and job satisfaction. Poor morale in the workforce can adversely affect a number of important areas, leading to high rates of employee turnover, safety concerns, conflicts among co-workers and between employees and supervisors, and a potential for costly employer legal liability.

The Grand Jury found morale of the staff, employees and even elected officials to be almost universally poor, especially at the time the investigation began. Factors which contributed to this finding included weapons carried in the workplace, counterproductive management styles, poor office management and record-keeping, alleged falsification of documents, inconsistent preparation of job descriptions and a general sense of poor – or non-existent – communication between all levels throughout the district.

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#### RECOMMENDATIONS

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1. Standardized written procedures for soliciting bids and awarding contracts must be established and followed scrupulously. These procedures must be in full compliance with all applicable state and federal laws and county codes.
2. Training for all staff members on violence in the workplace should be provided on a regular, ongoing basis.
3. All members of the Board of Directors, district management and office staff should attend training on the Brown Act and the Public Records Act. Such training has been available on a regular basis

from Tuolumne County Counsel, Patrick Greenwell. The Grand Jury hopes that Mr. Greenwell's successor continues to provide this valuable information to residents and elected officials of all political entities in the county. However, the District should ensure that its employees and officials get the training they need, regardless of the source of the training.

4. The 2000-2001 Grand Jury should review GCSD's compliance with the Brown Act. If any violations are found, we recommend that the District Attorney file formal charges. The District has been notified about the seriousness of such violations. Although some of the specific alleged violations may appear trivial, the importance of carefully adhering to this law cannot be overemphasized.

5. Training must be provided to employees charged with keeping documents and records for the district. These employees must be held accountable for their performance in this regard. Documents must be promptly and courteously available to staff and the public for review. Performance in this area must be carefully monitored, and failure to follow this policy should be dealt with appropriately.

6. GCSD should conduct or provide training in leadership techniques and effective management skills for all managers and supervisors. Such training should be mandatory, consistent, and frequent. Job performance evaluations and merit- or step raises for managers and supervisors should follow District policy and reflect the effectiveness with which such management principles are implemented.

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### CONCLUSIONS

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There are many hard-working, dedicated, outstanding employees of the Groveland Community Services District. While the exceptionally poor management practices and actions described above were unfolding, District employees designed and developed a new computer system for billing. Others designed and installed a state-of-the-art pump monitoring system for remote locations. GCSD employees, along with the District's customers and the public it serves, have been put through a period of great stress and controversy, *through the actions of the management of the District itself*. Much work remains to be done, and some changes must be quickly made if GCSD is to regain the confidence of the community it serves.

The Grand Jury notes that since the departure of its former General Manager, the District has moved in a positive direction in regard to many of the problems we have found. Under its interim manager new procedures for awarding contracts were written. New guidance on "Violence in the Workplace," and a policy prohibiting weapons in the workplace, have been written and are in place. The Board of Directors, some of whom were newly elected to the Board in November 1999, has taken a more active role in District operations. A new General Manager has now been hired, and we are optimistic about the direction the District is taking. There is much room for improvement, but GCSD has made a good start.

## **SHERIFF'S DEPARTMENT AND JAIL**

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### **REASON FOR INVESTIGATION**

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California County Grand Juries are charged by state statute to visit all jail facilities within their jurisdiction each year to observe and report on operations and conditions.

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### **METHODOLOGY**

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Fifteen members of the Grand Jury visited the Sheriff's Department and Jail for a basic walk-through on July 22, 1999. Later, on February 2, 2000, five members of the Grand Jury returned to inspect the facilities in greater detail. Deputy Dan Crow, the officer in charge, led the tour and responded to questions. We also interviewed various other Sheriff's deputies, dispatchers, deputy jailers, and the jail nurse.

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### **FINDINGS**

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Located at 175 Yaney Street in Sonora, the Sheriff's Department and county jail is — from the basketball court on the roof to the generators in the basement — a lesson in the efficient use of space. Every closet and stairwell has been utilized to accommodate its expanding needs. It has been apparent for years that its Yaney Street location is inadequate for a department that must continue to expand if it is to meet the needs of the future. Recently, temporary offices were constructed nearby. These provided much needed training rooms and moved several offices out of the basement. Future building sites are now being considered and bids are being gathered from architects as the county progresses in its efforts to provide a new home for its Sheriff's Department.

During the Grand Jury's first visit, there was discussion regarding various difficulties faced by the Jail Nurse. At the time she was a county employee who found it difficult even to acquire sufficient supplies. On our subsequent visit, however, we found the situation to be greatly improved. The nurses are now employed by a private medical services provider that contracts with the county. Under contract are one primary nurse, one psychiatric nurse and four relief nurses. The jail clinic, though very cramped for space, is now fully supplied. The entire medical operation is more efficient, with many routine procedures being performed in-house. Formerly, inmates had to be transported to the hospital, for these same procedures.

Leaking pipes in the basement were noticed during our initial tour. On our subsequent tour, we noted that this problem had been addressed and the leaks repaired.

Vital to county safety are the Sheriff's dispatchers. These employees respond to 911 calls from those county residents who live outside the city limits, track the location of deputy patrol cars and

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communicate with officers and emergency personnel. Currently, there are seven full-time dispatchers, a supervisor, and a dispatcher-in-training. However, the true need, as set by the county and based on both the workload and the level of stress, is ten full-time and three part-time dispatchers. Although the county has attempted to hire more dispatchers, this effort has not been successful. The current inadequate number of dispatchers has caused their work days to often stretch into 10, 12 or even 15 hours in length—especially if another employee is sick or on vacation.

As reported in previous Grand Jury reports (1998), Tuolumne County continues to lose deputies to neighboring counties because of an uncompetitive pay-scale.

The Sheriff's patrol cars are scheduled to receive new computer scanners in July 2000. These will have the ability to scan hand-written reports into the in-car computer. It is believed that this new technology will decrease the amount of time deputies spend in the office, thereby increasing their presence on the street.

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**CONCLUSIONS**

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One of the basic expectations of the citizens of this county is adequate law enforcement and protection. The leadership and personnel of the Sheriff's Department is actively seeking to meet those expectations and serve our community in a professional and diligent way.

Just as the citizens expect the county to keep deputies on the street, they expect it to provide alert dispatchers in times of emergency. The long shifts being forced upon our county dispatchers are of deep concern. When injury or crime jeopardizes the lives of our citizens, the last thing they need are 911 dispatchers who are physically, mentally and emotionally exhausted after working a dangerously long 12-15 hour shift. A serious evaluation must be done regarding the current efforts to hire new dispatchers and why those efforts have been a failure. Concerns to be addressed should include the salary and benefit package, whether the search for new employees is adequately aggressive and far-reaching, and whether the shift structure can be made more family-friendly. Status quo among our 911 dispatchers is unacceptable.

The Tuolumne County Board of Supervisors should also respond to these expectations by implementing the following recommendations. While the Grand Jury recognizes the County's extremely tight financial situation, surely the safety of all county residents should be of the highest priority.

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**RECOMMENDATIONS**

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1. Reevaluate and repair the salary disparity that is causing our first-rate deputies, and promising recruitment prospects, to slip through our fingers to our more salary-competitive neighbors.
2. Evaluate the salary and benefit package currently being offered to new dispatchers.
3. Evaluate the efforts being made to search for new dispatchers to ensure that those efforts are adequately aggressive and far-reaching.
4. As far as possible, employees' needs should be taken into consideration when preparing work schedules.



## SIERRA CONSERVATION CENTER

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### REASON FOR INVESTIGATION

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California County Grand Juries are directed to inspect and review all prison facilities within their jurisdiction.

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### METHODOLOGY

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On December 7, 1999, seventeen members of the Grand Jury visited the Sierra Conservation Center (SCC) located between Highway 4 and Highway 108, three miles east of Lake Tulloch at 5100 O'Byrnes Ferry Road, Jamestown. We were welcomed by Warden Matthew C. Kramer. Each division head provided us with a brief overview of their operations. Lunch was served at Baseline Camp, where we also received a tour of their facilities. We returned to SCC for a tour which included Level I, II and III yards, Prison Industry, mail room, records office, medical clinic, housing facilities and the wastewater treatment plant currently under construction.

On December 8, 1999, a four-member Grand Jury team returned to SCC to visit the Vocational Education Programs. The carpentry, masonry, auto repair and silk screening programs were toured. A Classification Process was observed. Every new inmate goes through this process to determine their appropriate level of security for housing assignment, their medical needs, and their possible placement in the various programs available.

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### FINDINGS

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SCC houses inmates at three different security levels. Level I is minimum security, Level II is low to medium security and Level III is high security. The SCC facility was designed to house 2,216 inmates. However, current inmate count is 4,186, or nearly double the design capacity. The greatest concentration of overcrowding occurs on Levels I and II. Each of the 76 dorms on those levels was intended to house sixteen inmates. They now hold double that number, with an additional 300 being housed in the gymnasium. The Level III gymnasium has also been converted for overflow and houses 150. Level III consists of five buildings, each housing 200 inmates.

SCC employs 1,340 full-time staff, of which 1,100 work at the main institution and an additional 240 work in the 20 Conservation Camps throughout the state. SCC has an annual operating budget of just over \$90 million dollars.

The Grand Jury toured Baseline Conservation Camp, which is one of the 20 satellite camps under SCC's jurisdiction, in conjunction with the California Department of Forestry (CDF). Inmates live in military-type barracks. Before being accepted for this camp, inmates must be classified as a minimum

security risk, be physically fit, and have no history of violent crime including kidnaping, sex offenses, arson or escape. They undergo a vigorous physical fitness program, and are schooled in fire safety. These camps are generally located in rural or wilderness areas. The SCC Camp Program is one of two such programs within our state. This program is comprised of well-trained and equipped emergency crews that work in partnership with CDF. Baseline Camp was found to be a well-maintained facility. The inmate crews not only fight fires, they also work on fire prevention, conservation projects and community service activities. These efforts have proven to be a substantial economic benefit to our state, county and community. Although their status as convicted felons will make them ineligible to work for the Department of Forestry after their release, the 134 inmates at Baseline Camp are receiving on-the-job training which hopefully will make them more employable in other areas when they are back in the mainstream of society.

During our visit to the records office, we found that the file room staff was faced with an especially physically challenging task of maintaining the hard copies of inmate files. This job was being done with efficiency and pride.

The Medical Clinic is a first-aid facility, treating only minor injuries and illnesses, and administering daily medications. SCC uses a hospital out of the county for more serious medical needs. A local hospital will be used if an emergency should arise.

In visiting the housing units, it is obvious that this facility is overcrowded and every available space is being used to house inmates. All dorms were neat and clean, with the exception of the dormitory that houses the inmates that have chosen not to participate in any of the work programs. These inmates are in the dorm most of the time. This dormitory seemed especially cramped and not as sanitary as others, however the conditions did seem to be adequate. While touring the prison yards, we observed "out-of-bounds" markings painted in red on the asphalt around the buildings. However, these markings are faded and appear to be routinely ignored by the inmates, and not enforced by prison officials.

The new Wastewater Treatment Plant is nearing completion, and will replace the existing secondary level system. The new plant will be a "Tertiary System," which is the highest level that can be achieved through wastewater treatment. In the past, at times, wastewater had to be trucked out of the area, causing damage to our roadways and creating environmental concerns for local residents. The piping connected with the new system will allow for the discharge of wastewater through land application on golf courses, parks, and crops for animal consumption. This should alleviate the past problems and concerns that arose from having the wastewater trucked out. The planning stage for piping the water is moving along more quickly than planned, and there should be no problem meeting its planned completion date in three years. The Environmental Impact Report is scheduled for completion in July 2000.

The Grand Jury received a copy of correspondence sent to the State Department of Corrections. This consisted of various documents alleging a lack of security and inmates' access to explosives at the Wastewater Treatment Plant construction site.

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Although SCC is near areas of public recreation and state and local highways, we found no road signs alerting motorists of the nearby prison and possible associated dangers.

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**CONCLUSIONS**

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This Grand Jury found that the staff was well trained and extremely professional in dealing with the greatly overcrowded population. The grounds and facilities were found to be well kept, with the one exception of the dormitory in which the nonparticipating inmates were housed. Academic and Vocational Programs offer a wide variety of opportunities for inmates to not only upgrade their education, but to learn basic trade skills in carpentry, welding, and auto body repair. The Prison Industries Authority, with work projects in the areas of textiles and sewing, showed inmates working with impressive efficiency and productivity.

This institution is following its primary mission of training and placing inmates into the Conservation Camp programs where they accomplish labor-intensive tasks that benefit the community.

Although the overcrowding situation is obviously very serious, the Grand Jury recognizes that this is a problem that can be addressed only by the California Department of Corrections.

Concerning the complaint we received, regarding the lack of security and inmates' access to explosives at the Wastewater Treatment Plant construction site, we have no recommendation, as this incident is under the jurisdiction of the California Department of Corrections.

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**RECOMMENDATIONS**

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1. Both the State and County Road Departments be contacted and road signs requested, alerting motorists of possible dangers.
2. The policy of not allowing prisoners in the areas covered by the "out-of-bounds" markings on the prison yard side of buildings should be enforced. If the prison authorities decide these areas no longer need to be restricted, the markings should be removed.
3. This Grand Jury did not explore the issue of staff morale. This is an area of the prison that a future Grand Jury could investigate.

## TUOLUMNE GENERAL HOSPITAL CONTRACTS

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### OVERVIEW

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Hospitals must adhere to strict laws and statutes, not only in the direct practice of medicine but also in the ethical arena. One such Federal statute is called the *Ethics in Patient Referral Act*, or the Stark Law. The primary purpose of this law is to prohibit doctors from referring patients to a medical entity with which the doctor has a financial relationship. For example, it would be considered unethical for a physician to benefit financially, through “kickbacks”, from referring his patients to a certain lab for blood work. Though this is the primary focus of the law, other applications have been made over the years. In one situation, a hospital could no longer give physicians free meals in their cafeteria. So in a broad sense, this statute basically prohibits hospitals from providing any special treatment, cash or otherwise, to doctors that might influence their patient referrals.

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### REASON FOR INVESTIGATION

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In 1997 the Hospital Administrator, with approval from Deputy County Counsel, entered into a contract with a doctor that provided for various bonuses and incentives based upon the volume of net collections generated for Tuolumne General Hospital by the physician. The doctor was also given a series of loans to guarantee his level of income while he got established in his practice. The Grand Jury questioned whether these contractual provisions violated the Stark Law.

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### METHODOLOGY

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The committee interviewed a wide range of county employees including the County Administrative Officer, County Auditor, District Attorney, County Investigator, Hospital Administrator, Hospital Chief Financial Officer, and several other county employees from several departments.

In addition, the committee consulted with medical professionals in other counties as well as various departments within the federal government.

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### FINDINGS

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The results of our interviews were mixed. Some said that even though the doctor was an employee of Tuolumne General Hospital, he had privileges at both hospitals and therefore the contract was in violation of the Federal *Ethics in Patient Referral Act*. Others said it wasn't a clear violation, but

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there was potential risk involved. One thing was clear from the interviews conducted by the Grand Jury: there was unanimous agreement that regarding this federal statute, the prudent action is to aggressively avoid all grey areas with potential of violating the Stark Law.

Because of the complexity and seriousness of the issue, the information gathered by the Grand Jury was turned over to a federal agency for review and resolution.

The contract in question has now been canceled by Tuolumne County. Unfortunately, the doctor in question has filed for protection under bankruptcy laws, and may not be able to repay the many thousands of dollars in loans from the county that are currently outstanding.

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**CONCLUSIONS**

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Even though this particular contract with its potential for violation of Federal Law has been cancelled, this in no way mitigates the seriousness of this issue.

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**RECOMMENDATIONS**

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1. Close scrutiny of the implications of the Stark Law should be taken into consideration when future contracts are awarded.

## TUOLUMNE GENERAL HOSPITAL FINANCES

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### REASON FOR INVESTIGATION

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Tuolumne General Hospital has a long-standing reputation for providing excellent health care through the efforts of its first-rate medical staff. However, the financial problems of this medical facility are well known. It is the intent of this Grand Jury to present an objective and unbiased report to county residents as to the extent and causes of this current financial crisis.

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### METHODOLOGY

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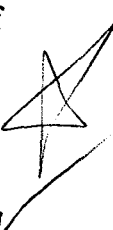
The Grand Jury interviewed a wide range of county employees including: County Administrative Officer, County Auditor, County Assistant Treasurer/ Tax Collector, Hospital Administrator, Hospital Chief Financial Officer, Hospital Business Office Manager, and various other county employees from several departments.

In addition, we consulted with various resources including the hospital's computer vendor, medical sources in other counties, and state and federal agencies.

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### FINDINGS

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Tuolumne General Hospital (TGH) is in a state of financial crisis. For the last three fiscal years significant investments by the county have been necessary to maintain TGH's very existence. One of the first signs of trouble appeared when the 1997-98 fiscal year came to a close and TGH was unable to pay-off its short-term debt (Internal Service Fund loan) to the county as required by rules established by the Board of Supervisors. The board waived the rule requiring full payment and rolled the debt into the 1998-1999 fiscal year. As that year came to a close the debt had reached \$2,305,500. Once again the Board of Supervisors waived the rule requiring pay-off and rolled the debt into the current 1999-2000 fiscal year. 

A review of this year's attempts at financial bail-out include several factors. First, the hospital was listed as part of the original county budget and slated to receive \$500,000. Secondly, the county invested in the hospital with a series of General Fund Transfers. These transfers were not loans but simply gifts made from county coffers. Three transfers, totaling \$2,050,000, were given to the hospital during the current fiscal year. The most recent gift, given in May of 2000, was \$1,000,000. Of this total, \$760,000 came from tobacco litigation money—discretionary funds that could have been used anywhere in the county, though health care is a logical choice.

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The third way the county has financially underwritten TGH this year has been with Internal Service Fund loans. Mentioned above, this type of short-term loan provides temporary cash for various county departments during cash-flow difficulties. Currently, these loans come from excess money that has accumulated in the Workers Compensation fund. Again, the intent has always been short-term assistance—all loans to be paid in full by the end of the fiscal year. Besides regularly waiving this rule for the hospital, the board has also allowed the hospital to be out of compliance with county-established loan limits since July of 1999. Hospital indebtedness reached a high of \$3,490,000 in April of 2000 and is expected to be \$2,500,000 as the fiscal year ends this June.

As the Board of Supervisors looks ahead to the 2000-2001 fiscal year, it appears their financial first aid will consist of all too familiar bandages: waived debt, increased hospital budget of \$750,000 (if approved), and at least one more \$760,000 General Fund Transfer (more tobacco money). But even with that substantial investment, the hospital's future financial recovery seems a remote possibility. According to the County Administrator, TGH's financial situation in March of 2000 was such that it needed to collect nearly \$800,000 more per month in order to operate without further borrowing. Due in part to decreased revenues from Medicare, the per month short-fall projected for the new year will top that figure.

There are a number of contributing factors to the hospital's troubling financial equation and its inability to break even and operate without millions of dollars in county aid. A brief list would include the growing reluctance of Medicare, MediCal and private insurance providers to give fair reimbursement for services; the hospital's conversion to a new computer system in the billing department that contributed to a giant accounts receivable back-log; the long-term failure of the Business Office to process bills efficiently; and a lack of supervision and proactive leadership in several levels of administration and management.

There is a tremendous financial tug-of-war between hospitals and insurance providers nationwide. This tension is being felt here in Tuolumne County. While the hospital seeks to generate enough cash-flow to break even, the private and public (Medicare and MediCal) insurance providers require burdensome and detailed claim information while seeking to pay as little as possible on those claims. For example, when a bill is sent to Medicare and MediCal, reimbursement can sometimes be as low as 20% of the total charges for outpatient care, depending upon the procedure. In fact, reimbursements from Medicare will be decreasing even more during the upcoming fiscal year because of provisions in the Federal Balanced Budget Act. Private insurance companies also have a low rate of reimbursement and some even play a type of endurance game, testing the tenacity of the hospital by requiring multiple submittals of the same bill and making multiple requests for additional information. Any error often returns the bill to its sender, and a lack of prompt submittal may forfeit any payment at all.

The problem with providers, however, has been substantially aggravated by a computer conversion. This conversion contributed to the long-term failure of the Business Office to process claims accurately and efficiently. In 1998, the hospital spent \$2.4 million to install new computer hardware and software. However, two years later, the Business Office was using that investment to only 1/10th of its potential. At the core of the computer problem is the management and staff of the business

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office. Though there are notable exceptions, for the most part these employees are insufficiently trained, and unable or unwilling to learn the new system. Key individuals missed scheduled training sessions because of sickness or other reasons. Others were expected to teach what they, themselves, could not grasp. Surprisingly, although the hospital's purchase agreement with the computer vendor included free technical support, their records show only two phone calls from the TGH Business Office Manager, during an eighteen-month period replete with computer difficulties.

The computer system, however, is only part of a larger picture of Business Office ineffectiveness. Our investigation also revealed that the Business Office was negligent in collecting required co-payments, was incorrectly billing for treatments, and was consistently failing to follow-up on unpaid bills. For example, there were times when an insurance provider would return a bill for corrections, but the business office would simply resubmit the same bill in its original form.

The placement of Chuck Wagner from the County Revenue Recovery Office into the Business Office, along with the eventual removal of the Business Office Manager, quickly changed a pattern of dysfunction. Within months of his arrival, concrete progress and beneficial change began to occur. Our investigation revealed that this progress was not simply due to the presence of another staff member, but due to the presence of a capable manager in that department.

Despite these improvements in the Business Office, the Grand Jury continues to be concerned about another element of the hospital's billing process—one that could, potentially, have a great effect upon the hospital's income. Each and every medical procedure performed in a hospital has been assigned a code (Diagnosis Grouper Charge). This code is written on the patient's chart and submitted for payment. The wrong code can result in an insurance provider's refusal to pay the bill. Even if the codes are simply not listed in the proper order, the hospital can lose revenue. This work requires significant expertise and is usually done by a Certified Medical Records Coder. This certification is given to those who have received formal training in this process. During our investigation we discovered that TGH does not employ certified coders. However, one certified coder does oversee the work of the noncertified coders. This is a large departure from normal hospital procedure. In a survey of twenty other hospitals, the Grand Jury discovered that Tuolumne General Hospital is the only one using noncertified coders.

During our initial investigation, another area of concern was the condition of the hospital's Charge Master — the authoritative catalog of procedures for which Medicare will or will not pay. Private insurance companies also use the same code structure. At that time, this critical reference was in need of correction and updating. A Charge Master consultant was subsequently brought in to address these needs. We applaud this effort. ✓

As in any organization, the ultimate responsibility for efficient operations resides with the Administrator. The inefficiency of the hospital's Business Office, therefore, is ultimately the responsibility of the Hospital Administrator, Joe Mitchell. He was simply unaware of the true scope of the difficulties until very late in the financial crisis. Surprisingly, once the true situation in the Business Office was discovered, the Administrator's monitoring and visible presence within that



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department continued to be minimal. Mr. Mitchell commented to the Grand Jury that he was, indeed, aware that the operation of the Business Office was part of his oversight responsibility, and he added that his efforts in that regard "aren't good". The Grand Jury agrees with his assessment.

The Chief Financial Officer (CFO) reports directly to the Hospital Administrator. This individual has shown a willingness to take on enormous computer-related tasks not normally delegated to the CFO. Though she has shown great dedication to the task, it is nevertheless true that she was the direct supervisor of the Business Office Manager, whose department has been at the center of this crisis. A more proactive CFO, in conjunction with the Hospital Administrator, would have made the necessary, difficult personnel decisions many months ago.

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**CONCLUSIONS**

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Despite the enormous outlay of funds for the new computer system, it appears the administration did not aggressively require those who had missed the initial instruction to make-up the training. In mid-March 2000, the computer company representative spent several days on site evaluating the system and providing more training. This was very helpful, but also very slow in coming — the system had not been working well since its installation. For many months, countless employee hours were wasted trying to make the system work. Another representative was on-site in June, providing further training and follow-up.

A collection agency has been hired to collect on the \$3.9 million of accounts receivable that are over 90 days old. That figure represents only the total amount invoiced, before the 50% discount of the insurance company contracts is applied. The true amount of possible collections is closer to \$2 million. The agency retains 14.75% of whatever it collects.

Meanwhile, the billing department continues to make good progress under the leadership of Chuck Wagner. It would even make better progress if aggressive steps were taken to add more staff to his team.

As a point of clarification, one of the statements often heard regarding the hospital is that its continued operation is necessary in order to provide state-mandated indigent care. However only four percent of patients fall into this category. Additionally, there are now only five fully independent county hospitals within the 58 counties of our state. Thus, the vast majority do not have a county hospital, but must still meet the same indigent care mandates at Tuolumne County. They often do this by simply contracting with a private hospital which provides the necessary care. It is also heard that the hospital's existence is necessary because it has the only MediCal contract. Again, since most counties don't have a county hospital, the obvious answer is that private hospitals also have the ability to negotiate MediCal contracts when necessary. These comments do not reflect a recommendation by the Grand Jury that the hospital be closed. They are simply provided to add information to the ongoing hospital discussions.

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RECOMMENDATIONS

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1. The Grand Jury wholeheartedly supports the efforts of the County Administrative Officer to retain a consultant to examine operational issues at Tuolumne General Hospital. This contracting should be done without delay. The cost of these specialists is a worthwhile investment in the future existence of TGH. Hospital-specific consultants should address many of the problems revealed during our investigation. As proposed to the Board of Supervisors, a consultant would:

a. Provide a community-wide medical needs assessment. That assessment would evaluate the entire health care system within the county and determine whether the services provided by TGH are truly needed.

b. Determine how the current hospital building, which must be upgraded for earthquake safety by 2008, will fit into that equation.

c. Inspect the entire claim process, and make suggestions for whatever changes are necessary to decrease the volume of claim rejections. This will involve a thorough evaluation of the accuracy of coding done on medical charts and should provide for on-going corrections to the Charge Master.

d. Determine the true scope of computer knowledge among the Business Office employees and recommend what amount of additional training must take place.

e. Suggest the necessary aptitudes and the true number of staff members needed for office efficiency.

f. Establish for the Business Office further guidelines for the entire admitting, billing and follow-up process.

2. In addition to the proposed consultation being considered by the Board, we recommend that the consultant also perform a "top to bottom", objective evaluation of the hospital's administration and management, comparing their job descriptions and job performances to industry standards.

3. The County Administrative Officer and the Board of Supervisors should hold the Hospital Administrator responsible for not taking early and proactive steps to deal with the gross failure of the Business Office.

4. The Hospital Administrator should be more visible in the Business Office during this period of hopeful recovery, maintaining a "hands on" awareness of its progress.

AR 5. The Hospital Administrator should submit a weekly report to the County Administrator outlining the status of the ongoing collections of Accounts Receivable, the computer conversion progress and efficiency of overall Business Office operations.

## **TUOLUMNE GENERAL HOSPITAL LABORATORY PROCEDURES**

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### **REASON FOR INVESTIGATION**

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Upon repeated trips to the hospital by members of the Grand Jury, it was noticed that employees in the lab did not consistently wear lab jackets and gloves in the lab or while attending to patients. This practice reduces the professional environment of the hospital and increases the risk of infection for both patients and the lab technicians.

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### **METHODOLOGY**

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Grand Jurors observed laboratory procedures on several occasions. We checked OSHA regulations, State Code under Title 22, and the standards of the Joint Commission on Accreditation of Health Care Organizations, or JACHO. We also obtained a copy of Tuolumne General Hospital's Laboratory Personnel Policy, dated 1985.

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### **FINDINGS**

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Grand Jurors observed on several separate occasions that one or more lab technicians were not wearing a lab jacket and that one or more lab technicians were not wearing gloves while drawing blood samples from patients. They also observed lab technicians working with specimens, then moving directly to obtaining samples from other patients without changing lab jacket and/or gloves.

According to OSHA regulations, State Code under Title 22, and the standards of the Joint Commission on Accreditation of Health Care Organizations, or JACHO, all hospitals are required to have an infection control policy. One key feature of such a policy is the requirement that lab technicians wear fresh gloves and clean lab jackets or scrubs whenever drawing blood and obtaining other specimens from patients. Further, these regulations require that after working in the laboratory with potentially contaminated materials, a technician must change to a new, clean lab jacket and gloves prior to returning to their contact with patients. These lab jackets are to be supplied and laundered by the hospital.

On one occasion, we observed a lab technician drawing blood while wearing street clothes, including a bare-midriff top. We questioned the lab supervisor about this, and were told that some employees were not following the hospital's policy of wearing lab jackets because "it was hot" that day, and that it was understood by the employees that this was allowed by the department. We then asked the supervisor to show us a copy of the hospital policy on this issue. After searching for quite a while,

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she was able to find the policy and gave us a copy. This was the Tuolumne General Hospital's Laboratory Personnel Policy, dated 1985. In the section on dress code is the following item:

2c. All employees must wear white lab coats that are freshly laundered. A white or pastel uniform may be substituted for the lab coat. Lab coats are supplied by the hospital.

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**CONCLUSIONS**

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The Grand Jury believes very strongly that proper infection control procedures must be strictly followed. The life-threatening nature of certain contaminants makes it imperative that all hospital employees take the utmost care to protect not only the patients, but themselves. Further, if TGH is not following the OSHA and JACHO requirements, the hospital is in jeopardy of losing its accreditation and facing potential fines.

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**RECOMMENDATIONS**

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1. The hospital should review its infection control policy to ensure that it complies with all state and federal regulations and guidelines.
2. The hospital should review and update its Laboratory Personnel Policy to ensure that it complies with all state and federal regulations and guidelines.
3. All department supervisors should vigorously enforce these policies.

LTC

## **TUOLUMNE GENERAL HOSPITAL LONG-TERM CARE**

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### **OVERVIEW**

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The Long-Term Care Unit, located on the first floor, is a skilled nursing facility operating under the umbrella of Tuolumne General Hospital. It exists to provide care for those individuals who come to the place in life when neither they, nor their family members, can provide adequate personal care. Its Skilled Nursing license allows it to serve those who require regular medical treatments not normally administered in a nursing home or "board and care" home. This is also the facility of choice for some residents, even if they don't have special medical needs, since Long-Term Care qualifies for Medi-Cal and Medicare benefits.

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### **REASONS FOR INVESTIGATION**

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In the course of our other investigations at Tuolumne General Hospital, the Grand Jury would often hear accolades from county employees regarding the hospital's Long-Term Care Unit. Unsolicited and positive reports also came our way from the public, especially from those whose loved-ones had experienced first hand the benefits of that part of the hospital's services. The Grand Jury investigated Long-Term Care simply to see this well-respected unit for themselves and to report on our findings.

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### **METHODOLOGY**

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On April 4, 2000, members of the Grand Jury visited Long-Term Care, located on the first floor of Tuolumne General Hospital. We were given an extensive tour by the Head Nurse-Coordinator. During the course of this tour, we interviewed him at length about the workings of his unit. Also interviewed were the Activities Director, several nurses and a variety of patients.

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### **FINDINGS**

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#### **STAFF**

The unit is under the care of a Head Nurse-Coordinator. The staff includes one Registered Nurse, one Licensed Vocational Nurse, five Certified Nursing Assistants, a Social Worker, an Activities Director and a Housekeeper. The physician from the Psychiatric Unit is also on call. The staff truly goes the extra mile. In addition to their regular duties, they sell candy to raise money for outings, they use their personal funds to help patients with special needs, and to provide special treats for the residents, and they even provide food and veterinary care for the resident cat. It is evident that the staff members

not only invest their efforts into providing excellent care, they also invest their hearts. This is what makes the Long-Term Care Unit a special family and gives them such an excellent reputation in the community.

#### THE FACILITY

Long-Term Care is a 36-resident unit and is presently full with a waiting list. The unit includes two private, seven semi-private, and five, four-bed rooms. The factors used to determine room placement are the resident's age, independence, personality, physical and mental health. There are three shower rooms and six bathrooms. A nurse's lounge includes a small kitchen with a microwave oven. This lounge is also used for staff meetings. There is a beauty shop that offers haircuts, perms, and a wash and set, all of which are available for a minimum charge. An adjacent patio filled with flowers is furnished with tables, chairs, a barbecue, and includes a smoking area. The Fireside Room is a resident meeting room, used for dining, visiting with friends and family, crafts, and other social activities.

#### EQUIPMENT

Since the unit has a no-lift policy for their employees, they utilize two special mechanical lifts. A Sabin lift assists a patient that is able to support part of their own weight and stand on their own. This lift supports those who need help to and from bed or in and out of a wheelchair. A second lift of this kind would be helpful, though the cost is substantial — \$4,200. A different kind of lift, a Hoyer Lift, is used with a resident who is unable to assist with any type of weight support or transfers. A wheelchair is available for every resident, as required by law. There are Gerri chairs which are used for comfort for residents with contractures. Wonder Guards are placed on the doors. These machines can detect special monitors worn by the residents and they alert the staff when a resident is leaving the unit. This is especially useful with those residents suffering from Alzheimer's or dementia. One useful piece of equipment they do not have is a wheelchair-accessible van that would belong to the unit.

#### QUALITY OF CARE

Residents are assisted with activities of daily living, including bathing, dressing, and meals. Incontinent residents are kept clean and dry. The residents also receive medications and physical therapy, as necessary. Few receive sedatives. They have nutritional meals and are monitored at all times.

#### ACTIVITIES

A bulletin board is posted with a full range of monthly activities. These include line dancing, barbecues, church services, computer classes, outings, family dining, and painting, to name just a few. The flexible visiting hours allow friends and relatives to stop by for an early morning visit, or to come by later in the day after work.

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COMMUNITY RELATIONS

The community plays a large part in the successful operation of Long-Term Care. Many donations have been given by individuals and businesses. Those gifts have included a computer, a microwave, a year of Internet service, and Christmas boxes. The staff told us that their “wish list” would include a wheelchair-accessible van.

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CONCLUSIONS

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The Long-Term Care unit is characterized by a caring atmosphere and contented residents. It is a well staffed, clean, efficient and revenue-generating part of Tuolumne General Hospital. They are to be commended!

## **TUOLUMNE GENERAL HOSPITAL MORALE**

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### **REASON FOR INVESTIGATION**

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A legitimate area of evaluation and investigation for the Grand Jury is employee morale within the county's various departments. In the course of other investigations regarding Tuolumne General Hospital, morale issues were a recurring theme and warranted inclusion in our final report.

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### **METHODOLOGY**

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Interviews were conducted among physicians, nurses, and non-medical staff members.

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### **FINDINGS**

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The Grand Jury understands that no work environment is ideal. We also understand that the whole issue of morale is a very subjective one, open to personality factors and unchangeable organizational realities. The employees we interviewed feel they are working hard and doing a good job. However, a recurring theme throughout a clear majority of interviewees was the poor morale. A number of factors were cited. These include being given a job description at point of hire, but finding the actual work is inconsistent with that description; receiving minimal support and training, including an expectation of performance in areas in which they have received no cross-training; a lack of concern for the employees' needs when scheduling; and a perceived lack of an open door policy with the Hospital Administrator.

The Grand Jury found that of these concerns, the area of cross-training had shown the greatest improvement during the time between the interviews we conducted in September 1999 and those conducted in February 2000.

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### **CONCLUSIONS**

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It should be noted that our sample was quite small compared to the total number of staff members employed at Tuolumne General Hospital. This fact alone leaves substantial room for the Grand Jury's morale evaluation to be in error. However, given the dedication and professionalism routinely displayed by the medical staff, even a minority view in this regard should motivate hospital leadership at all levels to give thought to morale boosting strategies.



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RECOMMENDATIONS

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1. Job descriptions should be examined and rewritten as needed to ensure that they accurately describe the actual work to be performed.
2. Adequate training, including cross-training, should be given a high priority. This includes management and supervisory training where appropriate.
3. As far as possible, consistent with the efficient running of the hospital, the employees' needs should be taken into consideration when preparing work schedules.
4. The Hospital Administrator told the Grand Jury that he has "an open door policy." This policy needs to be honored by the Administrator.

## TUOLUMNE GENERAL HOSPITAL PSYCHIATRIC UNIT

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### OVERVIEW

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Tuolumne General Hospital is the only hospital within several surrounding counties to offer an Acute Psychiatric Intervention Unit. This is a 16-bed unit with a full-time psychiatrist and a dedicated staff who must often perform their duties in a unique and dangerous environment where 90% of the patients are admitted involuntarily.

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### REASON FOR INVESTIGATION

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On August 20, 1999, at 3:15 a.m., a patient escaped from the Psychiatric ward by breaking open the door. This man was subsequently shot and wounded by a policeman after pepper spray did not halt the patient's threatening approach. The Grand Jury believed, as an issue of public safety, that this incident should be investigated to determine the details of the escape and the extent of the steps taken to assure future security in the psychiatric unit.

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### METHODOLOGY

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The Grand Jury conducted two unannounced tours of the psychiatric unit. It also interviewed a variety of employees in the Psychiatric Unit, as well as the Head of Maintenance and the Hospital Administrator.

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### FINDINGS

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#### THE INCIDENT

Up until the time of the escape, the patient, though in an agitated state, had not exhibited dangerous behavior. However, on the night of the escape the patient tried to forcibly enter the glass-enclosed nurses' station. The charge nurse was able to secure the door, but could not see the patient as he walked toward the exit. As she heard the patient begin to ram the door, she picked up the phone to call for assistance. At that moment, the lock on the door gave way and the patient ran out of the building. He was wearing his shoes at the time of this incident. Hospital policy calls for the removal of shoes at night, but this policy had not been followed, for this patient at least, on the night of the escape.

### THE RESPONSE

When an incident of this kind occurs, a two-fold response seems appropriate. One response should be to correct whatever weakness in the facility allowed the escape to occur. The second response should be to restore a sense of safety and improve morale of the personnel involved. The immediate response taken by the hospital was to repair the broken door, which was accomplished within a matter of hours.

On September 9, 1999, the Grand Jury went on an unannounced tour of the facility and interviewed a number of employees. Those efforts revealed several areas where improvements would make the unit more secure. First, there needed to be an improvement in the area of cross-training. Nurses who were temporarily assigned to the psychiatric ward from other areas of the hospital were not receiving adequate instruction. In addition, further physical improvements needed to be made to the facility. These included a panic button at the nurses' station, a closed-circuit camera allowing a view of the exit, and a new door with a more secure locking system.

The Grand Jury was pleased to see, on its second unannounced visit on February 17, 2000, that improvements had been made. The cross-training of nurses who come in from other departments had been substantially improved. We also discovered that the panic button and camera had, indeed, been installed. However, the same door with the same kind of lock — the kind shown to be ineffective at restraining an angry patient — remains in place in the psychiatric unit.

The fact that the patient was wearing shoes may or may not have contributed to his ability to break open the door. He had also used his shoulder against the door as evidenced by a shoulder injury. Also, the no-shoes rule is applied only at night, leaving the door a possible escape route during the daylight hours. In addition, the Grand Jury could see the repaired door visibly move, though locked, when pushed with minimal force.

In the course of the Grand Jury's interviews, it became apparent that the door problem remains both a facility issue and an employee morale issue. The need for a new door with an improved lock system was clearly communicated to the Hospital Administrator and the Safety Committee in the required incident report. However, no action has been taken on that recommendation. The majority of those interviewed believe that this lack of action shows a general disregard for the deeply-held concerns of those who are held accountable each day for the safety of patients and the public.

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### CONCLUSIONS

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The very nature of psychiatric care invites erratic, unpredictable patient behavior. When this behavior was combined with great strength, a lack of shoe removal and sudden lock failure, escape was the unfortunate result. The nursing staff could not have foreseen this unprecedented combination of events. The Grand Jury found that they responded within the best of their ability. However, those

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same nurses will be able to perform their duties in an environment of much greater safety and improved morale if the following recommendations are implemented.

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**RECOMMENDATIONS**

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The Grand Jury is fully aware of the hospital's current financial crisis. However, we believe the following changes and improvements should be implemented as soon as possible. Each will provide greater security in the Psychiatric Unit, improve employee morale and preparedness, and preclude possible litigious situations:

1. The door through which the patient escaped is inadequate. It should be replaced with a type offering greater security.
2. Every second counts when a nurse must, for personal safety, quickly retreat through a locked door. Currently he or she is delayed while fumbling through three different keys. There should be one master key for the entire floor.
3. Violent patients can use the current lobby furniture as weapons, projectiles or barricades. This furniture should be replaced with a type that can be secured to the floor.
4. The staff of this unit works in a dangerous and unpredictable environment with no assault intervention training. This type of training should be made available as soon as possible.
5. The policy of providing adequate cross-training for nurses should continue to be a high priority.

## PREVIOUS GRAND JURY RECOMMENDATIONS AND RESPONSES

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### OVERVIEW

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Each Grand Jury is charged with investigating various facets of county government, and preparing a report on their findings, which generally will include recommendations for improving some aspect of the departments or agencies investigated. Occasionally we have the pleasure of investigating a particularly well-run department, in which case the Grand Jury may make a commendation.

The Grand Jury report is a public document, and the local newspaper will generally write an article concerning the findings at the time the report is issued. What is not so well known, is that the law requires a response to the report to be made by the Board of Supervisors or elected Department Heads, within ninety days of the release of the report (figure 11). That response is to address why they do or do not agree with the findings, and what recommendations they plan to act upon. This response, and the results of the actions that may or may not have been taken by the county, are not always so well publicized.

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### REASONS FOR INVESTIGATION

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Many Grand Juries have done a follow-up check on the responses made to a prior report, and included this in their final report. In some cases, they have simply reported what the response was, but not investigated whether the response was carried out. We wanted to see if the promised actions were actually completed. For example, a recommendation may be, "The department should place a 'push-pull' sticker on the door," and the response is, "We concur." But our question is, "Did anyone ever apply the sticker to the door?"

In addition, the members of the 1999-2000 Grand Jury felt a responsibility to both former and future Grand Juries to provide a link, and a sense of continuity. To this end, we have examined prior reports and the responses made by the various entities investigated, as approved by the Board of Supervisors. We have also updated a chart given to us, showing which departments have been investigated each year, to help provide a starting point for our successors. The original chart ended with the 1995 -1996 Grand Jury investigation.

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### METHODOLOGY

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We were surprised to find that the Grand Jury "library"— a bookshelf in the Jury meeting room — contained only a few of the responses to prior reports. After several attempts, we were able to procure a copy of the responses to four of the five most recent Grand Jury Reports. We have added

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these to the library, and hope that future Grand Juries and interested citizens of the county will find them useful. They really do make fascinating reading!

We also analyzed the responses made to the recommendations of the 1998-1999 Grand Jury. Again, we found a surprising fact: that even though a response to each finding is required by law, there were several sections of the report to which there was no response. In general, though, a written response was provided by either the appropriate Department Head, the County Administrative Officer, or the head of the agency investigated.

For a variety of reasons, not all of the recommendations were slated to be implemented, according to the official response. Beginning in April 2000, we contacted an appropriate person within each department to determine what progress had been made on those recommendations that were scheduled for action.

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**FINDINGS**

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The 1998-1999 Grand Jury investigated 11 departments or entities. Of these, seven provided the required response, although the responses did not always address each of the recommendations. Some of the recommendations have been carried out, others are not feasible, generally due to financial considerations. In a few cases, a respondent would dispute the findings of the original Grand Jury report. We are including a copy of the entire response (figure 12). Interested persons are encouraged to obtain a copy of the original complete 1998-1999 Grand Jury Report.

## ISSUANCE OF REPORT ON COUNTY GOVERNMENT

No later than one month after the end of the fiscal year (six months on fiscal matters), the Grand Jury is obligated to submit a report of its findings and recommendations pertaining to county government. (Penal Code 933.) The Board of Supervisors is obligated to comment upon the recommendations contained in the final report within 90 days after the report is submitted.

Pursuant to Penal Code section 933.05(e), a grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings pursuant to their release.

Pursuant to Penal Code section 933.05 (f), the grand Jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the supervising judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

Penal Code section 933 provides that for 45 days after the end of the term, the foreperson and his or her designees shall, upon reasonable notice, be available to clarify the recommendations of the report.

This report, with respect to the Grand Jury's civil duties, generally represents a culmination of all of the efforts of the Grand Jury throughout the entire year and is a good measure of the jury's accomplishments. Therefore, it is important that the greatest attention and care be devoted to its preparation. There also are certain legal limitations upon the preparation of such reports, which should be noted and observed.

1. The law requires that the Grand Jury shall make "no report, declaration, or recommendation on any matter except on the basis of its own investigation of the matters made by such Grand Jury." (Penal Code 939.9) It follows, therefore, that the conclusions and recommendations expressed by the Grand Jury in its report must be based on substantiated, factual and legal data compiled during the course of its investigations.
2. The Grand Jury may not criticize government officials except when such criticism is accompanied by recommendations for improvement. The Grand Jury's function is primarily constructive and its report must therefore contain recommendations to resolve or improve the problems or deficiencies which the jury may encounter in the course of its investigations. This concept is particularly important in relation to the Penal Code, which provides as follows:

"If any Grand Jury shall, in the report above mentioned, comment upon any person or official who has not been indicted by such Grand Jury,

SUCH COMMENTS SHALL NOT BE DEEMED TO BE  
PRIVILEGED.” (Penal Code 930; emphasis added.)

This means that members of the Grand Jury are not immune from suits for libel in connection with any statements made in their report. Therefore, care must be exercised to ensure that all statements contained in the report are substantiated, accompanied by appropriate recommendations and are consistent with the jury's statutory authority. In 1995, the Court of Appeal reconfirmed that liability for defamation can attach to grand jurors pursuant to Penal Code section 930 in the case of Brooks v. Binderup (1995) 39 Cal. App. 4th 1287. It should be noted that most counties provide for the defense and indemnification of grand jurors in such actions.

### **GRAND JURY'S RESPONSIBILITY AND LIABILITY**

The term “defamation” is conduct defined as “libel” or “slander” in the California Statutes. Libel is defined as a false writing which exposes an individual to a hatred, contempt, ridicule, or which causes a person to be shunned or avoided, or which has a tendency to injure a person in his or her occupation. The word libel refers to a statement in writing. Slander is a false oral statement to another which has substantially the same effect.

The California Legislature has specifically stated that if a Grand Jury comments upon a person or official who has not been indicted by that Grand Jury, any oral or written comment falling within the above definitions can be the basis for a suit against grand jurors as an individual. While some states absolutely forbid the criticizing of unindicted individuals in the Grand Jury's investigatory reports, other states such as California permits derogatory statements by a Grand Jury about unindicted individuals. Recognizing that a Grand Jury's report “is at once an accusation and final condemnation,” however, with potential for harm which is incalculable, the California Legislature and courts have declined to insulate grand jurors from liability for statements made in the Grand Jury's reports. Statements by a Grand Jury about a person or official who has not been indicted by the Grand Jury are not deemed to be “privileged” from suit, and grand jurors maybe liable for statements determined to be false and damaging to a person. The Grand Jury should accordingly act prudently in verifying information which serves as a basis for its findings; be aware of the risks of suit alleging defamation when it considers whether to make unfavorable statements concerning unindicted individuals.

Grand jury records should be retained for three years from the final date of service of the Grand Jury. Documentation of the Grand Jury's research, investigation and good faith is thereby retained and available, if necessary, for court proceedings in the event of a lawsuit for libel.

### **RESPONSE TO REPORT**

Pursuant to Penal Code section 933.05 (a), as to each grand jury finding, the responding person or entity shall indicate one of the following:

- (1) The respondent agrees with the finding.



- (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

Pursuant to Penal Code section 933.05(b), as to each grand jury finding, the responding person or entity shall report one of the following actions

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

However, pursuant to Penal Code section 933.05(c) if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county department headed by an elected officer, both the department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected department head shall address all aspects of the findings or recommendations affecting his or her department.

Penal Code section 933 provides that for 45 days after the end of the term, the foreperson and his or her designees shall, upon reasonable notice, be available to clarify the recommendations of the report.

## **ACCUSATION POWERS OF THE GRAND JURY**

The Grand Jury may be asked to hear evidence as to whether a local official committed willful or corrupt misconduct in office and determine whether to present formal accusations requesting the official's removal from office pursuant to Government Code section 3060. If such a request is made, the Grand Jury will be given specific instructions in regards to the procedures.



County Administrator's Office

C. Brent Wallace  
County Administrator

Tuolumne County Administration Center  
2 South Green Street  
Sonora, CA 95370  
Phone (209) 533-5511  
FAX (209) 533-5510

September 13, 1999

TO: Board of Supervisors  
FROM: C. Brent Wallace, County Administrator (CBW)  
SUBJECT: Recommended Response to the FY 1998-99 Grand Jury Final Report

Attached is the recommended response to the FY 1998-99 Grand Jury Final Report for your approval. Also included is the response from the Sheriff and the Tuolumne County Visitor's Bureau for your information.

Recommendation

It is recommended that the Board approve this recommended response so it may be transmitted to the presiding judge of the superior court.

CBW:ele  
Encs.

## Response to FY 1998-99 Grand Jury Report

### Animal Control (Page 9)

#### Recommendation

Recommend the addition of at least one staff member to the department.

#### Response

An Animal Control Officer position was added to the Department as part of the FY 1999/00 Budget. Recruitment to fill this position is in process. Additional shelter staff will be added in FY 2000/01 in conjunction with a planned expansion of the shelter. The shelter expansion is being required in response to recent legislation which extended the holding periods of animals brought into the shelter. The new holding periods take effect on July 1, 2000.

#### Recommendation

Recommend the use of the Community Service Unit (CSU) to help in the needs of the department. Calls can be made to Animal Control with the help of CSU to aid in controlling animal population.

#### Response

The Assistant CAO has already had one meeting with the head of the CSU to discuss potential assistance to the Department. The Assistant CAO and Animal Control Manager will work with CSU representatives to develop and implement a specific plan of action for CSU assistance before the end of the fiscal year.

#### Recommendation

Recommend a Push/Pull sticker be placed on the front doors to assist in entering and exiting the building.

#### Response

The recommended stickers have been installed

### Department of Public Works (Page 15)

See attached from Public Works Director

Jamestown Mine Property (Page 23)

See attached from County Administrator

Mental Health/Alcohol/Drug Services (Page 29)

See attached from Mental Health

Tuolumne County Sheriff's Office and Jail (Page 58)

See attached from Sheriff

Tuolumne County Y2K Preparedness (Page 63)

Recommendation

Sufficient staffing to handle increased demands in the ISS office should be a priority. The County has already invested a great deal in upgrading computer systems, establishing communications between systems, and reducing redundancy within them. It seems a logical and necessary step to provide for the maintenance and upkeep of these systems through an increase in personnel.

Response

The Board of Supervisors has been very responsive to the need to increase and change the composition of the staff in the ISS Division. During FY 1998/99, the Board approved: 1) a new classification system for ISS Technicians and Analyst/Programmers; 2) addition of a new Hospital Information System (HIS) Technician position; and 3) addition of a Help Desk Analyst position. In the FY 1999/00 Budget, the Board also: 1) created a Network Administrator position via reclassification; 2) created a DataBase Administrator position via reclassification; 3) converted one relief Systems Analyst/Programmer to a permanent position; 4) added a new Systems Analyst/Programmer position; and 5) converted an ISS Technician II position to a Senior ISS Technician position.

These changes have added to the depth of the staff, recognized the radical changes in the types of technology utilized by the County and enhanced the ability of the County to retain a very talented team of individuals. With this said, there is still a daunting list of new projects confronting the ISS Division in FY 1999/00 in addition to the demands of simply maintaining existing systems. While the Division would always appreciate additional staffing to meet all of the needs and expectations of its customers (i.e. County Departments), it is also committed to making the best use of the resources provided by the Board and to being judicious in making any additional requests for staffing. In fact, Division staff would seek Board and Department support for a much needed break in FY 2000/01 from new system implementations to allow time to

reassess County-wide technology capabilities and needs and to refine, enhance and thoroughly train on the variety of new technology recently implemented.

#### Recommendation

Approve the budget request for a generator that is housed in the County Administration building. This seems like the most basic of requirements necessary to the functioning of Emergency Operations Center housed there.

#### Response

Concur and the County Administrator's Office is in process of obtaining a generator with the ability to power up the entire building and all the ancillary equipment.

#### Recommendation

Increase public education in the arena of disaster preparedness. This is really at the crux of the entire Y2K issue, let alone other emergencies, including fire, flood, or earthquake. It should be the responsibility of each and every resident to have an emergency plan in place, should basic necessities such as electricity, water, phone and disaster response be interrupted. It is the responsibility of the community in which they live, i.e. Columbia, Jamestown, Groveland, Twain Harte, etc. to teach the need for disaster preparedness within their geographical area, and make available the town's contingency plans during a disaster. At the same time they should encourage self-sufficiency should emergency services be compromised.

#### Response (By Emergency Coordinator Maureen Frank)

As the Emergency Coordinator for Tuolumne County, I concur with the finding of the Grand Jury regarding Y2K Preparedness. No matter the type of emergency is it is vital that everyone, from governmental agencies to citizens, be prepared. As outlined in the report, several county departments have been working vigorously over the past two year to mitigate potential problems that might arise out of Y2K. During the next 6 months we will continue this efforts and take steps to prepare for any potential problems that Y2K might throw at us.

The mission of Tuolumne County Emergency Services is to assist residents before, during, and after a disaster. This is a task that we take very seriously. In preparation for an emergency, Tuolumne County has an Emergency Operations Plan which enables various emergency responders to work under a common set of procedures and guidelines. Just as the County has an Emergency Plan so too residents should have a Family Emergency Plan. This plan should include the following: emergency contact numbers, evacuation plans including family meeting locations, emergency supplies list, utility shut off instructions, and family emergency procedures. Information on creating a family emergency plan and supplies for disaster kits can be obtained at the County Administrator's Office.

In regards to Public Education, Kary Hubbard, Fire Prevention Officer, and myself have conducted over 12 disaster preparedness presentations to local community groups this past year. Kary and I also work with the local media (Newspaper and Radio Stations) to get out specific information on emergency services and family preparedness. Periodically, we participate in public service announcements and radio shows regarding emergency preparedness. Public information and education will continue with especial emphases this year on Y2K issues



# County of Tuolumne Department of Public Works

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Sonora, California 95370  
MEMO

Engineering and Road Operations Divisions  
(209) 533-5601  
Transportation Division  
(209) 533-5603  
County Surveyor Division  
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Solid Waste Division  
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September 2, 1999

To: Betsy Eisenhauer  
County Administrative Office

From: Peter Rei *PETE*  
Director

RE: Grand Jury Report Response

Enclosed is my response to the 1998/99 Grand Jury report:

The Grand Jury has requested an "Operations Manual, that would outline what processes are involved in road maintenance." They go on to state that "This would allow the public to better understand how the Public Works Department operates."

Public Works staff concur that it difficult to understand how the decision-making process works concerning which roads receive road maintenance and new construction. The process of decision-making is driven by a complex combination of factors, the most notable of which are:

- 1) Federal, State and Local regulatory requirements and standards
  - Streets and Highways Code
  - California Vehicle Code
  - State Contract Act
  - Prevailing Wage Law
  - Caltrans Standard Plans and Specifications
  - American Association of State Highway and Transportation Officials Manual
- 2) Liability/Safety Concerns
  - Repair of substandard roadways to avoid expensive lawsuits
  - Safety improvements to prevent future accidents
- 3) Funding Availability
  - Federal Funding Rules and Programs
  - State Funding Rules and Programs
  - Local Transportation Commission Allocations to Tuolumne County
  - County General Fund Contributions to Public Works
  - Sales Tax Revenues(if approved by voters)
- 4) Environmental Laws
  - Corps of Engineers Permit Requirements
  - California Fish and Game Requirements
  - Various other Federal, State and Local environmental constraints

- 5) Availability of Right-of-Way  
Willingness of private landowners to allow County purchase of needed property
- 6) Volume and type of Traffic  
Daily, Yearly amount of vehicles using particular roadway  
Amount of heavy truck traffic using particular roadway
- 7) History, location and makeup of any particular roadway  
Many roadways were never engineered, but simply evolved from old wagon roads  
Depth and thickness of previous paving and subgrade  
Effects of snow, rain and drainage control on a particular roadway

All of these factors, and many more, contribute to the decision-making process on a daily, weekly, monthly and yearly basis. We are asked to balance all of these competing needs and requirements to manage over 600 miles of roadways in Tuolumne County. These roadways vary from very low volume roadways serving as little as one resident in very rural parts of the County to very high speed traffic with a large volume of trucks on Parrott's Ferry, O'Byrnes Ferry and La Grange Roads. The needs of these various roadways are very different. With limited resources available to the department, the decision-making process involves an on-going series of trade-offs. Some needs are met, some are "band-aided" and others are delayed until an uncertain future date.

Overall, we win some battles but are losing the war. The average condition of the roadways is deteriorating and the average age of the roadways is continuing to increase. Many roadways are beyond their original intended design life and will require extensive and expensive reconstruction in order to allow the public to use the roadways in the manner they have become accustomed to. The funding simply is not there to meet this need. Thus, the department makes every effort to spread out our available funding as far as we possibly can and provide some maintenance to as many roadways as we can. This has the effect of slowing down, but not preventing, the deterioration of the roadways. Often, we are only financially able to deal with the symptom, and not the cause of, many of the problems on the roadways.

In conclusion, this business is often more art than science. Unless significant increases in funding occur, Public Works will continue to slowly lose the battle of keeping our roadways in a good state of repair. We simply do not have sufficient funding, equipment or manpower to keep up with the needs. What we do have is the knowledge of what the needs are. Without the needed resources this knowledge does little to help the problem.

PMR/cj

A:\GRNDJURY.WPD





## County Administrator's Office

C. Brent Wallace  
County Administrator

Tuolumne County Administration Center  
2 South Green Street  
Sonora, CA 95370  
Phone (209) 533-5511  
FAX (209) 533-5510

August 31, 1999

TO: Board of Supervisors

FROM: C. Brent Wallace, County Administrator *C. Brent Wallace*

SUBJECT: Response to 1998-99 Grand Jury Report - Jamestown Mine Property

The 1998-99 Grand Jury is to be complimented for taking the time to review files and other documents relating to the acquisition of the Jamestown Mine by the County. The multitude of issues relating to the site is complex and is not contained within a single document. The required research by the Grand Jury was considerable. In their research the Grand Jury made a few statements in their Findings and Conclusions that are not accurate. Prior to responding to the Recommendations contained in the Final Report, several comments are required to correct information contained in the Findings section of the report.

### FINDINGS

- On page 22, the second full paragraph it is stated, "In March of 1999, the Board of Supervisors approved consideration of a pledge of revenue of \$2,200,000 to the State to show good intent and determination to effect completion of the reclamation process." This statement contains the essence of the County's action, but does not accurately reflect the Board of Supervisor's action.

The Board of Supervisors has not pledged a specific amount of money for the reclamation process, but pledged a source of revenue, the County General Fund, to complete closure of the Tailings Management Facility (tailings pond). The total cost to reclaim the site is unknown since the State views the entire site without regard to ownership. Thus, the County is not only unable to pledge a specific amount of revenue for the reclamation process, but would not pledge revenue to complete reclamation of property that it does not own. Additionally, the County has pledged revenue to perform that work necessary to provide closure of the tailings pond only, not reclaim the entire site. This is a subtle, but critical distinction for cost and responsibility purposes.

- With regard to the proposed Juvenile Detention Facility to be constructed at the Jamestown Mine site, on page 22, the third full paragraph it is stated, "Even though the three counties will pay their fair share of the construction costs, Tuolumne County will absorb the majority of the costs due to the facility being located in Tuolumne County."

The construction cost for the Regional Juvenile Detention Facility will be constructed using a grant of \$5 million from the State. The three participating have a 10% hard dollar matching requirement. The County of Tuolumne agreed to construct the infrastructure to the site, which includes an upgrade of High School Road and the installation of required utilities. The only costs that the County will absorb that are greater than Calaveras and Amador Counties are those costs that will benefit Tuolumne County for the development of the Jamestown Mine site, regardless of the type of development.

## Conclusions

- On page 23, with regard to the Juvenile Facility, in the second full paragraph it is stated, "Monies were originally allocated for the development of the infrastructure to be completed but has not occurred."

This statement is not technically correct. The Board of Supervisors pledged a maximum amount of funds to be used for infrastructure improvements, but did not appropriate funds to complete those improvements. Funds will not be recommended for expenditure until final engineering plans are completed.

## Recommendations

1. The Grand Jury has recommended that the County aggressively pursue grant monies to help with the cost of reclaiming and developing the mine site.

Staff concurs with this recommendation.

2. The Grand Jury has recommended that the County contract out for experts in the field of commercial site development and to assist with the development of a Master Plan for use of the property.

The County currently provides funding for the Economic Development Company (EDC). It is staff's recommendation that the Board of Supervisors request EDC support for the commercial development of the site, if the Board determines that commercial development will occur at the site.

It is doubtful that the site could be developed commercially without required infrastructure improvements. The scope of the planning with the engineering of the infrastructure improvements is to size those improvements to maximum capacity to allow for development.

The site currently has a Master Plan for zoning purposes. Staff will complete an internal Master Plan for the site to be presented to the Board prior to the end of the calendar year. The Board could use both plans as the basis for further work by a consultant to develop a Master Plan that met other Board interests if, in fact, there are other interests to address.

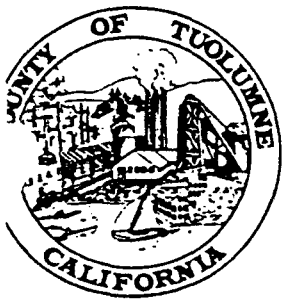
Staff has not moved forward on the completion of a Master Plan, which was stated to the Grand Jury due to the uncertainty of the requirements of the State Regional Water Quality Control Board. It would not appear to be prudent to complete a Master Plan with unknown potential costs for closure of the facility.

3. The Grand Jury recommends that the County should encourage economic development by others and not undertake such projects itself. The Grand Jury states that government bureaucracies are not well structured or suited to single-minded direction or creative thinking and that there are not financial resources for successful land development.

Recommendation number three in the Grand Jury report is a curious statement. It is not really a recommendation as much as it is a statement about perceived capabilities of Tuolumne County government specifically and government in general to complete economic development work. The facts would tend to indicate otherwise. Local government in California is responsible for a substantial amount of the economic development that occurs in the state through Redevelopment and Enterprise Zone Development, as well as, a multitude of local government operated Economic Development offices. Local government has financial resources and an entire section of the law that is not available to the private sector. In fact, it is not uncommon for public-private partnerships to be formed for development purposes. The statement that the County does not have sufficient creativity or cannot think in development terms is inaccurate. It may be true that Tuolumne County should place more emphasis in this area, but it is inaccurate to state that the County does not have the ability to do this type of work.

4. The Grand Jury recommends that the County should clarify the rights and options to the 1500-acre feet of water that was counted as an asset in the acquisition of the mine property and start making plans to sell that water.

Staff concurs with the portion of the recommendation regarding clarify the rights and options to the 1500 acre feet of water. Any potential sale of the water should be based upon a study of all potential uses for that water, assuming that the water can be delivered in an uninterrupted supply.



# SHERIFF'S DEPARTMENT

Richard L. Rogers  
Sheriff-Coroner

Michael M. Costa  
Assistant Sheriff  
Lee Sanford  
Assistant Sheriff

August 13, 1999

TO: C. Brent Wallace, County Administrator  
FROM: Richard L. Rogers, Sheriff-Coroner *RWR*  
SUBJECT: Response to FY 1998-99 Grand Jury Final Report

## SHERIFF'S DEPARTMENT

### FINDINGS

The Tuolumne County Sheriff's Department appears well managed, and efficient for an organization that must live within its small County budget. Because this jury had received two employee complaints regarding working conditions, we have chosen to report on some serious space and maintenance problems that exist in the department. The dedicated officers and staff of this department need the tools and room to get the job done!

1. Offices have been created in the basement of the facility that have no heating or other ventilation. The February visit by a Grand Jury member found employees dressed for outdoors, and creating steam as they spoke. Jurors visiting in April were told that this office was closed, but later found employees working there.

#### Response

The problem is being addressed and funding is now available to refurbish the Smythe Building on Seco Street and locate a modular office building on the same property in order to move the staff out of the basement to healthier accommodations.

2. Department growth has forced desks into hallways, and important Coroner's files to be piled in halls as well.

#### Response

The Civil-Coroner and Records Divisions are extremely crowded as far as personnel working space and records areas are concerned. The Department is presently working towards converting to a computer digitized Records Management System as part of our Data 911 CAD/CLETS upgrade project which will be completed later this calendar year. Additionally, the Department would like to obtain an Optical-Disk Scanner so that records, that are not a part of our computerized Department Records Management System, can be scanned and stored on disk for later retrieval. This would cut down on our paper records storage which is space intensive. We are presently exploring the possibility of grant funding for the Optical-Disk Scanner.

The true space needs for the Sheriff's Department can only be met by the construction of a

new Sheriff's facility which is being presently addressed in the County's FY 1999-2000 budget with \$168,000 allocated for site selection and preliminary architectural planning.

3. A large, stationary emergency generator located in the basement area creates fumes and noise that makes the basement a poor choice for offices, particularly those without ventilation.

**Response**

The generator causes all sorts of health hazards and funding has been approved for its relocation outside the building. With the move of the basement office personnel to the Smythe property on Seco Street, the basement offices will be removed which will allow that portion of the basement to be returned to its original constructed use, parking.

4. Unsecured fuel drums and exit doors in the area of the generator seem to be a security and safety problem. "Trustees" were noted to be passing through this area without supervision.

**Response**

The diesel drums are not volatile and do not present any safety concerns according to the California Occupational Safety and Health Agency. Departmental security in the basement revolves around the doors and gates being closed and does not involve the present location of the diesel drums. The doors and gates are monitored electronically and by video to ensure security. "Trustees" do walk thru the Department unsupervised, that is why they are "trustees".

5. Basement areas such as the deputy's locker room, and the evidence room are subject to sewage leakage from jail areas above. A water leak was noted as we visited.

**Response**

Facilities Management is immediately notified to repair and clean-up any leakage from water or sewer pipes. Because of the health hazards created by leakage, this is one of the primary reasons why personnel are being relocated from the basement to the Smythe Property on Seco Street. The deputies' locker room and the evidence room are part of that relocation.

6. Evidence room needs a new freezer, not the one salvaged from another agency. We were concerned that Trustees could work without apparent supervision in this area.

**Response**

A new freezer for the evidence room was not identified in this year's budget request from the Evidence Technician, however since the need has now been identified, arrangements will be made. We will not jeopardize any case by not maintaining proper cold storage for evidence. Security for our evidence room is paramount and no unauthorized personnel have access in an unsupervised capacity, especially any trustees.

7. In the dispatch office, there is no room for an EMS dispatcher, but the Department must be commended for getting the LiveScan identity and background checking system on line this year.

**Response**

The dispatch center has three positions, one which handles ambulance dispatching but was designed for EMS (Emergency Medical System) dispatching. The reason that EMS dispatching has not been fully implemented is the lack of sufficient staffing, not the lack of the physical dispatch position on the consoles in the dispatch center. Four additional full-time dispatchers are needed according to the last outside consultant. EMS dispatching cannot be phased in on a part-

time basis. This item was particularly addressed with the County CAO and the Board of Supervisors during this year's budget process. Although it was not funded in the FY 1999-2000 budget, the County sincerely appears to be concerned about the issue and has requested further information which is being supplied by the Sheriff's Department.

LiveScan digitized fingerprint machines are now on-line and are operational at the Civil Division of the Sheriff's Department, in the Jail, at the Jamestown CSU Office and at Sonora Police Department.

## RECOMMENDATION

*The Grand Jury recommends the County continue with efforts to secure new facilities for the Sheriff's Department, and seek grant funds that might be available for such a purpose.*

### Response

Presently, the operational divisions of the Sheriff's Department are located in four separate locations in different areas of Tuolumne County. With the upcoming interim move of personnel to the Smythe property located on Seco Street, the Department will be divided even more to five different locations. The situation has become a management nightmare because separation has an adverse effect on operational efficiency and effectiveness. It is also extremely inconvenient for the public who sometimes has to go to different locations to avail themselves of Departmental services. A new facility is long overdue.

The County has budgeted \$168,000 in GIGER Funds in the FY 1999-2000 budget for site selection and preliminary architectural planning for a new Sheriff's Office and administration facility. This facility will be independent of the jail, but hopefully the new site will be large enough to accommodate construction of a future jail as well. The project will gain momentum and a search will be conducted for feasible construction funding when the new Sheriff's Staff Analyst gets on board. At this time, final site acquisition and final architectural planning is ideally projected for the FY 2000-2001 budget with construction commencing the following season.

## RECOMMENDATION

*The Grand Jury recommends that the Sheriff's Department work with other agencies or departments to identify and abate health and safety concerns that exist in the basement of its present facility. We hope that any expansion to new facilities will result in a closure of the substandard offices and storage in the basement.*

### Response

California Occupational Safety and Health Agency conducted a safety inspection of the Sheriff's Department facility and determined the air quality in the basement is sometimes not conducive to its being inhabited by personnel working in offices. This is being immediately abated by the prohibition of parking of vehicles in the basement area. Vehicle exhaust is the

primary cause of this situation.

Frequent leakage of sewer and water pipes in the basement from the jail areas above are consistently being cleaned up and repaired as soon as they occur.

County funding has been made available in the FY 1999-2000 budget to move the generator from its current location in the basement to a location outside the building. When the generator automatically turns on during a power outage, the exhaust finds its way into the basement offices.

As stated earlier, the County is funding the refurbishing of the Smythe Building on Seco Street to house the personnel currently housed in basement offices, which includes the Patrol Division and Property & Evidence. Additional funding has been secured for a 24 ft. x 60 ft. modular office building to be moved onto the Smythe property next to the permanent Smythe building to provide additional office space to facilitate the relocation of personnel from the basement. The move to these buildings is just an interim solution until the construction of the new Sheriff's Facility is completed.

The Sheriff's Department has always made every effort to ensure the safety and welfare of its employees and inmates. When discrepancies are discovered and brought to the attention of the Sheriff's Department, immediate solutions are sought. History indicates that funding is not usually available, especially mid fiscal year, therefore the least expensive method to abate the immediate problem is implemented, which is often a temporary solution.

## COUNTY JAIL

### FINDINGS

The Grand Jury was pleased to find the jail to be efficiently run and managed. This facility is operated at full capacity throughout the year and has no space for expanding its inmate population.

1. Because the jail is normally full, any special case or situation that requires isolation of an inmate means that other inmates must be released, or moved to accommodate the special need.

#### Response

The jail population is capped at 120 inmates in accordance with a Federal lawsuit. Given the lineal style of our current jail construction and a finite level of staffing, it was determined no more than 120 can be supervised effectively. For years during the budget process, the funding has not been available for additional Jail Deputy staffing to supervise inmates, therefore the maximum number of inmates in custody must remain at 120. If the Sheriff's Department were funded for an additional fourteen (14) Jail Deputies and one (1) Sergeant, it could increase the jail population to its design capacity of 148. Because of the "Law of Diminishing Returns", additional staffing to the present facility is not an economically feasible solution. The most long-term practical solution would be the construction of a new pod style jail which requires a much lower staff to inmate ratio for its operation than our present lineal style jail. Depending on the availability of construction funding, a Board of Corrections (BOC) Jail Construction Grant will be sought next year by the Sheriff's Department for construction of a new pod style jail facility with an approximate 250 inmate capacity. This construction grant funding is on a competitive basis and will require a twenty-five percent (25%) match by the County.

2. The County can work with Sierra Conservation Center to accommodate some of its overcrowding, when possible.

#### Response

While there is an informal agreement to house an occasional inmate at Sierra Conservation Center, it is usually for security or classification purposes (safe keeper). There is no provision to house inmates there on an ongoing basis. It would require a contract with the Department of Corrections and they are not predisposed to contract with counties to house inmates other than those remanded to them by the court. Sierra Conservation Center is operating at 161% of its design capacity.

3. The food service area appears to be clean and efficiently run. (Jurors did have some concern that leftover food was served without refrigeration in the employee break room area.)

#### Response

The food in the Jail Deputies' break room is only left there during eating periods. It is not left there long enough to spoil. Milk, mayonnaise and other perishables are in a tray filled with ice. The remainder of the food is not refrigerated, as it would be in a restaurant or in a home setting.



4. A new video arraignment computer system located in the inmate law library seems to be operating well. The system saves the County transportation, security, and court time.

Response

The video arraignment imaging system is effective and efficient when it is operational. There have been maintenance problems, which Facilities Management is sometimes slow in resolving because of staffing and funding issues. Currently, only one court/judge uses the video arraignment system. It would result in savings in inmate transportation costs and court time if other judges would also consent to use it.

## TUOLUMNE NARCOTICS TEAM

### FINDINGS

The TNT deals with the identification and investigation of drug labs, street dealers and drug cleanup in the County. They also deal with drug education in the schools and identifying minors who may be in danger from parents involved in drug and alcohol abuse and in drug raids. TNT does not deal with juvenile crimes. If juveniles are present during a drug raid, Child Welfare Services are called. Two probation officers in adult programs work with TNT. The Tuolumne Narcotics Team consist of one sergeant, one investigator, two deputies and one sheriff's clerk.

In 1997 to 1998, on a budget of \$424,053 (10% of the total Sheriff's budget, see graph), there has been 188 drug related arrests and 22 meth labs closed. There were 36 weapons confiscated. Each officer must come into the program with 5 years experience (4 years on the street and 1 in the office). They must attend 2 weeks of basic narcotics school, 2 weeks of lab investigation school and 1 week of lab safety school. They must receive updates every year. If training is not there when an officer goes for a court response, the case may be thrown out of court. Each officer must receive a medical exam every year. The deputies must be rotated out of the program every 3 years. Before going out on the street again, the officer must spend 1 year in an office. This is for mental as well as physical health.

### Response

In grant year 1998-99 on a budget of \$418,211, there were 163 cases worked, 175 drug related arrests and 22 meth labs closed. There were 135 weapons confiscated with 115 being firearms. The TNT program is one of the most successful law enforcement programs in the County.

A Deputy or Investigator may be selected for assignment to TNT upon completion of their probationary period, 1 year as a Deputy Sheriff or Investigator. Assignments are for a three year period and this includes the supervising Sergeant as well. The assignments of the personnel are staggered to keep experience and continuity within the unit. At the conclusion of the three year assignment, the employee returns to their previous assignment (Patrol or Investigations) and must remain in that assignment for one year becoming eligible for another special assignment. This rotational program is for career enhancement, prevention of job burnout, and the prevention of potential corruption associated with long periods of assignment to narcotics enforcement.

### RECOMMENDATIONS

*It is strongly felt by the Grand Jury that not enough funds are allocated from the Sheriff's budget to give adequate support to the TNT program. The Grand Jury questioned that money received from asset forfeiture is going into general funding and why this money is not going directly into drug programs or TNT equipment? At the present time there is a need for a training budget upgrade, night vision glasses, upgraded lab Tyvex suits and respirators. Th office needs a fax machine and a computer scanner.*

## Response

The budget for TNT is separate from the Sheriff-Coroner budget. TNT funding is a combination of State grant funding from the Office of Criminal Justice Planning (OCJP), Federal contract funds from the United States Forest Service (USFS), Asset Forfeiture, and County General Funds.

Asset Forfeiture monies do not go into the General Fund. These monies are placed into a trust fund as required by OCJP and are returned to TNT for operating expenses, training and equipment. As Asset Forfeiture monies or outside funding dwindle, an increasing portion of General Fund monies are required to maintain the current program. The General Fund contribution to TNT in FY 1998-99 was \$180,192.

Training and equipment are budgetary items and the Sheriff's Department agrees that additional training and equipment are needed. However, additional General Fund contributions would require cuts in other budgets which would diminish the operations of other Sheriff's Department functions such as patrol and investigations.

TNT personnel are assigned County owned vehicles and one spare vehicle is available for undercover operations. Vehicles are rotated within the Sheriff's Department on a periodic basis and TNT shares in that vehicle rotation. TNT does have the ability, within its budget, to rent a vehicle should the need arise.



Post Office Box 4020 • Sonora, California 95370 • (800)446-1333 • (209)533-4420 • FAX: (209)533-0956

August 2, 1999

Mr. Mark Thornton, Chairman  
Tuolumne County Board of Supervisors  
2 South Green Street  
Sonora, CA 95370

Dear Mark:

As discussed with yourself and C. Brent Wallace, County Administrator, our Board of Directors have instructed me to issue an appeal to the Tuolumne County Grand Jury Report dated June 30, 1999. The reference number (code number) on this appeal is 933.05 per Mr. Wallace.

This request for review is based on incorrect information regarding the reporting procedures established for the Tuolumne County Visitors Bureau and instructions given us by a prior County Administrator when it was suggested that we no longer hold quarterly meetings of the Tuolumne County / City of Sonora Joint Tourism Committee. This committee consisted of the County Administrator, two members of the Board of Supervisors, the City Administrator and two members of the City Council. This arrangement was detailed in our original contract with the County and the City.

When for one full year the County representatives were unable to attend any of the four quarterly meetings (briefings) I initiated a call to the County Administrator with concern on how we should report. At that time I was told that the County members of the Joint Tourism committee were too busy to attend these sessions and that the following were required, on an annual basis:

- a. A copy of our annual budget.
- b. A copy of our year-end financial reports
- c. Our Annual Report
- d. Our Marketing Plan or any updates to that marketing plan.

The Visitors Bureau has done exactly that from 1992-1993 forward.

Fortunately, Supervisor Rotelli was one of the Joint Tourism Committee members when this took place and recalls why the sessions were discontinued. He reported at the July 13th Board meeting that these briefings were "a waste of time because the Visitors Bureau was doing what it was supposed to do with the money and the Board did not need quarterly reports or meetings". Greg Applegate, City Administrator, Ron Stearn and Jack Rucker, City Councilmen and past mayors, attended all or most of those quarterly meetings and noted the absence of any County representative.

According to the Grand Jury Report, no year-end financial statements from the Visitors Bureau were on file in the County Auditors office after 1993. Evidently someone from the Board of Supervisors or a previous County Administrator was forwarding our year-end financials to the Auditor / Controller, because we had never been instructed to do so. All of our reports and financial statements only went to the County Administrator and the Board of Supervisors.

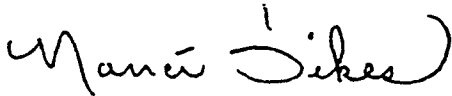
This in no way reflects on the Grand Jury or on that member of the Grand Jury who looked for these documents in the Auditors office. Obviously, that is where he or she was told to look. However, the report would indicate that the Tuolumne County Visitors Bureau failed to report to the County from 1992-1993 forward and that is incorrect!

In the meeting with yourself, Mr. Wallace, three members of our Board of Directors and myself, we tried to determine where these documents (which were either mailed or hand delivered) had actually gone. You, Mark, had different years than Brent Wallace had on file, Supervisor Rotelli said he remembered getting them each year but had no reason to keep them and for that reason we have copied all annual reports of the Tuolumne County Visitors Bureau and the year-end financial statements from 1993 forward and hand delivered them to the County Administrators office, to yourself as Chairman of the Board and to Mr. Tim Johnson's office, the Auditor / Controller.

We understand this appeal can in no-way change what is already published in the Grand Jury Report for 1998-1999. However, we look to this appeal as a means of recording (in the public record) that the Tuolumne County Visitors Bureau has reported to the County exactly as the County requested. It should also be noted that in the future all such documents will be sent registered mail or require staff signatures upon delivery. As in the past these documents will be sent or hand delivered to the County Administrator and the Board of Supervisors. In addition, it will also go to the office of the Auditor / Controller.

We sincerely request that you consider this request for review and allow our organization the opportunity to remove itself from the dark cloud which surrounds us during this period of suspicions and misinformation.

Yours Sincerely,



Nanci Sikes  
Executive Director

NS/lar

Enc. 2

cc: Board of Supervisors:  
Dick Pland, Supervisor  
Don Ratzlaff, Supervisor  
Larry Rotelli, Supervisor  
Mark Thornton, Chairman  
Laurie Sylwester, Supervisor  
C. Brent Wallace, County Administrator  
Patrick Greenwell, County Council  
Tim Johnson, Auditor / Controller