

# SUTTER COUNTY



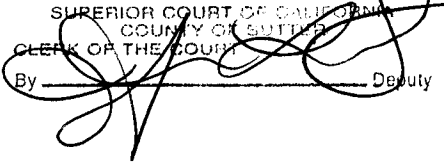
## Grand Jury Report

2007-  
2008



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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SUTTER  
CLERK OF THE COURT  
By  Deputy

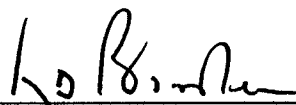
# Final Report


## of the

## 2007-2008

## Sutter County

## Grand Jury

  
Kenneth D. Brooke,  
Foreperson

  
Christopher R. Chandler,  
Presiding Judge





# Sutter County Grand Jury

May 15<sup>th</sup>, 2008

The Honorable Christopher R. Chandler  
Presiding Judge, Sutter County Superior Court  
446 Second Street  
Yuba City, CA 95991

Dear Judge Chandler:

On behalf of the 2007-2008 Sutter County Grand Jury, it is my honor to submit our Final Report. The members of the Grand Jury sincerely hope that our fellow citizens will find the information contained within it useful.

The Discussions, Findings, and Recommendations that make up the report represent our collective observations and judgments. We endeavored, always, to fully and fairly understand those issues on which we would render an opinion. Guiding us in this process were the oaths that we swore as jurors and, of course, the integrity we each brought to our service.

We wish to personally acknowledge preceding Sutter County Grand Juries for setting a standard to which we could aspire. Members of the 2006-2007 Grand Jury, particularly Foreperson Richard Nelson, are and will always be an inspiration to me, personally.

This report would not have been possible without the assistance of many people. The Grand Jury has acknowledged them in our report. Jennifer Lambert and Laura Santana, members of the court staff, have been simply amazing and we couldn't possibly thank them enough for their help and patience.

This report is the tangible record of the Grand Jury's work throughout the year. There is, however, an intangible record that only my eighteen fellow jurors and I can share. That is the record of shared dedication, sacrifice, friendship, laughter, and even some conflict. My fellow grand jurors are truly fine people and it has been my pleasure to know and serve with each and every one of them.

It has been my privilege to serve as Foreperson of the 2007-2008 Sutter County Grand Jury.

Respectfully submitted,

  
Kenneth D. Brooke  
Foreperson

2007-2008 Sutter County Grand Jury

Robert Ahu

Robert William Ahu

Kimber Lee Andersen

Kimber Lee Andersen

Glenn Aronowitz

Glenn Aronowitz

Maria A. Arreola

Maria A. Arreola

Deborah Lee Baker

Deborah Lee Baker

Kevin C. Bermingham

Kevin C. Bermingham

Kenneth D. Brooke

Kenneth D. Brooke

Nance Ann Contreras

Nance Ann Contreras

Joan D. Doolittle

Joan D. Doolittle

Kent Bryon Ekberg

Kent Bryon Ekberg

John Edward Elliott

John Edward Elliott

Therese Ann Guidera

Therese Ann Guidera

Douglas J. Heacock

Douglas J. Heacock

Satoko Shinozaki Kim

Satoko Shinozaki Kim

Tami Rene King

Tami Rene King

Jody Marie McGinnis

Jody Marie McGinnis

Sara N. Neukirchner

Sara N. Neukirchner

Cynthia Lee Taylor

Cynthia Lee Taylor

Diane Rebecca Uutela

Diane Rebecca Uutela



# Table of Contents

## **Audit & Finance Committee**

Board of Supervisor's Mileage Reimbursement Claim	5
Annual Financial Report and Audit	16
Travel & Business Expense Policy	35
Publication of Approved Documents	79
City of Live Oak Pension Increase	82

## **County Government Committee**

Brown Act Complaint	94
Salaries of the Board of Supervisors	101
The County Administrator	108
2008 Primary Election	116
Replacement of Elected Officials	121

## **Criminal Justice Committee**

Gang Enforcement in our Community	126
Sutter County Jail	131
Yuba-Sutter Juvenile Hall / Camp Singer Youth Guidance Center	136
Leo Chesney Community Correctional Facility	142
Sheriff's Department	145
Yuba City Police Department	146

## **Education Committee**

Encinal School	150
Live Oak Unified School District	153
Superintendent of Schools	156
Sutter Union High School District	161

## **Fire & Emergency Committee**

Fire Services	164
Emergency Services Division	166

## **Health & Mental Health Committee**

Human Services – Health Division	169
Sutter – Yuba Mental Health Services & Psychiatric Emergency Services	173
Sutter County Children and Families Commission	176

## **Planning Committee**

General Plan Update	185
Levee District 1	187
Planning Commission	191
Regional Sewer & Water Treatment Plant	195

## **Continuity Committee**

Board of Supervisor's Response to 2006-2007 Grand Jury Report	198
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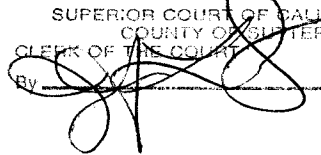
<b>Response Matrix</b>	202
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<b>Acknowledgements</b>	203
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Report  
of the  
2007-2008  
Sutter County Grand Jury

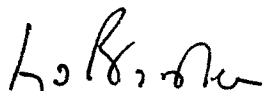
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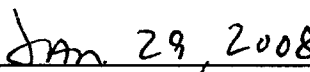
FEB 15 2008

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SUTTER  
CLERK OF THE COURT  
BY  Deputy

ROBERT WILLIAM AHU, KIMBER LEE ANDERSEN, GLENN ARONOWITZ,  
MARIA A. ARREOLA, DEBORAH LEE BAKER, KEVIN CHARLES BERMINGHAM,  
KENNETH DEAN BROOKE-FOREPERSON, NANCE ANN CONTRERAS,  
JOAN DUBUISSON DOOLITTLE, KENT BRYON EKBERG, JOHN EDWARD ELLIOTT,  
THERESE ANN GUIDERA, DOUGLAS JAMES HEACOCK, SATOKO SHINOZAKI KIM,  
TAMI RENE KING, JODY MARIE MCGINNIS, SARA NEILAH NEUKIRCHNER,  
CYNTHIA LEE TAYLOR, DIANE REBECCA UUTELA


Final report [pursuant to Penal Code Section 933(a)] on  
subject: Board of Supervisor's Mileage Reimbursement.

  
Kenneth D. Brooke,  
07-08 Grand Jury Foreperson

  
Date

\*\*\*\*\*

Pursuant to Penal Code Section 933(a), the Presiding Judge makes the finding that the foregoing report is in compliance with Title 4, Chapter 3 of the Penal Code ("Powers and Duties of the Grand Jury").

  
Christopher R. Chandler, Presiding Judge  
Superior Court of California, County of Sutter  
2-8-08



# Board of Supervisor's Mileage Reimbursement

## Introduction:

The Grand Jury received and investigated a complaint regarding mileage reimbursement claims made by Sutter County Supervisor, Dan Silva.

The complaint was investigated by the Audit & Finance Committee comprised of the following Jurors: Deborah Baker, Doug Heacock, John Elliott & Sara Neukirchner.

## Discussion:

Supervisor Silva's mileage claims have routinely been rounded to zeroes for every destination he claims on his expense report. The 2006-2007 Grand Jury reported a mileage reimbursement discrepancy and based on their recommendations, a revised county ordinance (Sec. 52-592 – 52-599) was adopted to require Supervisors to list their mileage accurately on all claims and to clarify the ambiguity in the previous rules for automobile allowances:

### **The previous Ordinance stated:**

*Sec. 52-592 01/04 (Exhibit A):*

*"There shall be no entitlement to compensation under this section for travel between starting points and destinations located in Sutter or Yuba Counties."*

*Sec. 52-599 09/02 (Exhibit B):*

*"Each Supervisor shall receive an automobile allowance in the amount of one hundred dollars (\$100) per month or shall receive actual mileage in accordance with the mileage reimbursement rate specified in Section 52-592 of the Sutter County Ordinance code, at the option of the Board member, for attending to the business of the County within the boundaries of the Yuba-Sutter County areas."*

### **The revised Ordinance (Sec. 52-592 04/07) states:**

*Sec. 52-592 04/07 (Exhibit C):*

*"There shall be no entitlement to compensation under this section for travel between starting points and destinations located within Sutter or Yuba counties if the supervisor has elected the automobile allowance provided for in section 52-599(a)."*

*Sec. 52-599 04/07 (Exhibit D):*

*"For attending to the business of the County within the boundaries of Sutter and Yuba counties, each Supervisor may choose to either:*

- a) Receive an automobile allowance in the amount of one hundred dollars (\$100) per month or,*
- b) Receive actual mileage pursuant to the mileage reimbursement rate provisions of section 52-592."*

This Ordinance was unanimously carried and adopted on March 27, 2007. Supervisor Silva submitted a claim in June of 2007 again rounding his mileage and not recording the accurate mileage. A subsequent audit of these

forms found several discrepancies in the actual mileage versus the mileage recorded. The amounts were insignificant enough to not warrant a request for recompense from the Auditor-Controller.

**In a letter from the Auditor-Controller's office to Dan Silva, dated October 29, 2007 (Exhibit E):**

*"... the \$1,858.50 [June 6, 2007] claim was paid but we were only able to approve \$1,353.67 because additional miles claimed were not substantiated....*

*... As a result of the Grand Jury's recommendation... we extensively analyzed and audited your mileage claims. In addition to the unsubstantiated mileage noted above we performed the same analysis on the claim we had previously paid and of the \$2,823.99 claimed only \$1,924.02 would be approved on this basis because the balance would be disallowed because additional miles claimed were not substantiated. The amount you actually received, \$1,971.80, is not materially different from the mileage you were entitled to as a result of the audit so we are not recommending any adjustment."*

Since 2005, the Sutter County Board of Supervisor's Expense and County Elected Official Ethics Policy has required a 120-day submittal period for reimbursement.

**From the Board of Supervisor's Expense and County Elected Official Ethics Policy (12/05 1.h.ii.) (Exhibit F):**

*"Members of the Board of Supervisors shall submit expense reports to the County Auditor-Controller no later than the 120<sup>th</sup> calendar day after the expense is incurred, or a reasonable time thereafter if the Board of Supervisors finds that circumstances are appropriate for a later submission, and the reports shall be accompanied by the receipts documenting each expense."*

Supervisor Silva submitted his requests for mileage reimbursement as few as two times a year rather than within the recommended time frame.

Following an interview with Supervisor Silva, Silva readily admits he was in error and cites poor record keeping and "pleads ignorance" as an explanation for any policy violations. Supervisor Silva also stated that while he rounded to zeroes, he often under-claimed miles that would have otherwise been payable.

**In a letter from Dan Silva to the Auditor-Controller's office, dated September 5, 2007 (Exhibit G):**

*"Although I round my mileage, I do not claim parking for the meetings in Sacramento or for my business lunches. The parking costs alone range from \$15-\$25 each business trip, and with the per diem for lunch set at \$16, I have saved the County a considerable amount of money. The following is a recapitulation of my monthly actual miles traveled compared to claimed miles:*

	<u>Claimed</u>	<u>Actual</u>
February	872	956
March	987	1027
April	650	653.5
May	1323	1419

*I did not revise the previously claimed mileage... As you can see, the claimed amount is considerably less than the actual miles traveled for the month. "*

Supervisor Silva further states that future submittals will only include the previous 120 day's worth of expenses and will accurately record his start and destination mileage.



## **Findings:**

Supervisor Silva violated two Sutter County policies, the Sutter County Salary Code Ordinance (sec. 52-599(b)) and the Sutter County Board of Supervisor's Expense and County Elected Official Ethics Policy (12/05 1.h.ii.) on November 15, 2006 and June 5, 2007 by filing reports that were not representative of actual mileage, exceeded a reasonable time frame and the 120 day reimbursement period.

The Grand Jury makes no finding as to whether Supervisor Silva inflated or under-stated the mileage reimbursement that was due to him.

The Grand Jury finds that inaccurate and untimely record keeping is the cause of these violations. The Grand Jury further finds that Supervisor Silva acknowledges this poor record keeping and "pleads ignorance" of his own policies. Supervisor Silva makes the assurance that future expense reimbursements will be made timely within 120 days or less.

The Grand Jury finds that the procedure for submitting expense reimbursement claims is to submit their reports to the County Counsel at which time they are checked for legality, endorsed by the County Counsel and forwarded to the Auditor-Controller's office for payment. The Grand Jury finds that no other Supervisors are in violation of these policies in this way. The four remaining Supervisors all elected to take the \$100 flat mileage reimbursement.

Through the course of this investigation, the Grand Jury also found that it is the responsibility of the individual submitting the reports to audit and report accurately and with integrity.

## **Recommendations:**

It is the continued recommendation of the Grand Jury that all expenses be recorded with complete accuracy, including start & destination mileage, meals that are on county time and all other travel or business expenses that are allowed in the Sutter County Travel & Business Expense Policy, The Board of Supervisor's and Elected County Official Ethics Policy and the Sutter County Ordinances Salary Code Sections 52-592 and 52-599.

The Grand Jury further recommends that all expense reimbursement requests be filed every 120 days or less to comply with the Board of Supervisor's and Elected County Official Ethics Policy.

While it is not the obligation of the County Counsel to check for truthfulness in documents submitted and signed by Supervisors, glaring and chronic disregard of county policy should be apparent with even a cursory glance. The Grand Jury recommends that each Supervisor and County Counsel, take a second look at each of the expense reimbursement forms to which they are signing their names, to check for veracity as well as compensability.

Finally, the Grand Jury recommends that the Auditor-Controller's office provide all of the Supervisors with an expense reimbursement form before their next reimbursement that includes spaces for start and destination points to accurately record mileage and more space to detail other expenses.

## **Respondents:**

Dan Silva, Sutter County Board of Supervisors  
Ron Erickson, County Counsel  
Robert Stark, Auditor-Controller

SALARY CODE

SEC. 52-592 - 52-594

Chapter 52  
Division 1

## SALARY CODE

## SECTIONS:

52-592	Board of Supervisors - Mileage
52-593	Board of Supervisors - Salary
52-594	Insurance
52-595	Social Security
52-596	Retirement
52-597	Orientation of Supervisors-Elect
52-599	Automobile Allowance

52-592 BOARD OF SUPERVISORS - MILEAGE

Each supervisor shall receive his or her actual expenses while attending to the business of the County and mileage allowances for official travel at the IRS approved rate of mileage for business miles driven.

There shall be no entitlement to compensation under this section for travel between starting points and destinations located in Sutter or Yuba Counties.

([967,1049,1084,1302]Ord. 1323, Sec. 1; , Jan. 15, 2002)

52-593 BOARD OF SUPERVISORS - SALARY

The first day of the pay period following the effective date of this section, the monthly salary of each supervisor shall be two thousand eight hundred and sixteen dollars and twenty-seven cents (\$2,816.27).

Effective December 25, 2004, the monthly salary of each supervisor shall be two thousand eight hundred and seventy-two dollars and sixty cents (\$2,872.60).

([967,1049,1081,1211,1249,1277,1297,1302,1323,1350]Ord. 1377, Sec. 1; Jan. 13, 2004)

52-594 INSURANCE

The first day of the month following the effective date of this section, the health, dental, vision and life insurance benefits shall be consistent with the benefits in effect for employees in the Management Unit through December 31, 2005, including participation in the Interval Revenue Code Section 125 Plan.

((1027,1102,1183,1245,1269,1277,1284,1297,1302,1315,1343]Ord. 1377, Sec. 2, Jan. 13, 2004)



SALARY CODE

SEC. 52-599

**52-599 AUTOMOBILE ALLOWANCE**

Each supervisor shall receive an automobile allowance in the amount of one hundred dollars (\$100.00) per month or shall receive actual mileage in accordance with the mileage reimbursement rate specified in Section 52-592 of the Sutter County Ordinance Code, at the option of the Board member, for attending to the business of the County within the boundaries of the Yuba-Sutter County areas. ([1084] Ord. 1103, Sec. 1; June 18, 1991)

SALARY CODE

SEC. 52-592 - 52-594

Chapter 52  
Division 1

## SALARY CODE

## SECTIONS:

52-592	Board of Supervisors - Mileage
52-593	Board of Supervisors - Salary
52-594	Insurance
52-595	Social Security
52-596	Retirement
52-597	Orientation of Supervisors-Elect
52-599	Automobile Allowance

52-592 BOARD OF SUPERVISORS - MILEAGE

Each supervisor shall receive his or her actual expenses while attending to the business of the County. Mileage allowances for official travel shall be paid at the IRS approved mileage rate for business miles driven.

There shall be no entitlement to compensation under this section for travel between starting points and destinations located within Sutter or Yuba Counties if the supervisor has elected the automobile allowance provided for in section 52-599(a).

**[(967,1049,1084,1302,1323] Ord. 1443, Sec. 1; April 3, 2007)**

52-593 BOARD OF SUPERVISORS - SALARY

The first day of the pay period following the effective date of this section, the monthly salary of each supervisor shall be two thousand eight hundred and sixteen dollars and twenty-seven cents (\$2,816.27).

Effective December 25, 2004, the monthly salary of each supervisor shall be two thousand eight hundred and seventy-two dollars and sixty cents (\$2,872.60).

**[(967,1049,1081,1211,1249,1277,1297,1302,1323,1350]Ord. 1377, Sec. 1; Jan. 13, 2004)**

52-594 INSURANCE

The first day of the month following the effective date of this section, the health, dental, vision and life insurance benefits shall be consistent with the benefits in effect for employees in the Management Unit through December 31, 2007, including retiree health insurance and participation in the Internal Revenue Code Section 125 Plan.

**[(1027,1102,1183,1245,1269,1277,1284,1297,1302,1315,1343;1377]Ord. 1440, Sec. 1, Feb. 14, 2007)**

SALARY CODE

SEC. 52-599

52-599 AUTOMOBILE ALLOWANCE

For attending to the business of the County within the boundaries of Sutter and Yuba Counties, each Supervisor may choose to either:

- a) Receive an automobile allowance in the amount of one hundred dollars (\$100.00) per month; or
- b) Receive actual mileage pursuant to the mileage reimbursement rate provisions of section 52-592. ([1084; 1103] Ord. 1443, Sec. 2; April 3, 2007)

# COUNTY OF SUTTER

October 29, 2007



ROBERT E. STARK, CPA

AUDITOR-CONTROLLER

To: Dan Silva, Supervisor 5<sup>th</sup> District

Re: Your mileage reimbursements; Warrant #3-229193 dated September 13, 2007 in the amount of \$1,759.45 net of taxes.

Your letter dated October 9, 2007 inquires about the status of your mileage reimbursement claim and the above referenced warrant. This has become quite a complicated matter and I thank you for pointing out our error in sending you this warrant. To clarify, this warrant was for what we thought we could allow on your \$2,823.99 claim for May 1, 2006 through October 31, 2006 mileage. Unfortunately, due to the length of time this has been going on and the number of people involved the files became separated in our office and this contributed to us erroneously sending you a warrant for an allowance of \$1,924.02 (net of taxes \$1,759.45). Please return this warrant to us at your earliest convenience.

Having explained the confusion created by the second payment noted above it is necessary to recap the status of your claim. As you correctly pointed out, the payment we originally made on your \$2,823.99 claim was \$1,971.80. You received this with your December 1, 2006 pay warrant (#3-225707). Of this amount \$1,045.71 was subject to taxation since the documentation you provided was not sufficient to meet IRS requirements for a deduction as an allowable business expense, i.e. it appeared to be commute mileage. The disallowance was \$852.19 (your number was \$852.18, difference due to rounding). Although this amount was disallowed because your claim was submitted late and the budget appropriation had lapsed the Board did reappropriate the funds at their December 19, 2006 meeting and directed the Auditor-Controller to pay the balance of the claim. They did not, however, give direction as to whether the claim should be paid on a taxable basis, as they had done for a similar issue involving Mr. Combs. To further delay the matter, Vice-Chairman Montna, in his letter dated March 20, 2007 informed me that "we will be seeking an IRS Letter Ruling, Pursuant to Revenue Procedure 2007-1, 2007-I.R.B 1, requesting a determination of whether the claims should be paid as taxable." The letter was not specific as to whether "we" referred to the administration or the Board. In any case, I have not yet been provided with a copy of any letter ruling nor have I been advised of the status of that request. However, in spite of the uncertainty brought about by the Board's inaction or actions as the case may be, a prudent resolution of this seems to be to pay the balance of \$852.19 (net of taxes). If we later find out that the IRS has clearly ruled based on the facts presented that it should be nontaxable then we can pay you the balance.

We have also had various communications via email and phone with Barbara Kinnison as your advocate, Larry Combs and the one letter from Vice-Chairman Larry Montna so this has further

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complicated our communications—much confusion is avoided when we are able to communicate directly with the principal.

#### Other Matters

Your letter also mentioned that we did not provide the detailed analysis we intended to provide. Those spreadsheets are included herewith. We actually sent (or intended to send) spreadsheets showing our analysis of two claims: the May 1, 2006 through October 31, 2006 claim for \$2,823.99 and the February 1, 2007 through May 31, 2007 claim for \$1,858.50. The analysis for the \$2,823.99 is moot since we had already paid that claim. The \$1,858.50 claim was paid but we were only able to approve \$1,353.67 because additional miles claimed were not substantiated.

One thing that needs to be clarified here is the extent of auditing that the Auditor-Controller's Office is able to do. The Board of Supervisors very pointed response (see below) to the 2006-2007 Grand Jury's report on supervisors' mileage reimbursements (which you approved) was not correct:

#### **RECOMMENDATIONS**

1. The Grand Jury recommends any supervisor requesting reimbursement for actual miles driven on county business must record the miles accurately.

#### ***Board of Supervisors' Response***

***The Board of Supervisors concurs, and will endeavor to comply with this recommendation immediately— with the caveat described above under the finding related to this issue.***

2. Those individuals approving mileage records must validate that the miles recorded are reasonable.

#### ***Board of Supervisors' Response***

***The Board agrees with this recommendation, but notes that the Auditor-Controller is the County officer charged with auditing claims prior to payment. We would also note that we do not believe that any inappropriate claims have been filed by a Board member, or paid by the Auditor-Controller. Our conclusion is based on the fact that we are aware that the Auditor's Office audits all claims extensively. If the Auditor-Controller found what he considered to be an inappropriate claim, his fiduciary responsibility would require him to request more information, reject payment, or submit the claim to the full Board with a request that the Board deny payment. Since the Auditor-Controller did not take any of these actions regarding a Board members claim prior to the publishing of this Grand Jury Report, we assume that he believed all of the Board member claims he processed to be correct and appropriate for payment. Also, as an additional comment, we would refer the reader to the***

***clarifying comment we made under the first finding in this section.***

3. The Grand Jury recommends an audit be conducted of Board of Supervisors' mileage logs for 2006. If systematic problems are found, those problems should be pursued on an individual basis. In the event of overpayment, the recipient must repay Sutter County.

***Board of Supervisors' Response***

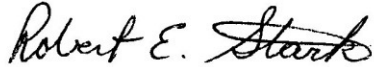
***The Board of Supervisors does not agree with this recommendation based on the response to the prior recommendation. The Auditor-Controller is the County officer charged with such audits and he conducts them on virtually every claim and, we believe, pays particular attention to those submitted by Board members and the County Administrative Officer. He questions those claims that he feels are inappropriate and exercises his statutory authority to present such claims to the Board of Supervisors for authorization or rejection. For the reasons stated earlier, we do not believe that any Board member has made a claim for more mileage than would be appropriate and, in fact, believe the opposite to be true – that the norm would be for the Board members to claim fewer miles than they actually travel.***

As a result of the Grand Jury's recommendation #3 above we extensively analyzed and audited your mileage claims. In addition to the unsubstantiated mileage noted above we performed the same analysis on the claim we had previously paid and of the \$2,823.99 claimed, only \$1,924.02 would be approved on this basis because the balance would be disallowed because additional miles claimed were not substantiated. The amount you actually received, \$1,971.80, is not materially different from the mileage you were entitled to as a result of the audit so we are not recommending any adjustment.

With respect to #2 above, the Auditor-Controller's Office is not designed nor staffed to be able to guarantee 100% accuracy or authenticity to claims paid—nor is any audit function. Until this mileage issue was brought to the forefront we did not apply any special audit techniques to your claims because we do not have time to single out Board claims or County Administrator claims and still get our other work done. The County has policies and procedures in place which we expect management to adhere to themselves and enforce. An auditor is no substitute for well designed systems of internal control and management oversight. In any case, we had informed you January 31, 2005 that there were problems with the way you were documenting your mileage but you did not avail yourself of the assistance we offered. You have not provided additional documentation which would justify paying any additional amounts on these claims. As noted on page 1, you will receive additional payment of \$852.19 (net of taxes) only because we are complying with the Board's order of December 19, 2006 (unanimously carried) that directed payment of this amount.

Conclusion

If you disagree with our findings in this matter it would be appropriate to appeal our decision to the Board of Supervisors.



Robert E. Stark, CPA  
Auditor- Controller

Cc: Board of Supervisors  
Grand Jury  
Larry Combs  
Barbara Kinnison

Enclosures: Letter w/ attachments, Dan Silva, September 5, 2007  
Letter, Dan Silva, October 9, 2007  
Analysis, February 1, 2007 through May 31, 2007 claim for \$1,858.50  
Analysis, May 1, 2006 through October 31, 2006 claim for \$2,823.99  
BOS order December 19, 2006

**Board of Supervisors Expense and County Elected  
Officials Ethics Policy**

**POLICY STATEMENT**

**The Sutter County Board of Supervisors declare that, in addition to the following policy, the Board shall comply with those provisions set out in the Sutter County Travel and Business Expense Policy adopted July 1994.**

**1. GENERAL POLICIES**

- a. When reimbursement is otherwise authorized by statute, the county may reimburse members of the Board of Supervisors for actual and necessary expenses incurred in the performance of official duties.**
- b. The types of occurrences that qualify a member of the Board of Supervisors to receive reimbursement of expenses relating to travel, meals, lodging, and other actual and necessary expenses include the following:**
  - i. Communicating with representatives of regional, state, and national government on County policy positions;**
  - ii. Attending educational seminars designed to improve officials' skill and information levels;**
  - iii. Participating in regional, state, and national organizations whose activities affect the County's interests;**
  - iv. Recognizing service to the County (for example, thanking a longtime employee with a retirement gift or celebration of nominal value and cost);**
  - v. Attending County events;**
  - vi. Implementing a County-approved strategy for attracting or retaining businesses to the County, which will typically involve at least one staff member;**
  - vii. Travel to and from Board of Supervisor meetings and other county meetings;**
  - viii. Travel and expenses for any official county business.**



- c. All other expenditures require approval by the Board of Supervisors.
- d. The reasonable reimbursement rates for travel, meals, and lodging, and other actual and necessary expenses are those set out in Sutter County Travel and Business Expense Policy adopted July 1994, and as may be amended from time to time.
- e. If the lodging is in connection with a conference or organized educational activity, lodging costs shall not exceed the maximum group rate published by the conference or activity sponsor, provided that lodging at the group rate is available to the member of the board of supervisors at the time of booking. If the group rate is not available, the member of the board of supervisors shall use comparable lodging that is consistent with the requirements of the Sutter County Travel and Business Expense Policy.
- f. Members of the Board of Supervisors shall use government and group rates offered by a provider of transportation or lodging services for travel and lodging when available.
- g. All expenses that do not fall within this policy, the Sutter County Travel and Business Expense Policy, or the Internal Revenue Service reimbursable rates, shall be approved by the Board of Supervisors, in a public meeting before the expense is incurred, or ratified after the expense is incurred, when prior action is not possible because of the urgency of the requirement for the expense.
- h. **Expense Reports.** The County Auditor-Controller shall provide expense report forms to be filed by the members of the Board of Supervisors for reimbursement for actual and necessary expenses incurred on behalf of the local agency in the performance of official duties.
  - i. The expense reports shall document that expenses meet this, and all other applicable county policies, for expenditure of public resources.
  - ii. Members of the Board of Supervisors shall submit expense reports to the County Auditor-Controller no later than the 120<sup>th</sup> calendar day after the expense is incurred, or a reasonable time thereafter if the Board of Supervisors finds that circumstances are appropriate for a later submission, and the reports shall be accompanied by the receipts documenting each expense.
  - iii. Members of the Board of Supervisors shall provide brief reports on meetings attended at the expense of the county at a regular Board meeting.



*Dan Silva*  
 Supervisor, District 5  
 County of Sutter

2007 SEP 10 PM 4:21

RECEIVED  
 SUTTER COUNTY  
 AUDITOR CONTROLLER

September 5, 2007

To: Robert Stark, CPA  
 Sutter County Auditor-Controller

Re: Past-Due Monthly Travel Expenses

Attached are copies of my calendars for the months of February, March, April and May 2007. The calendars indicate my actual mileage supporting my Travel and Business Expense claims that were filed with your office June 5, 2007.

My claims filed in June followed the same format that I have been filing since I came into office January 2000. Your policy has been to pay these claims as submitted, setting the precedent that the format was acceptable. However, in the future I will claim actual miles traveled, my parking, and meals while on business for Sutter County. Although I round my mileage, I do not claim parking for the meetings in Sacramento or for my business lunches. The parking costs alone range from \$15-\$25 each business trip, and with the per diem for lunch set at \$16, I have saved the County a considerable amount of money. The following is a recapitulation of my monthly actual miles traveled compared to claimed miles:

	<u>Claimed</u>	<u>Actual</u>
February	872	956
March	987	1027
April	650	653.5
May	1323	1419

I did not revise the previously claimed mileage. The attachments are the supporting documentation for the claims submitted to your office. As you can see, the claimed amount is considerably less than the actual miles traveled for the month. Since I am not revising the filed claims, please pay the claims as submitted.

Let me know by this Friday September 14<sup>th</sup> whether you intend to pay this claim. If you have questions, call me.

A handwritten signature in black ink, appearing to read "Dan Silva".

Dan Silva  
 Supervisor 5<sup>th</sup> District  
 Chairman, Board of Supervisor

Attachments

# Annual Financial Report and Audit

## Fiscal Year 2006-2007

### Introduction

The 2007-2008 Sutter County Grand Jury reviewed the Annual Financial Report, Management Reports, and County Response for the fiscal year ending June 30<sup>th</sup>, 2007.

This review was conducted by the Audit and Finance Committee, comprised of the following jurors: Deborah Baker, John Elliott, Doug Heacock, and Sara Neukirchner.

### Discussion

The Annual Financial Report and Management Comments are prepared by the auditing firm of Smith & Newell. Smith & Newell is the independent auditing firm contracted by Sutter County and the Sutter County Grand Jury. Merilee Smith, a partner in Smith & Newell, met with the Grand Jury to discuss the Financial Report and Management Report.

#### **According to the Independent Auditor's Report:**

"In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the government activities, the business-type activities, each major fund, and the aggregate remaining fund information of the County as of June 30, 2007, and the respective changes in financial position and, where applicable, cash flows thereof for the year then ended in conformity with accounting principles generally accepted in the United States of America."

The Independent Auditor highlighted, for the benefit of the Grand Jury, three areas that were of special significance:

- The County's total net assets increased by \$14,913,446. This increase in net assets consisted of an increase of \$509,976 associated with prior period adjustments related to the correction of unearned revenue, inmate welfare monies, and capital assets. The remaining increase of \$14,403,470 is attributable to results of operations. (Exhibit A)
- As of June 30 2007, the unreserved fund balance in the General fund was \$32,854,661. (Exhibit A)
- A 10.9% increase in the unfunded actuarial accrued liability, in the Sutter County's CalPERS Pension Plan, as a percentage of the annual covered payroll as of June 30, 2007. (Exhibit B)

The Independent Auditor also issues a Management Report which enumerates “conditions,” which are, essentially, deficiencies, and recommendations for correcting them. For the fiscal year ending June 30, 2007, the Independent Auditor found 12 such conditions. (Exhibit C) This is a reduction from the 19 conditions in the two preceding fiscal years. Some of these conditions are “repeats,” uncorrected conditions that originated in past years.

The Grand Jury asked Merilee Smith, based upon her experience, to characterize the implementation of Smith & Newell’s recommendations as “easy,” “moderately difficult,” or “difficult” as it pertained to each condition. She identified seven conditions as “easy to correct” (Exhibit C “Conditions” 07-02, 07-03, 07-08, 07-09, 07-10, 07-11). Condition 07-07 was characterized by Merilee Smith as “moderately difficult to correct.” The remaining conditions were described by the Independent Auditor as “difficult to correct.”

**Condition 07-01 is of particular interest to the Grand Jury. The condition states:**

*“We noted that the County does not have an updated written procedures guide for performing many of the current financial processes. Lack of organized written procedures has contributed to significant operating difficulties with the county.”*

This condition was first identified in 2003 and remains uncorrected. The Board of Supervisors contracted with Harvey M. Rose Associates, LLC, to assist the Auditor-Controller (AC) in the development of a procedures guide. They further directed, according to the County Administrative Officer’s Response to Comments (Exhibit D), that this be completed in fiscal year 2006-2007.

**According to Auditor-Controller Robert Stark:**

*“We do now have the rudimentary procedure manual which was compiled for us by Harvey M. Rose. The procedures exist but we are just documenting them in a more formal way...”*

The County Administrative Officer’s Response reflects that condition 07-02 has, in fact, been corrected pursuant to actions taken by the Board of Supervisors (BOS). The BOS authorized the elimination of the Vehicle Replacement Fund in fiscal year 2007-2008. This action will correct the conditions identified in 07-07 and 07-11.

The two preceding Grand Juries have reported on the acrimony that has developed between the Auditor-Controller’s Office and County Administration. This hostility has also been obvious to the 2007-2008 Grand Jury. Despite this atmosphere, the Independent Auditor reported to the Grand Jury an improving level of cooperation between the two offices. This accounts for the significant reduction in the number of conditions identified by the Independent Auditor.

The dysfunctional relationship that has existed between the AC’s office and County Administration has left in its wake a potentially significant problem for Sutter County. Smith & Newell’s five year contract as



Sutter County's Independent Auditor has expired. The Joint BOS/Grand Jury Audit Committee issued Requests for Proposals (RFPs) to begin the process of hiring a new Independent Auditor. No qualified firms were willing to bid for the job. Believing that the controversies involving the AC and the BOS were a probable reason for our inability to receive any bids, the joint BOS/Grand Jury Audit Committee issued a second round of RFPs, allowing for contingency fees that firms could collect if they became embroiled in any litigation or unforeseen events. Despite this enhancement, there are still no firms willing to submit a proposal.

Merilee Smith advised the Grand Jury that the relationship between the AC's Office and the BOS was undoubtedly a significant reason that no firms are willing to bid. The controversy in Sutter County is well-known in the government auditing community, according to Merilee. She indicated that she had been contacted by numerous firms regarding the proposal and that all cited the nature of the relationship between the AC and the BOS as a factor in their unwillingness to bid. The firm of Smith & Newell has, itself, declined to enter into a new contract with Sutter County.

If Sutter County is unable, as it now appears it will be, to contract with an independent auditing firm, the County's only alternative will be to enter into an agreement with the State of California Controller's Office. The ramifications of such an agreement are unclear at this time; however, it's difficult for the Grand Jury to believe it can be an improvement.

## **Findings**

The Grand Jury finds the audited financial statements reflect accurately the financial position of Sutter County.

The Grand Jury finds that twelve financial accounting deficiencies were identified by the Independent Auditor. Of these, one has been corrected and two others will be eliminated by actions already taken by the Board of Supervisors. Of the remaining conditions, most are "easy to correct" and those corrections must be initiated by the Auditor-Controller.

The Grand Jury finds that the Auditor-Controller does not have a complete written procedures manual. This condition was first identified in the 2002-2003 fiscal year. The 2006-2007 Grand Jury stated the following, *"The Grand Jury recommends the Auditor/Controller focus on completing updated and accurate policies and written accounting procedures for the use of all departments within the county, as recommended by the Harvey M. Rose report, and that the Auditor/Controller's office provides periodic updates to the Board of Supervisors as to the status of completion of these recommendations."*

The Grand Jury finds, and commends, an increased level of cooperation between the Auditor-Controller's office and County Administration.

As of the writing of this report, Sutter County does not have any prospects to contract an Independent Auditor. If the county cannot hire its own, an agreement must be entered into with the California State Controller's Office.

## **Recommendations**

The Grand Jury recommends that the Auditor-Controller implement the recommendations suggested by Smith & Newell in their Management Report. It should be the goal, which in the view of the Grand Jury can be easily achieved, to correct all identified conditions by the end of the next fiscal year.

Due to the obvious importance of having a written procedures guide and the assistance that has been provided to him, the Grand Jury is incredulous that this condition has taken so long to be addressed by the AC. The Grand Jury recommends that the Auditor- Controller complete the written procedures manual post haste.

## **Respondents**

Sutter County Board of Supervisors  
Larry Combs, County Administrator  
Robert Stark, Auditor-Controller

# Management's Discussion and Analysis

As management of the County of Sutter (County), we offer readers of the County's financial statements this narrative overview and analysis of the financial activities of the County for the fiscal year ended June 30, 2007.

## Financial Highlights

- The assets of the County exceeded its liabilities at the close of the most recent fiscal year by \$152,542,572 (total net assets). Of this amount, \$37,529,871 is restricted for specific purpose (restricted net assets), and \$78,643,338 is invested in capital assets, net of related debt. The balance of \$36,369,363 is totally unrestricted.
- The County's total net assets increased by \$14,913,446. This increase in net assets consisted of an increase of \$509,976 associated with prior period adjustments related to the correction of unearned revenue, inmate welfare monies, and capital assets, the remaining increase of \$14,403,470 is attributable to results of operations.
- As of June 30, 2007, the County's governmental funds reported combined fund balances of \$72,256,483, an increase of \$12,903,187. This increase in fund balance consisted of an increase of \$389,555 associated with prior period adjustments related to the correction of unearned revenue and inmate welfare monies and the remaining increase of \$12,513,632 which was attributable to revenues in excess of expenditures. Approximately 94% of the combined fund balances, \$68,448,766 is available to meet the County's current and future needs (unreserved fund balance). Of the unreserved fund balance, the Board of Supervisors has designated \$35,430,166 or approximately 52% for specific purposes. At the end of the current fiscal year, unreserved fund balance for the General fund was \$32,854,661 or approximately 125% of total General fund expenditures.

## Overview of the Financial Statements

This discussion and analysis is intended to serve as an introduction to the County's basic financial statements. The County's basic financial statements comprise three components: 1) government-wide financial statements, 2) fund financial statements, and 3) notes to the basic financial statements. This report also contains other supplementary information in addition to the basic financial statements themselves.

## Government-Wide Financial Statements

The government-wide financial statements are designed to provide readers with a broad overview of the County's finances, in a manner similar to a private-sector business.

**Statement of Net Assets** presents information on all of the County's assets and liabilities, with the difference between the two reported as net assets. Over time, increases or decreases in net assets may serve as a useful indicator of whether the financial position of the County is improving or deteriorating.

**Statement of Activities** presents information showing how the County's net assets changed during the most recent fiscal year. All changes in net assets are reported as soon as the underlying event giving rise to the change occurs, regardless of the timing of related cash flows. Thus, revenues and expenses are reported in this statement for some items that will only result in cash flows in future fiscal periods (e.g., long-term notes, loans, and earned but unused vacation leave).

Both of the government-wide financial statements distinguish functions of the County that are principally supported by taxes and intergovernmental revenues (**governmental activities**) from other functions that are intended to recover all or a significant portion of their costs through user fees and charges (**business-type activities**). The governmental activities of the County include general government, public safety, highways and streets, sanitation, health and social services, culture-recreation, public improvement, planning and zoning, and general administrative services. The business-type activities of the County include Water Works District No. 1 and internal service funds.

## EXHIBIT B

**COUNTY OF SUTTER, CALIFORNIA**  
**SCHEDULE OF DEFINED BENEFIT PENSION PLANS FUNDED STATUS**  
**FOR THE YEAR ENDED JUNE 30, 2007**

**EMPLOYEES' RETIREMENT PLAN****Schedule of Funding Progress:**

The table below shows a three-year analysis of the actuarial value of assets as a percentage of the actuarial accrued liability and the unfunded actuarial accrued liability as a percentage of the annual covered payroll as of June 30, 2007, for the County Miscellaneous Plan and the County Safety Plan:

**Miscellaneous Plan:**

Valuation Date	Entry Age Normal Accrued Liability	Actuarial Value of Assets	Unfunded Liability (Excess Assets)	Funded Ratios		Annual Covered Payroll	UAAL as a % of Payroll
				Actuarial Value	Market Value		
June 30, 2004	\$ 142,948,568	\$ 118,344,807	\$ 24,603,761	82.8%	81.5%	\$ 33,623,529	73.2%
June 30, 2005	157,829,137	129,421,852	28,407,285	82.0%	84.5%	33,930,332	83.7%
June 30, 2006	172,344,243	143,377,116	28,967,127	83.2%	88.2%	34,792,503	83.3%

**Safety Plan:**

Valuation Date	Entry Age Normal Accrued Liability	Actuarial Value of Assets	Unfunded Liability (Excess Assets)	Funded Ratios		Annual Covered Payroll	UAAL as a % of Payroll
				Actuarial Value	Market Value		
June 30, 2004	\$ 46,711,366	\$ 39,932,827	\$ 6,778,539	85.5%	84.1%	\$ 7,432,025	91.2%
June 30, 2005	50,873,132	43,625,552	7,247,580	85.8%	87.7%	7,571,007	95.7%
June 30, 2006	55,634,422	47,757,299	7,877,123	85.8%	90.5%	7,392,781	106.6%

**COUNTY OF SUTTER, CALIFORNIA  
MANAGEMENT REPORT  
CURRENT YEAR FINDINGS AND RECOMMENDATIONS  
FOR THE YEAR ENDED JUNE 30, 2007**

**07-01 POLICIES AND PROCEDURES**

**Condition**

We noted that the County does not have an updated written procedures guide for performing many of the current financial processes. Lack of organized written procedures has contributed to significant operating difficulties with the County.

**Cause**

The County does not have adequate written policies and procedures.

**Criteria**

Good internal control requires that procedures be documented and performed in a consistent manner in accordance with approved County policy.

**Effect of Condition**

Without written procedures, tasks may not be performed in a consistent manner among employees and or departments which can result in significant operating difficulties.

**Recommendation**

We recommend that the County initiate a serious effort to develop and implement comprehensive policies and procedures for all current financial processes. This is a repeat of a prior year recommendation.

**07-02 FUND BALANCE - COUNTY GENERAL RESERVE**

**Condition**

During the fiscal year ended June 30, 2004, we noted that the County General Reserve had been decreased by \$265,334. There was no legally declared emergency by the Board of Supervisors to authorize this decrease. Despite discussion between the Auditor Controller's department, the Board of Supervisors and the County Administrator's department the General Reserve has not yet been restored back to its original balance of \$1,088,000.

**Cause**

The County does not have adequate written policies and procedures regarding the necessity of designating specific account numbers when reserve and designation are reclassified.

**Criteria**

Per State Government Code, except in cases of a legally declared emergency, the general reserve may only be established, canceled, increased or decreased at the time of adopting the budget.

**Effect of Condition**

The County General Reserve was decreased without proper authorization.

**Recommendation**

We recommend that the General Reserve be restored back to its original balance of \$1,088,000. This is a repeat of a prior year recommendation.



**COUNTY OF SUTTER, CALIFORNIA  
MANAGEMENT REPORT  
CURRENT YEAR FINDINGS AND RECOMMENDATIONS  
FOR THE YEAR ENDED JUNE 30, 2007**

**07-03 ADOPTION ASSISTANCE PROGRAM - CFDA 93.659**

**Condition**

Title 22 California Code of Regulations Section 35331 (a) requires that the determination of the child's eligibility for adoption assistance be documented in the case record on the Eligibility Certification - Adoption Assistance Program form (the AAP-4). The County does document eligibility on the AAP-4 by the completion of the form, which is signed by the "Authorized Official of Public Adoption Agency." However, a second signature is required on the AAP-4. The "Authorized Official of County Welfare Department" must sign the AAP-4 and check the appropriate box, which indicates FFP eligibility or non-eligibility.

On seven of twenty-five cases tested, the AAP-4s were completed and signed by the "Authorized Official of Public Adoption Agency" but these AAP-4 were not signed by the "Authorized Official of County Welfare Department," which is the County eligibility staff.

**Cause**

Appropriate training or review procedures concerning required forms completion was inadequate.

**Criteria**

The County is not in compliance with Title 22 California Code of Regulations Section 35331(a).

**Effect of Condition**

When the AAP-4 is not signed by the Authorized Official of County Welfare Department and/or the federal eligibility or non-eligibility box is not marked, the likelihood of errors in eligibility determination increase.

**Recommendation**

We recommend that the County require that the AAP-4s be signed by the "Authorized Official of County Welfare Department" (County eligibility staff) and that this person check the appropriate box showing determination of FFP eligibility on the bottom of this form. We also recommend that the County incorporate into their review process procedures to ensure that the AAP-4s are properly completed and executed.

**07-04 CAPITALIZATION POLICY**

**Condition**

At the time of our audit, we noted that the County did not have a formal capitalization policy that addressed infrastructure assets or estimated useful asset lives. In fiscal year 2006, the County issued a memorandum revising the estimated life of a road from 15 to 30 years. However, this information along with other details of a complete infrastructure accounting system has never been formalized into a comprehensive infrastructure capitalization policy.

**Cause**

The County does not have adequate written policies and procedures.

**Criteria**

Generally accepted accounting principles require that capital assets, that generally constitute the single largest asset of the County, be accurately recorded.

**Effect of Condition**

Without a written capitalization policy which addresses infrastructure and estimated useful asset lives, inconsistencies and misunderstandings regarding proper policy are likely to occur. In addition, misstatement of net capital assets as well as a lack of comparability between years can result when policies and procedures regarding capital assets are unclear.

**COUNTY OF SUTTER, CALIFORNIA**  
**MANAGEMENT REPORT**  
**CURRENT YEAR FINDINGS AND RECOMMENDATIONS**  
**FOR THE YEAR ENDED JUNE 30, 2007**

**07-04 CAPITALIZATION POLICY (CONTINUED)**

**Recommendation**

We recommend that the County adopt a comprehensive updated capitalization policy which includes all required capital asset accounting elements including infrastructure and estimated useful asset life. This is a repeat of a prior year recommendation.

**07-05 PAYROLL TRUSTS**

**Condition**

We noted that the Personnel Benefits Revolving Trust fund (5226), had not been reconciled. The fund had individual account balances ranging from Regular Health (2002-03) with a credit balance of \$467,508 to Regular Health (2000-2001) with a debit balance of \$138,978. We also noted that accounts in the Payroll Revolving Trust fund (5225) had not been reconciled and contained errors at the time of our fieldwork.

**Cause**

The County does not regularly reconcile Personnel Benefits Revolving Trust fund or the Payroll Revolving Trust fund.

**Criteria**

Good internal control requires regular reconciliation of all trust funds.

**Effect of Condition**

Without monthly trust account reconciliations of all payroll trusts, errors and irregularities could occur and not be detected in a timely manner.

**Recommendation**

We recommend that the unresolved differences be resolved and any inactive accounts be closed. This is a repeat of a prior year recommendation.

**07-06 BUDGETING FOR CHANGES IN RESERVES/DESIGNATIONS**

**Condition**

We noted the County has budgeted for cancellation of prior year reserves as an income item and increase in reserves as an expenditure item. Cancellation of prior year reserves or designations should be recorded as an increase in total available financing and provisions for new reserves and/or designations should be recorded as an increase in total financing requirements in the County annual budget rather than as an income and/or expenditure item.

**Cause**

The County has not revised written policies and procedures regarding accounting for reserve and designation adjustments.

**Criteria**

Budgeting for provisions for reserves/designations should only be reflected in County Budget Form Schedule 1A.

**COUNTY OF SUTTER, CALIFORNIA  
MANAGEMENT REPORT  
CURRENT YEAR FINDINGS AND RECOMMENDATIONS  
FOR THE YEAR ENDED JUNE 30, 2007**

**07-06 BUDGETING FOR CHANGES IN RESERVES/DESIGNATIONS (CONTINUED)**

**Effect of Condition**

The County is recording budgeted cancellation of prior year reserves as an income item and increase in current year reserves as an expenditure item which results in variances in budget to actual comparisons.

**Recommendation**

We recommend that the County only record provisions for reserves/designations in County Budget Form Schedule 1A. This is a repeat of a prior year recommendation.

**07-07 FLEET MANAGEMENT UNRESTRICTED NET ASSETS**

**Condition**

We noted that the County Fleet Management fund (4580), had unrestricted net assets in excess of 60 days working capital.

**Cause**

The County has not revised written policies and procedures involving accounting for the County Fleet Management internal service fund.

**Criteria**

Generally unrestricted net assets in excess of 60 days working capital is considered excessive. However, a provision is available for designating certain amounts in excess of the minimum 60 days working capital.

**Effect of Condition**

The County has excess unrestricted net assets or has not properly recorded reserves/designations for fleet replacement.

**Recommendation**

We recommend that the County analyze this fund and determine whether there are unrecorded reserves/designations for fleet replacement that should be recorded. If there are reserves/designations to be recorded, the entry would be to credit the reserve account within the Fleet Management fund and debit the undesignated retained earnings. If a policy change is to be implemented, it should be agreed upon between the interested parties and clearly described in a written policy statement. If the new Vehicle Replacement fund 4585 was intended to function as a reserve, fund procedures need to be developed to accomplish that purpose. This is a repeat of a prior year recommendation.

**07-08 FLEXIBLE SPENDING ACCOUNT**

**Condition**

During our audit, we noted cash in the amount of \$37,092 was held by an outside agent for the flexible spending account and was not reflected on the County's financial records.

**Cause**

The County has not resolved this prior year condition.

**Criteria**

Good internal control requires that all cash be recorded on the County's general ledger and that each cash account be reconciled monthly.

**COUNTY OF SUTTER, CALIFORNIA  
MANAGEMENT REPORT  
CURRENT YEAR FINDINGS AND RECOMMENDATIONS  
FOR THE YEAR ENDED JUNE 30, 2007**

**07-08 FLEXIBLE SPENDING ACCOUNT (CONTINUED)**

**Effect of Condition**

The County's cash did not include the flexible spending account.

**Recommendation**

We recommend that the County reconcile and record the activity in the flexible spending account. This is a repeat of a prior year recommendation.

**07-09 COUNTY OPERATING FUNDS**

**Condition**

During our audit, we noted that the fund number for Mental Health Patient Government fund (4991) was included in the fund number sequence for trust funds rather than in the sequence for special revenue funds.

**Cause**

The County has not resolved this prior year condition.

**Criteria**

GASB Statement Number 34 defines trust and agency funds as a fund used to report assets held in a trustee or agency capacity for others and therefore cannot be used to support the government's own programs.

**Effect of Condition**

When County operating funds are not correctly classified in the Chart of Accounts, the risk that they may be inappropriately reported is increased.

**Recommendation**

We recommend that County operating funds be numbered in a sequence that is separate from the trust and agency funds and that any funds inappropriately numbered be re-numbered. This is a repeat of a prior year recommendation.

**07-10 REVENUE RECOGNITION**

**Condition**

During our audit we noted that in the Fleet fund (4580) various revenues are recorded on the County general ledger as deposits payable rather than as income. At June 30, 2007, the balance in this account was \$57,882.

**Cause**

The County has not revised written policies and procedures involving proper use of the deposits payable account.

**Criteria**

Generally accepted accounting principles require that revenue be recognized when earned.

**Effect of Condition**

By recording revenue as a liability the County is overstating liabilities and understating revenues, and is not in compliance with GASB 33.

**COUNTY OF SUTTER, CALIFORNIA  
MANAGEMENT REPORT  
CURRENT YEAR FINDINGS AND RECOMMENDATIONS  
FOR THE YEAR ENDED JUNE 30, 2007**

**07-10 REVENUE RECOGNITION (CONTINUED)**

**Recommendation**

We recommend that this account be analyzed and that the County review their accounting policies and procedures to ensure that all items of revenue are accounted for properly. This is a repeat of a prior year recommendation.

**07-11 VEHICLE REPLACEMENT FUND**

**Condition**

During our audit we noted that the Vehicle Replacement fund (4585), which was established during 2004/05, recorded accumulated depreciation in excess of the capital asset balance in the fund. This is a continuing situation with vehicles recorded of \$268,158 and accumulated depreciation recorded of (\$558,951).

**Cause**

The County has not resolved this prior year condition.

**Criteria**

Generally accepted accounting principles require that capital assets be depreciated over their estimated useful life. However, the accumulated depreciation should never be in excess of the capital asset balance.

**Effect of Condition**

Fund 4585 does not appear to be used for the purpose for which it was established and the information presented is incomplete and misleading.

**Recommendation**

We recommend that the County review fund 4585 to ensure that this fund is being used for the purpose for which it was established. In addition, we recommend that the capital assets and accumulated depreciation be transferred to Fleet Management fund 4580. This is a repeat of a prior year recommendation.

**07-12 STATEMENT ON AUDITING STANDARDS NO. 112**

**Condition**

This standard provides guidance on communicating internal control matters and revises certain terminology. Of particular importance, the new standard and its interpretive guidance emphasize that management is responsible for establishing, maintaining, and monitoring internal controls, and for the fair presentation of the financial statements, including the notes to the financial statements, in conformity with U.S. generally accepted accounting principles. The County's external auditor cannot be a part of the internal controls including controls over the preparation of the financial statements. Adequate controls over preparation of the financial statements when the County does not prepare their own financial statements could include:

- The County has experienced staff capable of understanding the financial statements and competently reviewing them for errors or omissions.
- The County personnel review the financial statements groupings and supporting schedules.
- The County personnel complete a disclosure checklist to ensure all disclosures have been made and the financial statements are complete.

**COUNTY OF SUTTER, CALIFORNIA  
MANAGEMENT REPORT  
CURRENT YEAR FINDINGS AND RECOMMENDATIONS  
FOR THE YEAR ENDED JUNE 30, 2007**

07-12 STATEMENT ON AUDITING STANDARDS NO. 112 (CONTINUED)

**Cause**

New auditing standards specifically require the County to assume increased responsibility for the preparation of the audited financial statements

**Criteria**

Statement on Auditing Standards No. 112 provides specific guidance for communicating weaknesses in internal control, including weaknesses in controls regarding preparation of the financial statements when the County does not prepare their own financial statements.

**Effect of Condition**

Inability to demonstrate adequate controls in this area could result in communication of a significant deficiency or material weakness.

**Recommendation**

We recommend that the County take all steps necessary to ensure that staff is in compliance with Statement on Auditing Standards No. 112 requirements.





# **COUNTY OF SUTTER**

## ***COUNTY ADMINISTRATIVE OFFICER'S RESPONSE TO MANAGEMENT COMMENTS***

**MANAGEMENT REPORT  
FOR THE YEAR ENDED  
JUNE 30, 2007**

**AS PREPARED BY SMITH & NEWELL  
Certified Public Accountants**

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# **Corrective Action Plan**

*Response to Management Comments*  
**County of Sutter Management Report**  
**for the Year Ended June 30, 2007**  
as Prepared by Smith & Newell, CPA's

## **07-01 POLICIES AND PROCEDURES**

### **Independent Auditor Recommendation**

*We recommend that the County initiate a serious effort to develop and implement comprehensive policies and procedures for all current financial processes. This is a repeat of prior year recommendation.*

### **Management Response**

The County agrees with the Independent Auditor's recommendation. The Board of Supervisors hired Harvey M. Rose Associates, LLC (HMR) to work with the Auditor-Controller to develop and implement comprehensive policies and procedures for all current financial processes. The Board of Supervisors had directed that this be completed in FY 2006-07.

The Board of Supervisors agrees that the Auditor-Controller should develop comprehensive policies and procedures for current financial processes, but as a independent elected official, the Auditor-Controller has thus far refused to do so. Prior to the completion of the written policies and procedures, HMR terminated the contract when informed by the Auditor-Controller that the Auditor-Controller's office would not commit time and resources to work with HMR and any further efforts to proceed with the project would be futile. With the implementation of SAS 0112 this recommendation is now considered a significant deficiency.

## **07-02 FUND BALANCE-COUNTY GENERAL RESERVE**

### **Independent Auditor Recommendation**

*We recommend that the General Reserve be restored back to its original balance of \$1,088,000. This is a repeat of a prior year recommendation.*

### **Management Response**

The County agrees with the Independent Auditor's recommendation. The Auditor-Controller restored the General Fund General Reserve to its original balance in April 2008. (It should be noted that the General Fund General Reserve is technically

established at \$1,087,750 for Fiscal Year 2006-07.) With the implementation of SAS 0112 this recommendation is now considered a significant deficiency.

### **07-03 ADOPTION ASSISTANCE PROGRAM**

#### **Independent Auditor Recommendation**

*We recommend that the County require that the “Authorized Official of County Welfare Department” (County eligibility staff) and that this person check the appropriate box showing determination of FFP eligibility on the bottom of this form. We also recommend that the County incorporate into their review process procedures to ensure that the AAP-4s are properly completed and executed.*

#### **Management Response**

The County agrees with the Independent Auditor’s recommendation. The Auditor-Controller should work with the Human Services Department-Welfare Division to ensure that the County incorporates into their review process procedures to ensure that the AAP-4s are properly completed and executed. The Welfare Division of Human Services will reiterate to staff that proper completion of these items is an essential part of the eligibility determination and the ongoing review process must be completed on all cases to assure compliance with the regulations. With the implementation of SAS 0112 this recommendation is considered an instance of non compliance required to be reported in accordance with OMB Circular A-133.

### **07-04 CAPITALIZATION POLICY**

#### **Independent Auditor Recommendation**

*We recommend that the County adopt a comprehensive updated capitalization policy which includes all required capital asset accounting elements including infrastructure and estimated useful asset life. This is a repeat of a prior year recommendation.*

#### **Management Response**

The County agrees with the Independent Auditor’s recommendation. The County has revised its budget and accounting procedures in satisfaction of this comment. The County will work to formalize a procedure for implementing the existing capitalization policy. The capitalization policy should have been incorporated into the written policy and procedures that were being developed and implemented by Harvey M. Rose Associates, LLC and the Auditor-Controller. As an independent elected official, the Auditor-Controller has thus far refused to complete the written policy and procedures. Prior to the completion of the written policies and procedures, HMR terminated the contract when informed by the Auditor-Controller that the Auditor-Controller’s office would not commit time and resources to work with HMR and any further efforts to proceed with the project would be futile.



**07-05 PAYROLL TRUSTS Personnel Benefits Revolving Trust Fund #5226/Payroll Revolving Trust Fund #5225**

**Independent Auditor Recommendation**

*We recommend that the unresolved differences be resolved and any inactive accounts be closed. This is a repeat of a prior year recommendation.*

**Management Response**

The County agrees with the Independent Auditor's recommendation; however, reconciliation of Trust Funds should be a function of the Auditor-Controller's office. In the FY 1996-97 response to this same recommendation the Auditor-Controller stated "We agree with the recommendation. The payroll accountant recognized this problem and set up a meeting in March 1997 with the data processing analyst assigned to this office to work on programming to accomplish this reconciliation. . . . We agree with the independent auditor that the accounts should be reconciled and will do so when we are assigned the necessary technical staff." Since then, an Accountant II was added to the Auditor-Controller's staff in FY 2000-01 and an Account Clerk III in FY 2001-02. The next year the Auditor-Controller responded that "The accounts of the payroll trust fund should be reconciled. This will have to be a joint project with the Personnel Department" also stating that the Personnel Department administers four of the accounts. Personnel staff does administer some of the accounting functions within the Personnel Benefits Revolving Trust #5226, but they do not have an accountant on staff. The reconciliation of funds is a function of the Auditor-Controller. The Auditor-Controller has stated that Fund #5225 has been reconciled by his department but that Fund #5226 is not his responsibility. The County Administrative Office has contracted with an independent CPA firm to reconcile the Personnel Benefits Revolving Trust fund #5226. The Auditor-Controller's office should then ensure that the Payroll Trust (Personnel Benefits Revolving Trust fund #5226) is properly reconciled, any differences resolved, any inactive accounts closed and assume the responsibility of reconciling this fund. The Auditor-Controller may also want to assume the entire accounting function of Fund #5226 and thereby have complete control of this Fund.

**07-06 BUDGETING FOR CHANGES IN RESERVES/DESIGNATIONS**

**Independent Auditor Recommendation**

*We recommend that the County only record provisions for reserves/designations in County Budget Form Schedule 1A. This is a repeat of a prior year recommendation.*

**Management Response**

The County agrees with the Independent Auditor's recommendation. Although we agree with this recommendation, this recommendation must be implemented by the Auditor-Controller.

## **07-07 FLEET MANAGEMENT UNRESTRICTED NET ASSETS**

### **Independent Auditor Recommendation**

*We recommend that the County analyze this fund and determine whether there are unrecorded reserves/designations for fleet replacement that should be recorded. If there are reserves/designations to be recorded, the entry would be to credit the reserve account within the Fleet Management fund and debit the undesignated retained earnings. If a policy change is to be implemented, it should be agreed upon between the interested parties and clearly described in a written policy statement. If the new Vehicle Replacement fund 4585 was intended to function as a reserve, fund procedures need to be developed to accomplish that purpose. This is a repeat of a prior year recommendation.*

### **Management Response**

The County agrees with the Independent Auditor's recommendation. In Fiscal Year 2007-08, the Board of Supervisors authorized the elimination of the Vehicle Replacement Program effective with the Fiscal Year 2008-09 annual budget. Ownership of current VRP vehicles, and related assets and liabilities, will be transferred from the Fleet and VRP funds to their respective departments within the General Fund. It is anticipated that implementation of the recommendation(s) will resolve the concern regarding the Fleet Management fund's unrestricted net assets and designations for vehicle replacement, and will resolve the concern regarding the Vehicle Replacement Program fund's capital assets and accumulated depreciation. It should be noted that implementation of the recommendation(s) requires the concurrence and cooperation of the Auditor-Controller.

## **07-08 FLEXIBLE SPENDING ACCOUNT**

### **Independent Auditor Recommendation**

*We recommend that the County reconcile and record the activity in the flexible spending account. This is a repeat of a prior year recommendation*

### **Management Response**

The County agrees with the Independent Auditor's recommendation. The Personnel Department has been reconciling this account monthly, and has provided the Auditor-Controller all information necessary to establish this account within the County. It should be noted that implementation of the recommendation(s) requires the concurrence and cooperation of the Auditor-Controller.



## **07-09 COUNTY OPERATING FUNDS**

### **Independent Auditor Recommendation**

*We recommend that the County operating funds be numbered in a sequence that is separate from the trust and agency funds and that any funds inappropriately numbered be re-numbered. This is a repeat of a prior year recommendation.*

### **Management Response**

The County agrees with the Independent Auditor's recommendation. Although we agree with this recommendation, this recommendation must be implemented by the Auditor-Controller.

## **07-10 REVENUE RECOGNITION**

### **Independent Auditor Recommendation**

*We recommend that this account be analyzed and that the County review their accounting policies and procedures to ensure that all items of revenue are accounted for properly. This is a repeat of a prior year recommendation.*

### **Management Response**

The County agrees with the Independent Auditor's recommendation. Recording the various revenues as deposits payable was based on the Auditor-Controller's recommendation, and it should be noted that implementation of the recommendations requires the concurrence and cooperation of the Auditor-Controller.

## **07-11 VEHICLE REPLACEMENT FUND**

### **Independent Auditor Recommendation**

*We recommend that the County review fund 4585 to ensure that this fund is being used for the purpose for which it was established. In addition, we recommend that the capital assets and accumulated depreciation be transferred to Fleet Management fund 4580. This is a repeat of a prior year recommendation.*

### **Management Response**

The County agrees with the Independent Auditor's recommendation. In Fiscal Year 2007-08, the Board of Supervisors authorized the elimination of the Vehicle Replacement Program effective with the Fiscal Year 2008-09 annual budget. Ownership of current VRP vehicles, and related assets and liabilities, will be transferred from the Fleet and VRP funds to their respective departments within the General Fund. It is anticipated that implementation of the recommendation(s) will resolve the concern regarding the Vehicle Replacement Program fund's capital assets and accumulated depreciation, and will resolve the concern regarding the



Fleet Management fund's unrestricted net assets and designations for vehicle replacement. It should be noted that implementation of the recommendation(s) requires the concurrence and cooperation of the Auditor-Controller.

## **07-12 STATEMENT ON AUDITING STANDARDS NO. 112**

### **Independent Auditor Recommendation**

*We recommend that the County take all steps necessary to ensure that staff is in compliance with Statement on Auditing Standards No. 112 requirements.*

### **Management Response**

The County agrees with the Independent Auditor's recommendation. Although we agree with this recommendation, this recommendation must be implemented by the Auditor-Controller.

# Travel & Business Expense Policy

## Introduction

The 2007-2008 Sutter County Grand Jury investigated expense reimbursement claims made by Sutter County Administrative Officer, Larry Combs for the time period of 2002-2005 submitted in the year 2006. During the course of this investigation, the Grand Jury found a flaw in the current Travel & Business Expense Policy and significant issues in the way in which reimbursement claims are handled by the CAO and the Auditor-Controller's offices and the Board of Supervisors.

The investigation and discussions were conducted by the Audit & Finance Committee comprised of the following jurors: Deborah Baker, John Elliott, Doug Heacock and Sara Neukirchner.

## Discussion

Sutter County CAO, Larry Combs, submitted a reimbursement request in June of 2006 for outstanding travel expenses in the amount of \$4,306.38 from the years 2002-2005. The CAO had budgeted for these reimbursements in the '05-'06 County budget. Initially, the Auditor-Controller, Robert Stark, denied this request because it was past the fiscal years in which the expenses were incurred, citing, "The appropriations for the expenditures in these fiscal years have lapsed and the amounts were not encumbered." Larry Combs then submitted his claim to the Board of Supervisors. The Board of Supervisors then authorized payment of his claim by re-appropriating funds from the 2006 budget to cover those previous years' expenses. A subsequent review of the budget years concerned did show that the actual amount reimbursed was less than the budgeted amount for travel expenses and that the funds were, in fact, appropriated at that time.

Larry Combs, after receiving the denial by the Auditor-Controller's office, contacted the office of Sutter County Counsel, Ronald Erickson, to obtain a written opinion as to the legality of the initial denial. Mr. Erickson opined that Mr. Combs was entitled to reimbursement for those expenses because he had substantiated them with receipts. He further explained his interpretation of the IRS regulations.

### **From Mr. Erickson's written opinion, Travel and Business Expense Reimbursements (Exhibit C):**

*"It is our understanding that you intend to submit reimbursement for business expenses incurred over the last three years. We also understand that you are submitting full receipts in substantiation of the expenses incurred. Because you are submitting these substantiated expenses pursuant to an accountable plan, we believe you are entitled to tax-free reimbursement of these claims..."*

*It is our understanding that the Board of Supervisors has budgeted amounts to cover the reimbursement of your expenses. Because there is no reason you should not be reimbursed for*

*legitimate and substantiated expenses, we believe that your expense claims are being submitted within a reasonable period of time.”*

The IRS regulations explain that the time period that expenses should be submitted is “dependent on the facts and circumstances” as well as within a “reasonable period of time.”

**From IRS Publication 463 (2007), Travel, Entertainment, Gift, and Car Expenses, Chapter 6:**

*“To be an accountable plan, your employer's reimbursement or allowance arrangement must include all of the following rules.*

- 1. Your expenses must have a business connection — that is, you must have paid or incurred deductible expenses while performing services as an employee of your employer.*
- 2. You must adequately account to your employer for these expenses within a reasonable period of time...*

*The definition of reasonable period of time depends on the facts and circumstances of your situation. However, regardless of the facts and circumstances of your situation, actions that take place within the times specified in the following list will be treated as taking place within a reasonable period of time.*

- You receive an advance within 30 days of the time you have an expense.*
- You adequately account for your expenses within 60 days after they were paid or incurred.*
- You return any excess reimbursement within 120 days after the expense was paid or incurred.*
- You are given a periodic statement (at least quarterly) that asks you to either return or adequately account for outstanding advances and you comply within 120 days of the statement.”*

The timeframes outlined in this IRS publication also fall under a rule called the “Safe Harbor” rule which essentially states that, if transactions occur within this timeframe, they will be considered legitimate. Mr. Stark used these same rules as a basis of rejection for Mr. Combs’ claim.

It is the right of any employee of the county to request that the Board of Supervisors, at their discretion, make funds available to reimburse them for past or current expenses. However, Mr. Stark did indicate that it will remain his policy to deny any claims that include expenses incurred in a previous fiscal year.

The role of the Auditor-Controller is clearly defined in the Government Code. The principal role of the Auditor-Controller is to be the “Chief Accounting Officer” of the county, responsible, under the direction of the Board of Supervisors, for the supervision and adherence to policies in regard to fiscal matters.

**From the California Government Code, Sec. 26881:**

*“The county auditor, or in counties that have the office of controller, the auditor-controller shall be the chief accounting officer of the county. Upon order of the board of supervisors, the auditor or auditor-controller shall prescribe, and shall exercise a general supervision, including the ability*

*to review departmental and countywide internal controls, over the accounting forms and the method of keeping the accounts of all offices, departments and institutions under the control of the board of supervisors and of all districts whose funds are kept in the county treasury.”*

A substantial portion of the confusion surrounding these claims is the lack of a thorough and unambiguous Travel & Business Expense Policy. The current policy (Exhibit E), originally created in 1994 by Larry Combs and Robert Stark together, does not have a clear timeframe for reimbursement. After this disagreement began, Robert Stark drafted a new Travel & Business Expense Policy and presented it to Mr. Combs. In turn, the CAO's office submitted a revised policy to Mr. Stark for his review. That process began in June of 2007 and remains unfinished. At the time of publication of this report, both parties have sat down again to revise the policy. The final changes have been made by the CAO's office and they have made them available to the Auditor-Controller for his review (Exhibit F).

The Grand Jury reviewed the proposed Travel & Business Expense Policy draft. The draft contains a clearer timeframe for reimbursement. In the course of this investigation, it also came to the attention of the Grand Jury that at least one department within the county, the Division of Mental Health, Department of Health and Human Services, maintains a separate expense reimbursement policy, creating inequality and misunderstandings.

This investigation illustrated that this is only one in a long line of issues centering on the arbitrary payment of expenses incurred by the County. This year, alone, the Auditor-Controller's office rejected claims made by an employee who used a more expensive method of travel on a recent business trip, as well as questioning moving expense claims made by new Assistant CAO Stephanie Larsen. In each case, the Auditor-Controller began the process of questioning the claims with a simple cost effective email to request clarification or to initially deny and request a new claim. Each of these claims was then escalated through the channels by the CAO's office. Through our interviews we learned that the most effective and expeditious method of resolving these issues, a simple phone call or email, has been used by the Auditor-Controller's office but has resulted in ambiguous responses or demands for payment, from the CAO's office and County Counsel. The lack of a clear policy leaves room for this type of misinterpretation. As a result, the Auditor-Controller's office has been perceived as being wholly arbitrary or even vindictive in its choice to reject claims.

As this policy has been in place since 1994, the current spree of rejections has also been perceived as a continuation of the ongoing struggle between the CAO, the Auditor-Controller and the Board of Supervisors; a struggle that has touched the County in a multitude of ways. According to the Auditor-Controller, his office has only recently been fully staffed, allowing a person full-time to dedicate themselves to the responsibility of auditing expense reimbursement claims. As a result of these audits, routine expense reimbursement requests have come under tighter scrutiny. Based upon documentation provided by the Auditor-Controller, approximately 10% of expense claims submitted are rejected or revised based on these audits. In light of the intense auditing efforts directed toward the reimbursement claims of at least one member of the Board of Supervisors, Dan Silva, over the past two years – coupled with recent events - the Grand Jury is dubious that this scrutiny is new or routine.

It has been argued by both the CAO and the County Counsel that the increased scrutiny causes the county to expend more funds than it would if the Auditor simply paid the claims in the first place.

The Grand Jury investigated two recent claims that have come under scrutiny, that of the Assistant CAO, Stephanie Larsen and Deputy County Counsel Richard Stout. Again, it did not escape the notice of the Grand Jury that both cases involve parties directly connected to the CAO and County Counsel, two department heads that are in direct conflict with the Auditor Controller. To highlight the intricacies of each claim, the Grand Jury has assembled case studies covering both claims and has attached them to this report as Exhibits A and B.

As both case studies clearly show, a brief initial attempt was made by the Auditor-Controller's office to resolve these claims. In the case of the Deputy County Counsel, the Auditor's staff quoted an erroneous piece of the Travel & Business Expense Policy as a basis for rejection of the claim. Misinterpreting the county policy caused County Counsel and the Board of Supervisors to become involved. However, rather than resubmitting the claim for the revised amount and taking up the difference with the Board of Supervisors, the entire process dragged on as a result of County Counsel's insistence that the entire claim be paid in full.

Uniquely, in the case of the Assistant County Administrator's moving expenses, unclear direction received from Barbara Kinnison initially led to the incorrect payment method executed by the Auditor-Controller's office. However, it is clear to the Grand Jury that the rules of an accountable plan pertain to whether an item may be reimbursed as taxable or non-taxable. In this case, he could have reimbursed the items that fall under an accountable plan as non-taxable and the remaining as taxable. According to Mr. Stark, a simple phone call from Larry Combs overruling his Deputy CAO could have resolved this without involving the Board of Supervisors.

**From Staff Report prepared by Barbara Kinnison to Board of Supervisors, April 8, 2008  
(Exhibit D):**

*"...IRS Publication 521 defines which moving-related expenditures are tax-deductible and which are not. Tax-deductible moving expenditures include items such as moving company charges, moving truck rentals, utility hook-up fees, and packing supplies. However, the cost of a house-hunting trip is specifically excluded as a tax-deductible expense. Therefore, the moving allowance authorized and claimed can be paid both as taxable and as non-taxable."*

The ultimate authority for the county's finances is the Board of Supervisors. They alone have the power to implement policy and enforce its adherence. As was previously written, the role of Auditor-Controller is principally the "Chief Accounting Officer" for the county. He takes his direction from the Board of Supervisors when it comes to adherence and enforcement of policies. The Board of Supervisors has the ability to question or request clarification of opinions written by the County Counsel as well as explanations made by both the CAO and Auditor-Controller. Most importantly, the Board of Supervisors has the ability to create new policy by precedent, choosing to reject or accept a claim regardless of whether it follows existing guidelines or not. In doing so, they are in effect creating a new policy. If the

Board is aware that policy changes are being made to clear up ambiguous language then it stands to reason that they could choose to enact those new policy guidelines even before they are published.

The Board's previous attempts to intervene in the struggle between CAO Combs and Auditor-Controller Stark have been unsuccessful, which has led to an ongoing waste of county resources. Similarly, they have left the review, recommendation and implementation of policies largely to the office of the CAO and other county department heads. While this practice may be commonplace, it leaves room for the Board of Supervisors to neglect to address outdated and inconsistent policies and provides a forum for the exploitation of policy loopholes.

## **Findings**

The Grand Jury finds that the practice of Sutter County Administrative Officer, Larry Combs to submit his expense reimbursements annually exceeds standard business practices and the recommendations of the IRS.

Auditor-Controller Mr. Stark's interpretation of the IRS rule does not fall within standard accounting practices. The "Safe Harbor Rule" is not a steadfast timeframe for reimbursement. Since the county policy did not contain a timeframe for expense reimbursements, the "Facts and Circumstances" of which the reimbursement would depend enabled the county to reimburse Mr. Combs.

The Grand Jury disagrees with County Counsel Ronald Erickson's opinion that a four-year period for reimbursement of the CAO's claim was "within a reasonable timeframe." There is a disagreement, even within the CAO's office, as to whether the IRS code Section referenced by the County Counsel even applies in this case. Common sense dictates to the Grand Jury, and should have to County Counsel and the Board of Supervisors as well, that a four-year delay in submitting a claim for reimbursement cannot be deemed reasonable, absent any extraordinary circumstances.

Mr. Combs' inattention to his financial record keeping resulted in an inefficient use of county resources. The Auditor-Controller, County Counsel and the Board of Supervisors were all required to spend time on this issue which would have been unnecessary had Mr. Combs submitted his claims in a timely manner.

The Grand Jury finds that the current Travel & Business Expense policy is insufficient to address these issues and it is necessary to implement the new, consistent, non-arbitrary policy. The lack of a comprehensive policy, which was exacerbated by the delay in coming to agreement upon a new policy, has caused chaos between departments.

Unclear direction from Deputy CAO Barbara Kinnison and steadfast refusal to accept a denial of claim from County Counsel Ronald Erickson has caused delay in payments and required that the Board of Supervisors become involved in small dollar amount reimbursement claims. In both cases, these claims may have been resolved by referring to a comprehensive travel policy.



The Grand Jury finds that there is an inconsistency in county policy and that at least one department, the Division of Mental Health, Department of Health and Human Services, has arbitrarily created its own policy.

The Grand Jury finds that the Board of Supervisors failed to act on their ability to set policy by precedent in the case of the least cost method of travel in Richard Stout's claim.

## **Recommendations**

The Grand Jury is aware that a revised Travel & Business Expense Policy has been submitted for the Auditor-Controller to evaluate. It is the recommendation of the Grand Jury that the drafted and revised policy be adopted immediately to prevent any further ambiguity.

It is the Grand Jury's further recommendation that the Auditor-Controller take his direction first from a clear and comprehensive policy, as it pertains to all manner of expense reimbursements. When there is an unclear point in the policy regarding a reimbursement, the Grand Jury recommends that the Auditor-Controller attempt to obtain clarification from the Department head and/or the CAO's office.

In the current, highly charged, climate between the CAO's office and the Auditor-Controller, there is no room for unclear communication. The Board of Supervisors, Department heads and members of the CAO's office must be clear in their direction ensuring that their communications are precise and well documented. Reasonable, professional employees and elected officials should be able to come to an understanding or resolve a misunderstanding without involving all of the other county resources. The Board of Supervisors should only be involved with these matters when all reasonable methods have been exhausted.

Further, the Grand Jury recommends that department heads use this new Travel & Business Expense Policy as a minimum internal control standard, accentuating it, if necessary, to meet the needs of their individual departments.

To adhere with the spirit of the IRS laws, and sound financial practices, it is the Grand Jury's recommendation that CAO Larry Combs or any other county employee responsibly submit expense reports for expenses incurred within the time frame set out in the policy. If an exception must be made, it should only be made in the fiscal year in which it was incurred. Any additional requests for expense reimbursements should be considered forfeited.

## **Respondents:**

Sutter County Board of Supervisors  
Larry Combs, County Administrator  
Robert Stark, Auditor-Controller

## EXHIBIT A

### **Claim Case-Study, “San Diego Travel, via car, Deputy County Counsel, Richard Stout”**

12/12-14/2007: Deputy County Counsel (DCC) travels to San Diego to attend a conference. Rather than flying, and with the approval of County Counsel, he elects to take his own car.

1/11/2008: DCC submits an expense reimbursement form to the Auditor-Controller’s office, signed by Department Head, Ron Erickson. This expense reimbursement form claims every mile driven as mileage costing nearly \$200 more than conventional air travel would have.

1/18/2008: Auditor-Controller’s office rejects claim via email on the basis of “County officers or employees are expected to secure meal and other expenses as economically as possible commensurate with standards available at the site of business being conducted.” They offer the DCC \$339.83 of the \$529.62, a reduction of \$189.79. They fail to take into consideration the cost of a rental car on site and they quote a part of the travel policy that pertains to travel “at the site of business being conducted,” not the means of travel to get to that site. They go on to offer that DCC can resubmit claim for the allowed amount and it will be paid by the next pay period (Exhibit G).

1/18/2008: County Counsel Ron Erickson sends letter to Auditor-Controller’s office, stating, “I approved Mr. Stout’s travel by automobile and, therefore, Mr. Stout’s claim **must** be paid as submitted.”(Exhibit H)

2/8/2008: No action is taken by Auditor-Controller’s office. Barbara Kinnison, Deputy County Administrative Officer, sends email to Robert Stark indicating that if he does not intend to pay the claim that he should notify Mr. Stout by February 15<sup>th</sup>. She further writes, “We will write a staff report to the Board of Supervisors recommending that they direct you to pay the claim as submitted.” (Exhibit I)

3/5/2008: After County Counsel submits the claim to the Agriculture, Public Protection & General Government Committee for Agenda review, he subsequently pulls the claim back for further examination. Barbara Kinnison then writes an email to Mr. Stark stating, “County Counsel feels this claim should be paid in full. Please respond by 5:00pm tomorrow March 6<sup>th</sup> on whether your intent is to pay this claim or not. If you are not going to pay the claim as submitted, County Counsel is prepared to go to the Board of Supervisors for direction on payment of this claim.”(Exhibit J)

3/10/2008: County Counsel provides a staff report to the Agriculture, Public Protection & General Government Committee for review and inclusion on the March 18, 2008 consent agenda. The staff report includes an explanation regarding the quote from the travel policy that the Auditor-Controller’s office used as a basis of rejection. His report states, “This language does

not pertain to travel to and from the conference; rather, it refers to expenses incurred at the conference site.” (Exhibit K)

3/18/2008: Board of Supervisors moves on the consent agenda approving the payment in its entirety based on Mr. Erickson’s recommendation they, “Direct and order that the Auditor-Controller issue a warrant in the amount of \$917.66 payable to Richard Stout before close of business on March 19, 2008.” The Board does not take into account that their new policy will include a provision that disallows this type of travel plan.

3/21/2008: The Auditor-Controller still had not paid the claim. He later told the Grand Jury that at this time he was waiting for an approval of the minutes per Government Code 29703:

“When the board acts upon a claim the clerk of the board shall file a memorandum of the action taken and endorse on the claim a statement thereof. If the claim is allowed in whole or in part, the memorandum and endorsement shall state the date of the allowance, the amount of the allowance, and from what fund allowed and whether the board requires the claimant to accept the amount allowed in settlement of the entire claim. The endorsement shall be attested by the clerk with his signature and countersigned by the chairman and the claim, when duly endorsed, attested and countersigned, shall be transmitted by the clerk to the auditor.”

3/21/2008: Ron Erickson sends a letter to Mr. Stark’s personal civil attorney, Tom Cregger, warning, “This is simply another example of a long pattern of egregious conduct by your client. I sincerely hope that the county will not have to incur additional expenses to ensure the claim is paid.” The Grand Jury questions the propriety of involving Mr. Stark’s personal attorney in a public matter. Mr. Erickson cc’s this letter to CAO Combs, Deputy CAO Kinnison, Mr. Stout and Assistant County Counsel Robert Muller but not to Mr. Stark. (Exhibit L)

3/21/2008: Barbara Kinnison sends email to Mr. Stark demanding payment, stating, “Please confirm that this will be paid forthwith.” Mr. Stark does not respond, but later tells the Grand Jury,

“It was never our intent not to pay the claim once it was approved by the board of supervisors. We were waiting for the minutes to be approved to provide us with back up authority and the fact that it was due the day after the board meeting was merely overlooked. Nothing was sent to this office until Barbara’s email of March 21st at 5:34 p.m. which was apparently coordinated with the letter from county counsel to my attorney. I did not receive a copy until I opened my attorney’s email around 3:55 p.m. on Friday March 28th. The claim was paid promptly the following Monday with an over-the-counter warrant.”

3/31/2008: Mr. Stark finally cuts check and presents for pick-up.

## EXHIBIT B

### **Claim Case-Study, “Moving Expenses, Accountable Plan, Assistant CAO, Stephanie Larsen”**

12/18/2007: Board of Supervisors authorizes a \$7,500 moving expense allowance “based on receipts” for the move of new Assistant CAO, Stephanie Larsen. (Exhibit M)

2/12/2008: Ms. Larsen submits claim reimbursement in the amount of \$4,287.79 for moving expenses approved by the Board of Supervisors. The claim includes \$924.90 in expenses incurred for a “House Hunting” trip prior to the actual move. (Exhibit N)

2/26/2008: Ronda Putman from the Auditor-Controller’s office sends Deputy CAO Barbara Kinnison an email requesting clarification on the method of reimbursement asking, “Did the Board intend to follow the Internal Revenue Service accountable plan guidelines?” (Exhibit O)

3/5/2008: Stephanie Larsen amends her original claim to \$4,022.16 changing the amount for mileage reimbursement from .485 to .20 cents per an email exchange between Ronda Putman and Ms. Larsen indicating that Ms. Larsen was unable to substantiate (with receipts) enough to warrant the .485 reimbursement amount.

3/6/2008: Barbara Kinnison responds to Ronda’s email stating, “I would assume that the intention was to pay under the accountable plan any reimbursement that is in compliance with the accountable plan.” (Exhibit P)

3/12/2008: Rather than having Barbara Kinnison amend her previous statement, Stephanie Larsen prepares a staff report on this issue in anticipation of the Agriculture, Public Protection & General Government Committee meeting. Barbara Kinnison then reviews and signs off on this staff report.

3/13/2008: The Auditor-Controller’s office reimburses Ms. Larsen \$3,097.26 according to an accountable plan and excludes the \$924.90 that was not allowed under an accountable plan. Mr. Stark writes a letter to Ms. Larsen explaining the exclusions.

#### **From Letter from Robert Stark to Stephanie Larsen, March 13, 2008 (Exhibit Q):**

“In conformance with the advice in Barbara Kinnison’s, March 6, 2008 email, “that the intention was to pay any reimbursement that is in compliance with the accountable plan” we have reimbursed all accountable plan expense to date as indicated below.

... In addition you are requesting reimbursement for pre-move house hunting expenses as detailed below. However, these expenses are not covered under the accountable plan per IRS Publication 521, (Page 10).

... Since pre-move expenses do not fall under the accountable plan as indicated above they are not eligible for reimbursement.”

3/24/2008: The CAO's office took a staff report to the Agriculture, Public Protection & General Government Committee for agenda review requesting the Board direct the Auditor's office to pay the claim in its entirety.

3/25/2008: Barbara Kinnison writes email to Mr. Stark stating, "My e-mail stated for you to pay the total amount of her claims appropriately, meaning that what would fall under the accountable plan would be paid as non-taxable and the remaining would be paid under a non-accountable plan as taxable... Our preference would be for you to pay her claim in total and not have to go before the BOS; however, if you prefer further direction from the BOS, this office will present this at the BOS meeting on April 8<sup>th</sup>." (Exhibit R)

3/25/2008: The Auditor-Controller submits his own staff report to the Board for the agenda item regarding the direction for Stephanie Larsen's claim. Mr. Stark writes a letter to the Board of Supervisors stating, "Mr. Combs, on the other hand, has misinformed the committee that the Auditor-Controller's Office is requesting clarification when that is not true. If he wishes to overrule the opinion of his subordinate who is a CPA then he should state that and cite his reasons for doing so. The record shows that when the CAO recommended to the Board that the County reimburse moving expenses no specificity was included as to how this was to be accomplished." (Exhibit S)

4/4/2008: Barbara Kinnison submits the Auditor-Controller's staff report, stating in her own memo, "While there are numerous inaccuracies and intentional misrepresentations in Mr. Stark's report, we have provided it here for your consideration." (Exhibit T)

4/8/2008: The Board of Supervisors directs the Auditor-Controller to pay the remaining balance of the claim.



*Office of the County Counsel*  
*County of Sutter*

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RICHARD STOUT  
JANET E. BENDER  
JAMES E. LEWIS  
DEPUTIES

July 11, 2006

**RECEIVED**

JUL 11 2006

Office of the County Administrator  
Sutter County

TO: Larry Combs, County Administrative Officer

RE: Travel and Business Expense Reimbursements

You have asked us to discuss issues related to travel and reimbursement claims as provided for in Treasury Regulation Section 1.62-2.<sup>1</sup>

As we have previously opined, an employee may be reimbursed for travel and business expenses on a tax-free basis if such claims are made pursuant to an "accountable plan".

An accountable plan is an arrangement that meets the requirements of paragraphs (d), (e), and (f) of Treasury Regulation Section 1.62-2 (c) (2). Payments under an accountable plan are treated as excluded from the employee's gross income and are not reported as wages or other compensation on the employee's form W-2 and are exempt from the withholding and payment of employment taxes (Federal Insurance Contributions Act (FICA), Federal Unemployment Tax Act (FUTA), . . . and income tax.) (Treasury Reg. §1.62-2 (c) (4).)

Paragraph (d) of Section 1.62-2 provides for the necessity of a business connection i.e., that the expenses are incurred by the employee in connection with the performance of services as an employee of the employer. Paragraph (e) provides for the substantiation by the employee of claimed business expenses. Paragraph (f) provides that the employee must return any excess amounts received over actual expenses.

It is our understanding that you intend to submit reimbursement for business expenses incurred over the last three years. We also understand that you are submitting full receipts in substantiation of the expenses incurred. Because you are submitting these

<sup>1</sup> All references to regulation or statutes shall be to Section 1.62-2 unless otherwise noted.

Larry Combs  
July 11, 2006  
Page 2

substantiated expenses pursuant to an accountable plan, we believe that you are entitled to tax-free reimbursement of these claims.

Paragraph (h) (2) of the Regulation provides that expense claims should be submitted within a reasonable period of time. A "reasonable period of time" is not specifically defined in Section 1.62-2. Paragraph (g) (1) provides as follows: "The determination of a reasonable period of time will depend on the facts and circumstances." The "payor" as referred to in the Regulation is the County of Sutter. We are not aware of any policy procedure or rule wherein the County has defined a "reasonable period of time."<sup>2</sup>

It is our understanding that the Board of Supervisors has budgeted amounts to cover the reimbursement of your expenses. Because there is no reason you should not be reimbursed for legitimate and substantiated expenses, we believe that your expense claims are being submitted within a reasonable period of time. Thus, you should be reimbursed for such substantiated expenses without withholding of any kind.

Please feel free to call if you have any questions.

Very truly yours,



RONALD S. ERICKSON  
SUTTER COUNTY COUNSEL

RSE:kms

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<sup>2</sup> We note that paragraph (h) (2) provides that a payor *may* treat any amount not substantiated or returned within the period specified in paragraph (g) (2) (a so-called safe harbor provision) of this section has not substantiated or returned within a reasonable period of time. This language does not come in to play because: (1) the provision is not mandatory, (2) no definition of "reasonable period of time" has been adopted by the County, and (3) the County has not adopted "safe harbor" policy of (g) (2) as the definition of a reasonable period of time.

# *County of Sutter*

*...established 1850*

## *Office of the County Administrator*

Date: March 12, 2008  
To: Honorable Board of Supervisors  
Subject: **Clarification of Allowable Expenses for Moving Allowance**

### **Recommendation:**

Request that the Board of Supervisors direct the Auditor-Controller to reimburse the remaining \$964.71 of claimed moving allowance pursuant to the December 18, 2007, Board approval of reimbursement of moving allowance.

### **Background:**

On December 18, 2007, your Board approved a moving allowance for the new Assistant County Administrator. After accepting the position and prior to commencing employment, the new employee and her family were required to travel from Eureka to Yuba City (a distance of approximately 260 miles) to search for housing.

IRS Publication 521 defines which moving-related expenditures are tax-deductible and which are not. Tax-deductible moving expenditures include items such as moving company charges, moving truck rentals, utility hook-up fees, and packing supplies. However, the cost of a house-hunting trip is specifically excluded as a tax-deductible expense. Therefore, the moving allowance authorized and claimed can be paid both as taxable and as non-taxable.

The Auditor-Controller paid the non-taxable portion of the claim under the accountable plan. The Auditor-Controller has requested clarification whether the Board intended to authorize reimbursement for non-deductible, taxable expenses. Since the sole purpose of Ms. Larsen's trip to Yuba City was to search for housing, which was prompted by Sutter County's offer of employment, the County Administrative Officer approved the reimbursement for the house-hunting trip, as a necessary and legitimate expense eligible for reimbursement under the moving allowance. These allowable expenses also include the actual cost of meals and tips incurred by Ms. Larsen and her family during the pre-move house-hunting trip and/or during their actual moving trip.

Non-deductible expenditures should be reimbursed as a taxable expenditure under IRS regulations.



**Clarification of Allowable Expenses for Moving Allowance  
For the meeting of April 8, 2008**

**Page 2**

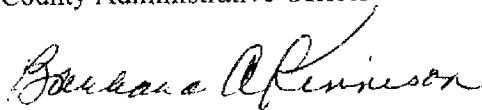
**Fiscal Impact:**

The Board approved a moving allowance of up to \$7,500 on December 18, 2007, which has been included in the CAO's FY 2007-08 budget. Payment of these expenses does not exceed the \$7,500 allowed reimbursement. No further budget impact is anticipated.

**Committee Recommendation:**

The Agriculture, Public Protection, and General Government Committee reviewed and approved this item on March 24, 2008. It was recommended for placement on the April 8<sup>th</sup> Board agenda as an appearance item.

LARRY T. COMBS  
County Administrative Officer



Barbara A. Kinnison, CPA  
Deputy County Administrative Officer

cc: Auditor-Controller

## COUNTY OF SUTTER

## TRAVEL AND BUSINESS EXPENSE POLICY

JULY 1994

**GENERAL REIMBURSEMENT POLICY:**

When it is necessary for County officers or employees to travel or incur expenses on County business, it is the intent of the Board of Supervisors that those officers or employees not be required to bear an undue burden as a result of that requirement, nor are officers or employees expected to accrue any personal benefit from the conduct of County business. The Board of Supervisors has therefore adopted a policy that County officers or employees shall be eligible for reimbursement for all necessary and reasonable expenses incurred when performing County business. The underlying principles of this policy are:

- County employees shall secure transportation and lodging with the prior approval of their department head.
- County officers or employees are expected to secure meals and other expenses as economically as possible commensurate with standards available at the site of the business being conducted.

**SCOPE:**

This policy shall apply to all County officers and employees and, when appropriate under these rules, members of boards and commissions.

**REVIEW AUTHORITY:**

The primary review and approval of employee claims shall be the responsibility of the department head. Claims approved by the department head shall be submitted to the Auditor-Controller for review and payment, subject to reasonable audit adjustments to conform with the requirements of this policy. Disputed claims shall be subject to further review by the County Administrative Officer.

**SPECIFIC REQUIREMENTS:****1. Out-of-State Travel on County Business**

- A. In order to receive reimbursement for out-of-state or out-of-country travel, related to County business, prior approval by the Board of Supervisors is required. Such approval must be submitted with the claim in the manner prescribed by the Auditor-Controller.
- B. Specifically exempted from the above requirement are those instances which require employees to leave the State on matters involving a criminal investigation, the transporting of prisoners, court wards, or psychiatric patients.

**2. Authority for In-State Travel**

- A. Travel by members of other Boards and Commissions of the County shall be first approved by the Board of Supervisors except as provided by ordinance or State law or when the distance from Yuba City is 100 road miles or less.
- B. County officers and department heads are authorized to travel in-state within the performance of their duties and within the limits of budgeted funds. County employees are permitted to travel in-state as may be authorized by the department head or designee. Department heads' in-state travel

of more than five consecutive work days shall first be approved by the County Administrative Officer or designee.

3. **Means of Travel and Travel Reimbursement**

- A. County automobiles will be used when available as determined by the department head. Only persons employed by the County shall be transported in a County automobile except upon the specific approval or direction of the department head.
- B. Private automobiles may be used upon approval of the department head when a County automobile is not reasonably available. The County shall not be liable for any claim for vehicle repair or restoration arising out of the use of a privately owned automobile. Private automobile mileage shall be reimbursed in accordance with appropriate Memoranda of Understanding (MOU's). County officers or employees not covered by MOU's shall receive the mileage rate in effect for the General unit.
- C. Air (coach class), train, or other means of transportation may be authorized by the department head when in the best interests of the County. No non-scheduled air transportation may be used except upon prior approval of the County Administrative Officer. The traveling officer or employee is responsible for obtaining any tax exemption, discount or other benefit available to the County or its employees. Frequent flyer miles or similar benefits, or promotions, except those with a de minimis value, shall accrue to the benefit of the County.
- D. The use of other transportation shall be reimbursed at actual cost with department head approval or Board approval when there is a demonstrated County benefit. A receipt is required to support the expense.
- E. Rental of automobiles or other special conveyances will be allowed only when necessary for the conduct of County business. Justification may be required.

4. **Incidental Expenses**

The following expenses may be claimed when necessarily incurred in the performance of official County business:

- A. Parking and storage fees.
- B. Streetcar, bus, train, taxi and airporter fares.
- C. Automobile rental or leasing costs excluding add-on insurance damage waiver policies.
- D. Ferry, bridge and road tolls.
- E. Long distance telephone, telegraph, and fax charges for County business. Specifically excluded are calls home.
- F. Registration and conference fees and actual meal expenses when the meals are part of a conference.
- G. Baggage transfer fees, tips and other expenses for which receipts are not available.
- H. Other necessary expenditures. No claim for alcoholic beverages or personal services such as cleaning, laundering, barbering or similar items will be allowed.

5. Reimbursement for Meals

Meal rates are established to reimburse County officers or employees for the additional cost of eating meals away from home when the expense is incurred while conducting County business.

- A. Reimbursement for meal expense off the business premises in the bi-county area is specifically prohibited for individual employees or groups consisting solely of County employees (so-called conferences, working luncheons, study groups, department management luncheons, etc.).
- B. For purposes of determining entitlement to meal expense reimbursement outside the bi-county area, the following guidelines apply:

**Breakfast:** Breakfast may be claimed if travel began at or prior to 7:00 A.M. and terminated at or after 9:00 A.M.

**Lunch:** Lunch may be claimed if travel began at or prior to 11:00 A.M. and terminated at or after 2:00 P.M.

**Dinner:** Dinner may be claimed if travel began at or prior to 4:00 P.M. and terminated at or after 7:00 P.M.

- C. The following meal rates shall apply:

- (1) Reimbursement for meals including tips will be allowed up to the following maximums on a per diem basis. A full 24 hours or partial day's reimbursement will be controlled by the daily rate or combined rate for eligible meals with variances allowable in per meal costs.

10/1/03

Breakfast	\$ 11.00	REIMBURSEMENTS WITHOUT RECEIPTS
Lunch	13.00	
Dinner	23.00	
	\$ 47.00	

- (2) At the discretion of the department head, to meet the exigencies of special business conditions or travel situations on an individual employee basis or on a trip basis, reimbursement for meals including tips will be allowed for actual cost up to the following optional maximums with receipts. Variances in per meal costs will be allowed for full or partial day reimbursements in a manner similar to that noted above.

Breakfast	\$ 9.00	OPTIONAL ACTUAL COST REIMBURSEMENTS WITH RECEIPTS
Lunch	13.00	
Dinner	<u>25.00</u>	
	\$47.00	

The department head shall notify the Auditor-Controller of authorizations to claim meals at the optional rates by the specific notation in the remarks box of the travel and business accounting form "ACTUAL MEAL COST OPTIONAL REIMBURSEMENT AUTHORIZED", initialed by the department head.

- D. Reimbursement will be provided for the actual cost of a meal for persons who serve on a personnel interview panel and the cost of the County employee's meal who escorts the panel.

In situations similar to the above, when authorized by the department head, meals may be provided to other governmental employees or private individuals who, at the County's request provide services gratuitously which benefit the County, or in other business situations of potential benefit to the County. Meals within the bi-county area for County officers or employees whose attendance is required may be reimbursed.

- E. When a County officer or department head hosts a conference or meeting that will be of benefit to the County of Sutter, the expenses of that meeting shall be reimbursable at actual cost. The expenses of such meetings, including the expenses of meals held in conjunction therewith, including meals of duly authorized delegates or representatives thereto, may be paid upon presentation of claims and receipts, in the normal manner described in Part 8 of this policy, with the exception that the claim shall also be reviewed for appropriateness and approved by the County Administrative Officer prior to being submitted to the Auditor-Controller. Receipts will be submitted with the claims.

Documentation required for reimbursement shall substantially conform to IRS requirements to substantiate business expenses by adequate records or sufficient evidence corroborating the (1) amount, (2) time and place, (3) business purpose, and (4) business relationship of the entertained person or persons.

- F. Per diem rates shall be reviewed annually by the Auditor-Controller and adjusted the first working day of the month after the adoption of the Final Budget to reflect the meal allowance for the Sacramento area allowed by Federal Travel Regulations.

Optional meal rates shall only be increased at the direction of the Board of Supervisors.

6. **Lodging**

- A. (1) Reimbursement will be allowed for lodging obtained at a distance of 50 road miles or more from Yuba City determined by the shortest commonly traveled direct route.
- (2) Reimbursement will be allowed regardless of the distance from Yuba City, excluding the bi-county area, when lodging is obtained while attending a conference or other job-related meeting.
- B. Reimbursement for cost of lodging is limited to actual cost incurred and will be reimbursed only at the single room rate unless more than one employee shares room accommodations.
- C. Receipts are required to verify lodging claims.

7. **Regulation of Travel**

County officers or employees shall be responsible for ensuring that they comply with all laws, regulations, and rules governing travel while traveling on County business.

(County officers should be aware of the requirements of Government Code §1063. Absence from State of county or judicial district officer.)

8. **Claim Procedure**

No reimbursement for travel and business expense shall be paid without submitting a "County of Sutter Travel and Business Expense Accounting" form, or other form(s) prescribed by the Auditor-Controller from time to time. Receipts must be attached for air or rail travel, automobile rental, registration fees and other expenses for which receipts are normally issued. Failure to complete forms as required or to submit the proper receipts may be grounds for denying reimbursement.

Claims signed by the employee, department head, and where appropriate the County Administrative Officer or the Board of Supervisors, must be submitted to the Auditor-Controller.

9. **Double Claiming**

To claim reimbursement for the same costs from more than one source (e.g., submitting claims for reimbursement to a State or Federal agency or other source and to the County) is prohibited by this policy. However, if another source provides only partial reimbursement, the balance up to the limits authorized by this policy, may be claimed. Appropriate documentation must be submitted with the claim (e.g., the State claim form showing the costs that are being paid by the State).

10. **Advances**

Funds may be advanced by the Auditor-Controller for any travel or business expense covered by this policy.

A final claim identifying actual expenses shall be submitted to the Auditor-Controller within five days of return from the trip for which the advance was issued or prior to termination of County employment, whichever event occurs first, along with any advance in excess of the claimed amount.

11. **Taxable Reimbursements**

In some situations reimbursements of travel and business expenses or portions thereof may be taxable. An example of this is the County's policy to reimburse the cost of meals even though an employee is not on an overnight stay. The County is required to report these reimbursements as part of the employee's wages on Form W-2.

12. **Questions—Application and Interpretation of Policy**

Questions concerning application and interpretation of this policy should first be directed to the Auditor-Controller. In the event of a disagreement, the County Administrative Officer should be consulted for further review. County Counsel will be consulted for legal review as appropriate.



COUNTY OF SUTTER  
TRAVEL AND BUSINESS EXPENSE POLICY  
April 21, 2008

**GENERAL REIMBURSEMENT POLICY:**

When it is necessary for County officers or employees to travel or incur expenses for County business, it is the intent of the Board of Supervisors that those officers or employees not be required to bear an undue burden as a result of that requirement, nor are officers or employees expected to accrue any personal benefit from the conduct of County business. The Board of Supervisors has therefore adopted a policy that County officers or employees shall be eligible for reimbursement for all necessary and reasonable expenses incurred when performing County business. County employees shall secure transportation and lodging with the prior approval of their department head. At the time of that approval, the department head shall approve both the mode of travel and the lodging, which determination shall be final. County officers or employees are expected to secure travel expenses and lodging as economically as possible, commensurate with the standards available at the site of the business being conducted.

The travel and business expense policy continues to be subject to the Internal Revenue Service (IRS) requirements for an Accountable Plan. Those items falling outside of an accountable plan will be reimbursed as taxable income. Receipts for meals are not required; however, employees should be aware that the IRS may require receipts if the employee is audited by the IRS.

**SCOPE**

This policy shall apply to all County officers and employees and, when appropriate under these rules, members of Boards and commissions.

**SPECIFIC REQUIREMENTS:**

**1. Authority for In-State Travel**

- A. Travel by members of other Boards and Commissions of the County shall be first approved by the Board of Supervisors except as provided by ordinance or State law or when the distance from Yuba City is less than 100 road miles.
- B. County officers and department heads are authorized to travel in-state within the performance of their duties and within the limits of budgeted funds. County employees are permitted to travel in-state as may be authorized by the department head or designee. Department heads' in-state travel of more than five consecutive work days shall be approved by the County Administrative Officer or designee prior to travel.

## **2. Authority for Out-of-State-Travel**

- A. In order to receive reimbursement for out-of-state or out-of-country travel related to County business, specific approval must be obtained in advance from the Board of Supervisors with the following exceptions:
1. Travel of Assessor personnel conducting audits of out-of-state firms.
  2. Travel of employees of Human Services, Probation, or law enforcement officers required to accompany patients, clients, or minors, or to supervise placements, in the course of their duties.
  3. Travel to Washington D.C. by members of the Board of Supervisors, the County Administrative Officer or their designees when conducting County business.
- B. Trips to the Tahoe basin-Reno area are to be considered as in-state travel. For the purposes of this section, the "Reno-Tahoe area" shall be defined as the cities on the perimeter of Lake Tahoe, plus the cities of Reno and Sparks. The cities of Carson City, Minden, Gardnerville and other Nevada cities not immediately adjacent to Lake Tahoe shall be considered as out-of-state travel.

## **3. Means of Travel and Travel Reimbursement**

- A. County automobiles may be used, when available, as determined by the department head. Only persons employed by the County shall be transported in a County automobile during official travel as specified herein, except in the following circumstances:
1. The passenger(s) is employed by another government agency or is a contractor performing County related business.
  2. The passenger(s) is a client, patient, inmate, or ward of the County.
  3. Transportation needs to be provided in situations not covered in this section and the specific departmental need has been approved by the County Administrative Officer. In such cases, if the department has a recurring business need for non-employees to be transported in county vehicles, the department shall submit a recommended amendment of this subsection to the County Administrative Office.
- B. Private automobiles may be used upon approval of the department head. Private automobile mileage shall be reimbursed in accordance with the IRS standard reimbursement rate in effect at the time of travel.
- C. Air (coach class), train, or other means of transportation may be authorized by the department head. No non-scheduled air transportation may be used except upon

prior approval of the County Administrative Officer. The traveling officer or employee is responsible for obtaining any tax exemption, discount or other benefit available to the County or its employees.

- D. The use of other transportation shall be reimbursed at actual cost with department head approval or Board approval when there is a demonstrated County benefit. A receipt is required to support the expense.
- E. Rental of automobiles or other special conveyances will be allowed only when necessary for the conduct of County business, as determined by the department head.

#### **4. Incidental Expenses**

The following expenses may be claimed when necessarily incurred in the performance of official County business:

- A. Parking and storage fees.
- B. Streetcar, bus, train, taxi and air-porter fares.
- C. Automobile rental or leasing costs excluding add-on insurance damage waiver policies.
- D. Ferry, bridge and road tolls, long distance telephone, internet fees, and fax charges for County business. Specifically excluded are calls home.
- E. Baggage transfer fees, tips and other expenses for which receipts are not available.
- F. Other necessary expenditures. No claim for alcoholic beverages or personal services such as cleaning, laundering, barbering or similar items will be allowed.

#### **5. Reimbursement for Meals**

Meal rates are established to reimburse County officers or employees for the additional cost of eating meals away from home when the expense is incurred while conducting County business.

- A. Generally, reimbursement for meal expenses off the business premises in the bi-county area is specifically prohibited for individual employees or groups consisting solely of County employees (so-called conferences, working luncheons, study groups, department management luncheons, etc.) unless specifically authorized by the County Administrative Officer pursuant to Subsection C.4 below.
- B. For purposes of determining entitlement to meal expense reimbursement outside the bi-county area the following guidelines apply:
  - 1. Breakfast: Breakfast may be claimed if travel began at or prior to 7:00 A.M. and terminated at or after 9:00 A.M.

2. Lunch: Lunch may be claimed if travel began at or prior to 11:00 A.M. and terminated at or after 2:00 P.M.
3. Dinner: Dinner may be claimed if travel began at or prior to 4:00 P.M. and terminated at or after 7:00 P.M.

C. Per Diem: Reimbursement for meals will be made according to the per diem rates for the destination city as specified in IRS Publication 1542 (the rates are available on-line at [www.gsa.gov](http://www.gsa.gov)). Meal reimbursements shall include the costs for meals, tax, and tips up to the per diem maximum set by the IRS for that city. The employee is responsible for knowing the applicable per diem rate for the location of travel. If an employee's meal expenses exceed the authorized per diem rate, the employee shall be reimbursed only up to the IRS specified maximum per diem rate.

Receipts are not required to be submitted with the reimbursement claim; however, employees should be aware that the IRS may require receipts if the employee is audited by the IRS.

Exceptions to this policy include:

1. Reimbursement will be provided for the actual cost of a meal for persons who serve on a personnel interview panel and the cost of the County employee's meal who escorts the panel.
2. When authorized by the department head or the County Administrative Officer, third party meals may be provided to other governmental employees or private individuals who, at the County's request, provide services gratuitously which benefit the County, or in other business situations of potential benefit to the County or while attending conferences or attending training seminars on behalf of the County.
3. Meals within the bi-county area for County officers or employees whose attendance is required may be reimbursed.
4. When a County officer or department head hosts a conference or meeting that will be of benefit to the County of Sutter, the expenses of that meeting shall be reimbursable at actual cost. The expenses of such meetings, including the expenses of meals held in conjunction therewith, including meals of duly authorized delegates or representatives thereto, may be paid upon presentation of claims and receipts, in the normal manner described in this policy, with the exception that the claim shall also be reviewed for appropriateness and approved by the County Administrative Officer prior to being submitted to the Auditor-Controller. Receipts will be submitted with the claims. Documentation required for reimbursement shall

substantially conform to IRS requirements to substantiate business expenses by adequate records or sufficient evidence corroborating the (1) amount, (2) time and place, (3) business purpose, and (4) business relationship of the entertained person or persons.

D. County Officers or employees may not claim meals for the following:

1. Meals provided by the County.
2. Meals included in transportation costs such as airline tickets.
3. Meals that are otherwise provided.

Snacks and continental breakfasts such as rolls, juice, and coffee are not considered to be meals. On the rare occasion when an employee attending a conference is required to attend a meeting conflicting with a paid meal, upon authorization by the department head and approval by the County Administrative Officer, the employee may submit for reimbursement of the paid meal.

## **6. Lodging**

- A. Reimbursement will be allowed for lodging obtained at a distance of fifty (50) road miles or more from Yuba City determined by the shortest commonly traveled direct route.

Reimbursement will be allowed regardless of the distance from Yuba City, excluding the bi-county area, when lodging is obtained while attending a conference or other job-related meeting.

- B. Reimbursement for cost of lodging is limited to actual cost incurred and will be reimbursed only at the single room rate unless more than one employee shares room accommodations.

- C. Receipts are required to verify lodging claims.

## **7. Regulation of Travel**

County officers or employees shall be responsible for ensuring that they comply with all laws, regulations, and rules governing travel while traveling on County business.

(County officers should be aware of the requirements of Government Code § 1063: Absence from State of County or Judicial district officer.)

## **8. Claim Procedures**

- A. After an expense is incurred, employees may submit a claim for all expenses to the Auditor-Controller at any time; however, such claims shall be submitted no later than the 10<sup>th</sup> day of the month following the end of a calendar quarter, i.e. Jan-Feb-Mar, Apr-May-Jun, etc. (For example, a claim must be submitted no later than April 10<sup>th</sup> for travel that occurred between January 1<sup>st</sup> and March 31<sup>st</sup>). On rare occasions, the Board of Supervisors may find that circumstances are appropriate for a later submission. Claims submitted will have all supporting documentation and required receipts attached.
- B. The Auditor-Controller will pay such claims within 30 days unless the Auditor-Controller is modifying the claim pursuant to Government Code § 29743 or rejecting the claim pursuant to Government Code § 29741(b). In such case, the claim shall be returned with the appropriate notations pursuant to Section 12 of this policy.

## **9. Double Claiming**

To claim reimbursement for the same costs from more than one source (e.g., submitting claims for reimbursement to a State or Federal agency or other source and to the County) is prohibited by this policy. However, if another source provides only partial reimbursement, the balance up to the limits authorized by this policy may be claimed. Appropriate documentation must be submitted with the claim (e.g., the State claim form showing the costs that are being paid by the State).

## **10. Advances**

Funds may be advanced by the Auditor-Controller for any travel or business expense covered by this policy. Funds are considered advances to the employee only when made payable to the employee. Funds requested to be made directly to the hotel for attendance at a conference will not be considered an advance to the employee.

A final claim identifying actual expenses shall be submitted to the Auditor-Controller within 60 days of return from the trip for which the advance was issued or prior to termination of County employment, whichever event occurs first, along with payment of the excess of the claimed amount.

## **11. Taxable Reimbursements**

In some situations, reimbursements for travel and business expenses or portions thereof may be taxable. An example of this is the County's policy to reimburse the cost of meals even though an employee is not on an overnight stay. Day trips do not meet the IRS travel definition of "away from home" and thus employer reimbursement of personal meal expenses is taxable. The County is required to report these reimbursements as part of the employee's wages on Form W-2.



**12. Review Authority:**

- A. The primary review and approval of employee claims shall be the responsibility of the department head. Disputed claims shall be subject to review by the County Administrative Officer. Claims approved by the department head or the County Administrative Officer shall be submitted to the Auditor-Controller for payment.
- B. When auditing claims approved by the department head or the County Administrative Officer, the Auditor Controller shall conform to Government Codes §§ 29740-29749. Should the Auditor-Controller determine that a claim is inadequate for payment he shall return the claim within twenty-one (21) days to the department head or, if appropriate, to the County Administrative Officer for further review, noting his concerns or questions.
- C. Once a claim has received further review pursuant to Subsection 12.B above, and if approved by the department head or the County Administrative Officer, the Auditor-Controller shall pay the claim within twenty-one (21) days unless the Auditor-Controller modifies or rejects the payment pursuant to Government Codes § 29743 or § 29741(b). If such action is taken, the claimant, department head and, if appropriate, the County Administrative Officer shall be notified of the decision and the basis for the denial or reduction, pursuant to Government Code § 29745.

**Ronald Erickson**

From: Judy Chiaroni  
 Sent: Friday, January 18, 2008 2:10 PM  
 To: Richard Stout  
 Cc: Ronald Erickson; CJSmith  
 Subject: Travel Claim to San Diego

Employee Name: Richard Stout

Re: Travel and Business Expense Form

Due to insufficient documentation we are unable to process your expense form until the needed information is provided.

**Explanation for insufficient documentation: Air Travel vs Automobile**

<input type="checkbox"/>	Private car license number missing.
<input type="checkbox"/>	Agenda and/or registration detailing dates, purpose and other expense related information required.
<input type="checkbox"/>	Documentation does not match expense form.
<input type="checkbox"/>	Receipts required for processing.
<input checked="" type="checkbox"/>	Mileage Allowance versus more economical Air travel
<input type="checkbox"/>	Destination and/or business purpose was not included on claim.
<input type="checkbox"/>	Lodging receipt.
<input type="checkbox"/>	Airline receipt.

**Notes: Per County Travel and Business Expense Policy dated July 1994, under General Reimbursement Policy, second bullet, "County officers or employees are expected to secure meal and other expenses as economically as possible commensurate with standards available at the site of business being conducted".**

**You are entitled to the air fare of \$136.00 each way from Sacramento to San Diego and return, plus mileage to and from Sacrament Airport, 78 miles at the rate of \$.485, plus parking of \$30.00.**

**Travel by Air would have been a total cost of \$339.83, including a free**

1/18/2008

**shuttle provided by the Sheraton Hotel that runs every twenty minutes to and from San Diego Airport. Driving to San Diego was a cost of \$529.62. Therefore a reduction of \$189.79 should be made on your claim.**

The above listed information is required for our records and failure to provide it will slow the payment process. As soon as we receive the needed documentation we will process this payment with the next available pay period.

Thank you for your cooperation in this matter.

Sincerely,

Judith Chiaroni

Judith Chiaroni  
Accountant II-Payroll  
Auditor-Controller's Office  
822-7127 x 15

[jchiaroni@co.sutter.ca.us](mailto:jchiaroni@co.sutter.ca.us)

1/18/2008

EXHIBIT H



*Office of the County Counsel*  
*County of Sutter*

RONALD S. ERICKSON  
COUNTY COUNSEL

1160 Civic Center Blvd., Ste. C  
Yuba City, California 95993  
Tel (530) 822-7110 FAX (530) 822-7194

RICHARD STOUT  
JANET E. BENDER

ROBERT A. MULLER  
ASSISTANT

January 18, 2008

DEPUTIES

TO: Auditor's Office  
Attn: Judy Chiaroni

RE: **Richard Stout Business Expense Claim**

I have received your e-mail dated January 18, 2008, regarding the above-referenced matter. You are disallowing Mr. Stout's claim because you believe the travel policy requires him to travel by airplane. You are in error.

You cite the following language from the Travel and Business Expense Policy: "County officers or employees are expected to secure meals and other expenses as economically as possible commensurate with standards available with the site of the business being conducted." This language refers to business expenses at the site. It has absolutely nothing to do with traveling to the site.

Section 3.B. of the Travel Policy provides as follows: "Private automobiles may be used upon approval of the department head when a county automobile is not reasonably available." No county automobile is reasonably available to the county counsel's office. Nothing in the policy requires that an employee travel by airplane.

I approved Mr. Stout's travel by automobile and, therefore, Mr. Stout's claim **must** be paid as submitted.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Ronald S. Erickson".

RONALD S. ERICKSON  
SUTTER COUNTY COUNSEL

RSE:js

cc: Richard Stout, Deputy County Counsel  
Larry T. Combs, County Administrative Officer  
Barbara Kinnison, Deputy County Administrator

**Barbara Kinnison**

**From:** Barbara Kinnison  
**Sent:** Friday, February 08, 2008 4:37 PM  
**To:** Robert Stark  
**Cc:** Judy Chiaroni; Richard Stout  
**Subject:** Travel claim

Bob,

Richard Stout has asked us to look into his travel business expense claim. Mr. Stout filed a travel expense claim on January 11, 2008, for his conference in San Diego, CA. On January 18, 2008, Judy Chiaroni informed him that his claim for vehicle mileage reimbursement was denied since air fare was more economical. On January 18<sup>th</sup> Ronald S. Erickson, Sutter County Counsel, notified your office that he had approved Mr. Stout's travel by automobile and, therefore, his claim must be paid as submitted.

Today, Mr. Stout received his pay stub which did not include any travel expense reimbursement.

Please issue Mr. Stout a check for his claimed travel expenses. If you will not issue the reimbursement as claimed, than notify Mr. Stout and this office by next week, Friday February 15<sup>th</sup>.

We will write a staff report to the BOS recommending that they direct you to pay the claim as submitted. You certainly may request that the BOS review your position and recommend the deduction.

Barbara

**Barbara A Kinnison, CPA**  
Deputy County Administrative Officer  
1160 Civic Center Blvd, Suite A  
Yuba City, CA 95993  
(530) 822-7100  
bkinnison@co.sutter.ca.us

## Exhibit J

Sent March 5, 2008

Bob,

As a follow up to my e-mail on February 8<sup>th</sup> (see below), County Counsel has informed me that Richard Stout has not been paid for his travel claim submitted January 11, 2008, for his conference in San Diego last December. In order to review the claim again, County Counsel pulled the agenda item from the last Ag Committee. However, after further review, County Counsel feels this claim should be paid in full. Please respond by 5:00 tomorrow March 6<sup>th</sup> on whether your intent is to pay this claim or not. If you are not going to pay the claim as submitted, County Counsel is prepared to go to the Board of Supervisors for direction on payment of this claim.

**Barbara A Kinnison, CPA**

Deputy County Administrative Officer  
1160 Civic Center Blvd, Suite A  
Yuba City, CA 95993  
(530) 822-7100  
[bkinnison@co.sutter.ca.us](mailto:bkinnison@co.sutter.ca.us)





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RICHARD STOUT  
JANET E. BENDER

ROBERT A. MULLER  
ASSISTANT

March 18, 2008

DEPUTIES

TO: Board of Supervisors

RE: **Payment of Travel Claim of Deputy County Counsel**

**BACKGROUND**

On January 11, 2008, Deputy County Counsel Richard Stout prepared and submitted a travel claim for expenses incurred in attending a Child Protective Services conference called "Beyond the Bench Conference" in San Diego. The undersigned, as the department head, approved the claim on the same date. (A copy of the claim is attached as Exhibit A.) A portion of the claim is for mileage to and from San Diego.

On January 18, 2008, the Auditor-Controller's office denied the claim by e-mail on the basis of their belief that air travel would have been more economical than driving. (Copy of e-mail attached hereto as Exhibit B.)

On January 18, 2008, the undersigned sent a letter to the Auditor-Controller's office explaining why the travel claim must be paid. (Copy of letter attached hereto as Exhibit C.)

After the travel claim was not paid on the next pay day, Deputy County Administrator Barbara Kinnison sent an e-mail to the Auditor-Controller's office stating that the claim must be paid or relief from the Board of Supervisors would be sought. (A copy of her letter is attached hereto as Exhibit D.) As of March 10, 2008, the claim, nor any part of it, had not been paid.

The Auditor's office claims it is disallowing the claim based on the following policy:

MAR 18 2008

**Board of Supervisors**

March 18, 2008

Page 2 of 2

“County officers or employees are expected to secure meals and other expenses as economically as possible commensurate with standards available at the site of business being conducted.”

This language does not pertain to travel *to and from* the conference; rather, it refers to expenses incurred *at* the conference site.

Section 3.B. of the County's Travel Policy provides as follows:

“Private automobiles may be used upon approval of the department head when a county automobile is not reasonably available.”

No county automobile is reasonably available to the County Counsel's office and the undersigned authorized Mr. Stout's travel by automobile to the conference in San Diego. *Nothing in the County's Travel Policy requires that an employee travel by airplane.*

This matter was considered by the Agriculture, Public Protection, and General Government Committee at the meeting of March 10, 2008. The committee recommended that the matter be placed on the consent calendar for the board's approval and direction to the auditor to pay the claim.

**RECOMMENDATION**

Direct and order that the Auditor-Controller issue a warrant in the amount of \$917.66 payable to Richard Stout before close of business on March 19, 2008.

Very truly yours,



RONALD S. ERICKSON  
SUTTER COUNTY COUNSEL

RSE:js

Enclosures

cc: Richard Stout, Deputy County Counsel w/encl.  
Larry T. Combs, County Administrative Officer w/encl.  
Barbara Kinnison, Deputy County Administrator w/encl.

EXHIBIT L



*Office of the County Counsel*  
*County of Sutter*

RONALD S. ERICKSON  
COUNTY COUNSEL

1160 Civic Center Blvd., Ste. C  
Yuba City, California 95993  
Tel (530) 822-7110 FAX (530) 822-7194

RICHARD STOUT  
JANET E. BENDER

ROBERT A. MULLER  
ASSISTANT

March 21, 2008

DEPUTIES

Thomas A. Cregger  
Attorney at Law  
1030 G Street  
Sacramento, CA 95814

RE: Travel Claim of Deputy County Counsel Richard Stout/Robert Stark

Dear Mr. Cregger:

In January of this year, an attorney in this office submitted a county travel business claim to your client, the auditor, for payment. Based on the auditor's "misunderstanding" of the county's travel policy, the auditor has refused to pay the claim despite several entreaties that he do so.

At the board's meeting of March 18, 2008, the board ordered that he pay the claim by close of business on March 19, 2008. I am enclosing an excerpt from the minutes showing the board's order.

As of this writing, the claim still has not been paid. This is simply another example of a long pattern of egregious conduct by your client. I sincerely hope that the county will not have to incur additional expenses to ensure the claim is paid.

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Ronald S. Erickson".  
RONALD S. ERICKSON  
SUTTER COUNTY COUNSEL

RSE:js  
Enclosure

cc: Richard Stout, Deputy County Counsel  
Larry T. Combs, County Administrative Officer  
Barbara Kinnison, Deputy County Administrator  
Robert A. Muller, Assistant County Counsel

*County of Sutter*  
*Office of the County Administrator*

*...established 1850*

Date: December 12, 2007  
To: Honorable Board of Supervisors  
From: Larry T. Combs  
County Administrative Officer  
Subject: Advanced Salary Step Hiring and a Moving Allowance for the Assistant County Administrator

**Recommendation:**

Request that the Board of Supervisors':

1. Authorize hiring a candidate for the Assistant County Administrator position at step 5 of the salary range MGT 55 (\$11,075 mo.) and
2. Authorize a moving allowance for the candidate of up to \$7,500, based on receipts for costs incurred

**Background:**

As the Board is aware, we have been recruiting for an Assistant County Administrator since March 2007. In June 2007, we entered into a contract with Ralph Andersen and Associates, an executive recruitment firm, to recruit for this position.

A subsequent recruitment for the position was conducted with one qualified applicant being offered the position. The candidate has the education, experience and overall qualifications to excel in this position. She has accepted the position contingent upon being hired at the 5<sup>th</sup> step of the salary range and being granted a moving allowance of up to \$7,500.

Therefore, it is requested that the Board authorize hiring the Assistant County Administrator at salary step 5 of salary range MGT 55 (\$11,075 mo.) and authorize a moving allowance up to \$7,500 based on receipts.

8  
DEC 18 2007

RETURN TO DEPT.  
(PLEASE HIGHLIGHT FOR RETURN)  
DATE 2/12/2008

AUDITOR-CONTROLLER'S OFFICE  
CLAIM FORM

(original)

VENDOR NAME AND ADDRESS

LARSEN, Stephanie

2631 Red Bud Lane

Yuba City, CA 95993

VENDOR# T019MS4

County Administrator

DEPARTMENT

AUTHORIZED BY

Stephanie Larsen

PREPARED BY

SIGNATURE OF CLAIMANT

*Stephanie Larsen*

2008 FEB 13 4:00 PM  
RECEIVED  
AUDITOR-CONTROLLER'S OFFICE  
TELEPHONE# 8227100

INVOICE #	AMOUNT	FUND / DEPT PROJECT	PRGM / 00	ACCOUNT # ACCOUNT	ACCT # P.O. DESCRIPTION (MEMO)	A/C
1	\$4,287.79	1102 00	52230		MOVING ALLOWANCE	
GRAND TOTAL	3097.16 \$4,287.79					

GENERAL INFO:  
REV: JUNE 02

Board approved moving allowance of up to \$7,500 on 12-17-07.

Please Staple Backup Here >

EXHIBIT N

**To:** Barbara Kinnison  
**Cc:** Robert Stark; Stephanie Larsen; Monica Tejeda; Judy Chiaroni  
**Subject:**  
**Importance:** High

Barbara,

We are in the process of auditing Stephanie's claim for moving expense reimbursement authorized December 18, 2007 by the board of supervisors. Did the board intend to follow the Internal Revenue Service accountable plan guidelines?

Ronda

4/4/2008

**Robert Stark**

---

**From:** Barbara Kinnison  
**Sent:** Thursday, March 06, 2008 7:01 AM  
**To:** Ronda Putman  
**Cc:** Robert Stark; Stephanie Larsen; Monica Tejeda; Judy Chiaroni  
**Subject:** RE:

Ronda, since the BOS approved the moving allowance I would assume that the intention was to pay under the accountable plan any reimbursement that is in compliance with the accountable plan. Per our discussion in Tulare, let Stephanie know if you have any questions and pay her claims as appropriate. Thanks, Barbara

**Barbara A Kinnison, CPA**  
Deputy County Administrative Officer  
1160 Civic Center Blvd, Suite A  
Yuba City, CA 95993  
(530) 822-7100  
[bkinnison@co.sutter.ca.us](mailto:bkinnison@co.sutter.ca.us)

---

**From:** Ronda Putman  
**Sent:** Tuesday, February 26, 2008 3:11 PM  
**To:** Barbara Kinnison  
**Cc:** Robert Stark; Stephanie Larsen; Monica Tejeda; Judy Chiaroni  
**Subject:**  
**Importance:** High

Barbara,

We are in the process of auditing Stephanie's claim for moving expense reimbursement authorized December 18, 2007 by the board of supervisors. Did the board intend to follow the Internal Revenue Service accountable plan guidelines?

Ronda

3/21/2008



EXHIBIT Q

March 13, 2008

Mrs. Larsen,

The Board of Supervisors on December 18, 2007, approved paying moving allowance up to \$7,500. In conformance with the advice in Barbara Kinnison's, March 6, 2008 email, "that the intention was to pay any reimbursement that is in compliance with the accountable plan" we have reimbursed all accountable plan expense to date as indicated below.

As per the IRS Publication 521-Moving Expenses, the Auditor-Controller's Office determined that only certain expenses fall under an accountable plan by meeting the following three rules outlined in IRS Publication 521-Moving Expenses, (Page 9), Types of Reimbursement Plans:

*Accountable Plans:*

*To be an accountable plan, your employer's reimbursement arrangement must require you to meet all three of the following rules.*

- Your expenses must have a business connection that is you must have paid or incurred deductible expenses while performing services as an employee or your employer. Two examples of this are the reasonable expenses of moving your possessions from your former home to your new home and traveling from your former home to your new home.*
- Must adequately account to your employer for these expenses within a reasonable time.*
- You must return any excess reimbursement or allowance within a reasonable period of time.*

The items listed below are eligible expenses which fall under an accountable plan and therefore are treated as a nontaxable reimbursement paid to the employee.

**Accountable Plan reimbursable:**

- |   |                          |
|---|--------------------------|
| 1. One way (Jan 25) Eureka to YC- 261.30 mi x .20 | <b>**\$52.26</b>         |
| 2. United Van Lines (Feb 7)-Moving to new home    | <b><u>\$3,045.00</u></b> |

<b>Total Authorized Reimbursement:</b>	<b>\$3,097.26</b>
--	-------------------

**COPY**

In addition you are requesting reimbursement for pre-move house hunting expenses as detailed below. However, these expenses are not covered under the accountable plan per IRS Publication 521, (Page 10).

*Nonaccountable Plans:*

*A nonaccountable plan is a reimbursement arrangement that does not meet the three rules listed earlier under Accountable Plans.*

*In addition, the following payments will be treated as paid under a nonaccountable plan.*

- *Excess reimbursements you fail to return to your employer.*
- *Reimbursements of nondeductible expenses. See Reimbursements of nondeductible expenses, earlier (Page 9).*

*Non-accountable plan is a reimbursement arrangement that does not meet the three rules to qualify as an Accountable plan.*

*The Non-deductible Expense:*

*Pre-move house hunting expenses.*

**Non-accountable plan reimbursable: House hunting trip (Jan 13-18)**

- |   |                 |
|---|-----------------|
| 1. Lodging  | \$525.75        |
| 2. Mileage (round-trip Eureka-Yuba City<br>Plus in town mileage, 609.6 mi x .20/mi) | **\$121.92      |
| 3. Meals (incl. husband and daughter)   | <u>\$277.23</u> |

**Total Disallowed Expense:**

\$ 647.67

~~\$ 924.90~~

*excludable  
(pub 15-b  
page 15)*

Since pre-move expenses do not fall under the accountable plan as indicated above they are not eligible for reimbursement.

Robert E. Stark, CPA  
Auditor-Controller

\*\*Indicates adjusted mileage rate change from .505 to .20 as indicated in Publication 521; Moving expense mileage rate differs from the Travel expense mileage rate.

Enclosed: IRS Publication 521- Moving Expenses

**COPY**

**Barbara Kinnison**

**From:** Barbara Kinnison  
**Sent:** Tuesday, March 25, 2008 11:54 AM  
**To:** Robert Stark; Ronda Putman  
**Cc:** Stephanie Larsen  
**Subject:** Stephanie Larsen's moveable expense

Bob,

I just read your agenda item regarding Stephanie Larsen moving expense. It contains many inaccuracies.

I believe my e-mail was misconstrued, but since I spoke to Ronda in Visalia, I did not think there was any room for confusion.

The BOS approved payment of a moving expense for Ms Larsen of up to \$7,500 based on receipts for costs incurred. Ms Larsen has submitted a portion of her moving expense. The entire claim should be paid based on the BOS authorization. When Ms Putman asked the intention of the BOS my response was to pay the moving expense in accordance with the accountable plan. However, this did not mean not to pay the remaining portions of her claim. My e-mail stated for you to pay the total amount of her claims appropriately, meaning that what would fall under the accountable plan would be paid as non-taxable and the remaining would be paid under a non-accountable plan as taxable. This is similar to what you do on claims that have a combination of payment for meals in Sacramento for a day meeting and meals paid for out-of-town conferences. Ms Larsen made it clear that her claim was for BOS authorized moving expenses.

The CAO took this to Ag Committee for BOS directive to pay the rest of her claims for moving expense since you had not paid the entire claim in her last reimbursement and did not indicate your intention was to pay the remaining portion of her claim. Our preference would be for you to pay her claim in total and not have to go before the BOS; however, if you prefer further direction from the BOS, this office will present this at the BOS meeting on April 8<sup>th</sup>. Let me know your intention.

**Barbara A Kinnison, CPA**

Deputy County Administrative Officer  
1160 Civic Center Blvd, Suite A  
Yuba City, CA 95993  
(530) 822-7100  
bkinnison@co.sutter.ca.us

**From:** Barbara Kinnison  
**Sent:** Thursday, March 06, 2008 7:01 AM  
**To:** Ronda Putman  
**Cc:** Robert Stark; Stephanie Larsen; Monica Tejeda; Judy Chiaroni  
**Subject:** RE:

Ronda, since the BOS approved the moving allowance I would assume that the intention was to pay under the accountable plan any reimbursement that is in compliance with the accountable plan. Per our discussion in Tulare, let Stephanie know if you have any questions and pay her claims as appropriate. Thanks, Barbara

**Barbara A Kinnison, CPA**

Deputy County Administrative Officer  
1160 Civic Center Blvd, Suite A  
Yuba City, CA 95993  
(530) 822-7100  
bkinnison@co.sutter.ca.us

**From:** Ronda Putman  
**Sent:** Tuesday, February 26, 2008 3:11 PM

4/4/2008

# COUNTY OF SUTTER

March 24, 2008

To: Board of Supervisors

Re: CAO March 12<sup>th</sup> report to Ag, Public Protection and  
General Government Committee regarding reimbursement  
of nonaccountable moving expense for Assistant CAO  
Stephanie Larsen



ROBERT E. STARK, CPA

AUDITOR-CONTROLLER

Mr. Combs' report to the committee gives a decidedly distorted view of the Auditor-Controller's Office request for clarification of what moving expenses the Board intended to reimburse for the new Assistant County Administrator. The fact is that we had requested clarification from Mr. Combs' office by way of Barbara Kinnison, CPA, since this was a tax matter and she is the only employee in that office who has the requisite qualifications to opine on such matters. Mr. Combs has delegated an inordinate amount of authority to Ms. Kinnison in matters which fall under the purview of the Auditor-Controller's Office and, accordingly, out of necessity we routinely work with her as an agent of Mr. Combs. The attached email shows that Ms. Kinnison responded to our request and confirmed that your Board's intention was to reimburse Ms. Larsen under an accountable plan; to which we dutifully complied.

Mr. Combs, on the other hand, has misinformed the committee that the Auditor-Controller's Office is requesting clarification when that is not true. If he wishes to overrule the opinion of his subordinate who is a CPA then he should state that and cite his reasons for doing so. The record shows that when the CAO recommended to the Board that the County reimburse moving expenses no specificity was included as to how this was to be accomplished. Since Mr. Combs has repeatedly insisted that the County provides reimbursements to its employees under an accountable plan it would be consistent to apply this to a reimbursement of management moving expenses. Making this exception after the fact and changing to a nonaccountable reimbursement is not consistent with Mr. Combs' previous statements on employee reimbursements and gives the perception that we have special policies that apply only to certain classes of management. This is not consistent with how the County normally does business. Further, in the absence of documentation in the public record which commits the County to this more generous reimbursement, one has to question the basis for recommending the additional funds. It seems Mr. Combs made promises to Ms. Larsen on behalf of the County in private that he was not willing to have ratified by the Board in public—this would set a bad precedent and appears to be gifting public funds.

## RECOMMENDATION:

**Affirm the Auditor-Controller reimbursement of moving expenses for Ms. Larsen as allowed under an accountable plan, consistent with the advice of Barbara Kinnison, CPA.**

*Robert E. Stark*

Robert E. Stark, CPA  
Auditor-Controller

Attachment: Email March 6, 2008 from Barbara Kinnison, CPA

APR 08 2008

*County of Sutter*  
*Office of the County Administrator*

*...established 1850*

April 4, 2008

TO: Board of Supervisors

RE: Auditor-Controller Staff Report Regarding Reimbursement of Moving Expenses

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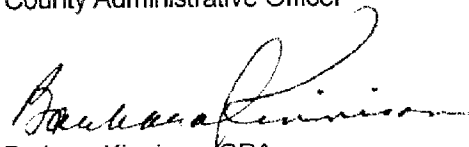
In response to requests for clarification from the Auditor-Controller, and the Auditor-Controller's subsequent non-payment of approved moving expenses for the Assistant County Administrative Officer, the County Administrative Office prepared a staff report with recommendations to clarify the Board's intent and to direct the Auditor-Controller to pay claims submitted by the Assistant CAO pursuant to the Board of Supervisor's previous approval for reimbursement of moving expenses.

Attached for your information is a separate staff report prepared by the Auditor-Controller regarding reimbursement of moving expenses for the Assistant County Administrative Officer. While there are numerous inaccuracies and intentional misrepresentations in Mr. Stark's report, we have provided it here for your consideration.

The matter which is being addressed in the report from the Auditor-Controller was already in the process of being addressed with the Board of Supervisors by our office. A staff report was prepared by our office on March 12, 2008 and considered by the Agriculture, Public Protection and General Government Committee of the Board of Supervisors on March 24, 2008. Only after Mr. Stark became aware that the matter was being referred to the Board of Supervisors did he prepare his own report March 24, 2008, which he submitted directly to the Clerk of the Board, bypassing the Committee review, requesting placement directly on the Board of Supervisors agenda. The staff report prepared by my office has been considered by Committee, was approved by that Committee for placement on the Board of Supervisor agenda, and is therefore agendaized for your consideration and action.

Mr. Combs and I are available to address any questions you may have.

LARRY T. COMBS  
County Administrative Officer



Barbara Kinnison, CPA  
Deputy County Administrative Officer

# Publication of Approved Documents

## Introduction

The 2007-2008 Sutter County Grand Jury learned, during the course of another investigation, that documents approved during the Board of Supervisor's meetings are not posted immediately after they are approved.

This investigation was conducted by members of the Audit & Finance Committee comprised of the following jurors: Deborah Baker, John Elliott, Doug Heacock and Sara Neukirchner.

## Discussion

During the course of another investigation, a juror attempted to find, at the local Library, a revised ordinance that had been approved by the Board of Supervisors in April of 2007. When that document was not present there, the same juror contacted both the Auditor-Controller and CAO to see if they had a copy of the revised ordinance. Neither party had a current copy.

The document was largely lost to both the public and administration. A subsequent investigation initiated by the CAO's office turned up the revised ordinance on the desk of the Administrative Assistant of the County Counsel.

The Administrative Assistant to County Counsel is responsible for releasing the documents that are approved during Board of Supervisor's meetings and distributing them appropriately. In a memo written to CAO Larry Combs, from Sandy Morrish, the Executive Secretary to Mr. Combs, she indicates that County Counsel's Administrative Assistant waits until she has several changes before distributing them.

### **From Letter from Sandy Morrish to Larry Combs, October 16, 2007:**

*"She [Admin Assist to County Counsel] provided me with a copy of the prepared updated (attached), and explained that she prepares the updates as they are approved, but waits until she has several to distribute them. There are two additional pending Ordinance Code changes going before the Board in the next few weeks, and she expects to distribute all the approved updates before the end of the year."*

At the time the juror was seeking this document, six months had passed without this document being published. As this was a revised ordinance, it would have been impossible for the administration and the Auditor-Controller to adhere to the change without having it readily available in their ordinance binders.

When questioned about this practice, County Counsel indicated that it should only take a few days for an ordinance change to be added to the ordinance binders located in the library, CAO's office, Auditor-Controller's office, and the office of County Counsel. However, as over six months had passed since this particular ordinance was approved and then published, there is a decided disconnect between the perceptions of County Counsel and the actions of his staff.

## **Findings**

The Grand Jury finds that the practice of holding ordinance changes and other public documents until there are “several” is unacceptable.

The Grand Jury finds that County Counsel needs to clarify this issue with his staff member to enforce his policy regarding all future publications.

## **Recommendations**

Consistency in policy enforcement by the administration and transparency in government demand easy access to public documents. The Grand Jury recommends that any approved Board documents, such as ordinance changes, be published within three to five business days of their approval.

## **Respondents**

Sutter County Board of Supervisors  
Sutter County Counsel, Ronald Erickson



***County of Sutter***  
**Administrative Office**

**Date:** October 16, 2007

**To:** Larry

**From:** Sandy

**Re:** Board of Supervisors Mileage Policy

I checked with Jan Smith in County Counsel's office with regard to your question about the missing update to the County Ordinance Code Section 52-592 thru 52-594, having to do with a change to the mileage policy for the Board of Supervisors approved by the Board April 3, 2007.

She provided me with a copy of the prepared update (attached), and explained that she prepares the updates as they are approved, but waits until she has several to distribute them. There are two additional pending Ordinance Code changes going before the Board in the next few weeks, and she expects to distribute all the approved updates before the end of the year.

Attachment

# City of Live Oak Pension Increase

## Introduction

The 2007-2008 Sutter County Grand Jury reviewed the process and rationale employed by The City of Live Oak in increasing the pension formula for its employees. Live Oak Mayor Diane Hodges, City Manager Tom Lando, City Counsel Brant Bordsen, and Finance Director Satwant Takhar met with the Grand Jury to discuss this and other issues.

This review was conducted by members of the Audit & Finance Committee comprised of the following jurors: Deborah Baker, John Elliott, Doug Heacock and Sara Neukirchner.

## Discussion

On March 4<sup>th</sup>, 2008, The City Council of Live Oak voted to increase the pension contribution for its employees. The change to the city's contract with the California Public Employees Retirement System (CalPERS) will increase the formula used to calculate pensions from 2.5% at 55 years of age to 2.7% at 55. The base on which these percentages apply would also change from a three year average of an employee's highest annual salary to an employee's single highest salary. An employee is eligible for a full pension at age 55. This is the most substantial formula currently offered by CalPERS to employees of Live Oak.

An example of how the formula works and the impact of the change are as follows:

**Assumption** – *Employee retires at age 65 after 30 years of city employment. The employee's annual salary over the last three years of his employment is \$54,000, \$54,000 and \$59,500.*

Pre-change pension

2.5% x 30 yrs of service = 75% of their annual salary (average of highest three years)  
75% x \$ 55,828 (average of 54K, 54K and 59.5K)  
**\$ 41, 871 = Total annual pension**

Post-change pension

2.7% x 30 yrs of service = 81% of their annual salary (average of highest three years)  
81% x \$ 59,500 (single highest salary)  
**\$ 48,195 = Total annual pension**

Difference between Pre & Post Change Pension amounts based on Assumption: **\$6,324 per year**

In the preceding example, which the Grand Jury views as typical, the increase in Live Oak's pension formula translates into a **15.2%** increase (**\$6,324**) in a city employee's annual pension. Even more striking is, at today's annuity rates, a sum of **\$75,173** would be required to guarantee that increased payment of \$6,324 to a 65 year old for the rest of his life.

It is noteworthy that these are, in reality, retroactive increases. An employee that is only a year or two away from retirement enjoys the same increase in benefits as the employee referenced in the above example who worked for 30 years. This has a significant affect on the plan's "side-fund."

### The Side-Fund

The side fund is, essentially, the difference between the plan's accrued liability (the value of benefits promised to its retirees) and the actuarial value of assets (the money currently available to pay those benefits.) The balance of the side-fund can be either positive or negative. This depends upon the performance of the investment portfolio of CalPERS, the amount of employer and employee contributions and, of course, the amount and availability of benefits promised. For ease of understanding, the side-fund can best be termed "Live Oak's Pension Checking Account."

According to a Contract Amendment Cost Analysis prepared for Live Oak by CalPERS (Exhibit A), prior to the plan amendment, "Live Oak's Pension Checking Account" was overdrawn in the amount of \$392,155. Subsequent to the plan amendment, "Live Oak's Pension Checking Account" is overdrawn by \$495,287. This debit balance is amortized over 20 years. The amount of Live Oak's payment on this debt will rise or fall from year to year depending upon the growth (or decline) of plan assets versus the benefits promised.

In approving the increase in benefits, the only public discussion of cost associated with the change was City Manager Tom Lando's assertion that it would only cost about \$6,000 this year. He was referring to the increased payment required due to "Live Oak's Pension Checkbook" becoming overdrawn by an additional \$103,132 as a result of the change. Not discussed was any mention of the fact that the amount of the required payment is based, largely, upon the well-above average investment returns enjoyed by CalPERS from 2002 thru 2006.

According to Richard Santos, senior pension actuary for CalPERS, "The truest and most accurate estimate of the actual cost of the pension increase is the 'change in the present value of benefits'." This change is reflected in Exhibit A, page 3 of 8 of *Contract Amendment Cost Analysis* provided to the City of Live Oak by CalPERS. The actual total cost of the pension increase is \$249,118.

### **From the Contract Amendment Cost Analysis:**

"The increase in this amount must be paid by increases in future employer and perhaps future employee contributions. **As such, the change in the present value of benefits due to the plan amendment represents the total "cost" of the plan amendment.** Some of this total cost may be covered by additional employee contributions and/or current side fund surplus."

	Pre-Amendment As of 06/30/2006	Change As of 06/30/2006	Post-Amendment As of 06/30/2006
Plan's Present Value of Benefits	3,441,185	249,118	3,690,303

The proposal to increase pensions originated with the Live Oak staff. Prime beneficiaries of any increase are, in fact, staff. Tom Lando indicated that, in discussions with city employees, who are not represented by a union, the majority indicated that they would prefer a pension increase in lieu of a cost of living raise. There was no indication from anyone involved in the process that any analysis was made of potential long-term costs associated with the increase. These costs include, but are not limited to:

- The effect on pension costs of falling investment returns
- The coming nexus of falling investment returns coupled with the anticipated decline in city revenue
- The effect of pension costs on likely pay increases in the future
- The effect of earlier retirements that are associated with an increased pension formula

In her appearance before the Grand Jury, Mayor Diane Hodges was asked for her reasons for supporting the pension increase. Her response was “Staff thought it was a good idea and that’s what they’re there for.” Asked if she had an independent thought as to the wisdom of the increase, she replied, “No.”

Mr. Santos was asked to attend a Live Oak City Council meeting to answer any questions regarding the proposed increase in pension benefits. He reported to the Grand Jury that he was disappointed that not even one question was asked of him by any member of the Live Oak City Council.

The decision to approve the staff’s recommendation to increase the pension formula seems to have been made before the City Council members called their March 4<sup>th</sup> meeting to order. After allowing for comments from the public, the ensuing discussion lasted less than one minute. Vice-Mayor Judy Richards, who cast the lone dissenting vote, did not explain her reasoning.

The fact that the only public utterance of costs to Live Oak associated with the pension increase was \$6,000 in the coming year is troubling to the Grand Jury. The glaring omission of significantly higher future costs, which could result under very realistic circumstances as a result of this decision, calls the process into question.

The costs of public employee benefits, both current and future, have become a significant area of concern in recent years. The growing economy and associated surge of plan assets, due to a rising stock and real estate market, allowed many government entities to significantly raise pension benefits without incurring the immediate costs to pay for them. However, the landscape has changed and a new reality is emerging.

The recent, and highly publicized, pension increases enacted by Sutter County should have informed the City Council as to the significance of the issue and all the variables surrounding it. If the importance of their decision was evident to the City Council, it wasn’t evidenced by their efforts to fully inform the public or engage the citizens of Live Oak in a meaningful dialog.

Given the economic situation of a just a few years ago, a rising stock market, a flood of new construction, and surging property values, even two years ago it would have been understandable to proceed with little discussion; however, given the stark realities of today; a falling stock market, plummeting property values and a looming recession, the Grand Jury questions the adequacy of public disclosure and the rationale of the Live Oak City Council.

## **Findings**

The Grand Jury makes no finding as to the City Council’s decision to enact the pension increase. The Grand Jury’s focus is on the process that preceded the decision.

At least one member of the Live Oak City Council, Mayor Diane Hodges, admittedly “rubber-stamped” staff’s recommendation for the pension increase.

The public disclosure and discussion of the costs associated with the pension increase were inadequate given the fiscal magnitude of the issue. Known costs of the pension increase, in excess of the \$6,000 mentioned by the City Manager, were not made public.

## **Recommendations**

The Grand Jury recommends that the City Council of Live Oak make it a priority to fully inform, engage and involve its citizens in their decision making processes.

In matters of such obvious fiscal importance, the Grand Jury recommends that the Live Oak City Council look beyond the recommendations of their staff, take advantage of the experts available and base their decisions on a more well-rounded view of the matters involved.

## **Respondents**

Live Oak City Council

## EXHIBIT A

### CONTRACT AMENDMENT COST ANALYSIS - VALUATION BASIS: JUNE 30, 2006 MISCELLANEOUS PLAN FOR CITY OF LIVE OAK

Employer Number: 1373

Benefit Description: Section 21354.5, 2.7% @ 55 Supplemental Formula (Applies To Active Members Only) and  
Section 20042, One-Year Final Compensation (Applies To All Members)

#### Actuarial Cost Estimates in General

What will this amendment cost? Unfortunately, there is no simple answer. There are two major reasons for the complexity of the answer:

- First, all actuarial calculations, including the ones in this cost estimate are based on a number of assumptions about the future. There are demographic assumptions about the percentage of employees that will terminate, die, become disabled, and retire in each future year. There are economic assumptions about future salary increases for each active employee, and the assumption with the greatest impact, future asset returns at CalPERS for each year into the future until the last dollar is paid to current members of your plan. While CalPERS has set these assumptions as our best estimate of the real future of your plan, it must be understood that these assumptions are very long term predictors and will surely not be realized each year as we go forward. For example, the asset earnings for the past 15 years at CalPERS have ranged from -7.2% to 20.1% while the 15 year compound return has been 10.0%, well above our assumption.
- Second, the very nature of actuarial funding produces the answer to the question of amendment cost as the sum of two separate pieces:
  1. The increase in Normal Cost (i.e., the increase in future annual premiums in the absence of surplus or unfunded liability) expressed as a percentage of total active payroll, and
  2. The increase in Past Service Cost (i.e., Accrued Liability – representing the current value of the increased benefit for all past service of current members) which is expressed as a lump sum dollar amount.
- The cost is the sum of a percent of future payroll and a lump sum dollar amount (the sum of an apple and an orange if you will). To communicate the total cost, either the increase in Normal Cost (i.e., future percent of payroll) must be converted to a lump sum dollar amount (in which case the total cost is the increase in the present value of benefits), or the Past Service Cost (i.e., the lump sum) must be converted to a percent of payroll (in which case the total cost is expressed as the increase in the employer's rate, part of which is permanent and part temporary). Converting the Past Service Cost lump sum to a percent of payroll requires a specific amortization period. So, the new employer rate can be computed in many different ways depending on how long one will take to pay for it. And as the first bullet point above states; all of these results depend on all assumptions being exactly realized.

#### Assets for Pooled Plans

Pooled plans at CalPERS share assets within the pool. Therefore, the concepts of a **plan's** assets and surplus/unfunded liability are no longer valid, with two exceptions. The first exception is the need to determine superfunded status and the second exception is the need to transfer assets between pools when a plan changes benefit formulas and must transfer from one pool to another. This transfer process is described in the section below. Replacing the concept of a plan's assets and a plan's surplus/unfunded liability are the **pool's** assets and surplus/unfunded liability and the concept of the plan's side fund.

The potential change to each meaningful measurement for the plan due to this potential plan amendment will be disclosed in the remaining sections of this communication.

#### Transfers between Pools

Plans at CalPERS are assigned to pools based on the service retirement formula for which they contract. Therefore, a request to amend from one service retirement formula to another requires a transfer of the plan

**CONTRACT AMENDMENT COST ANALYSIS - VALUATION BASIS: JUNE 30, 2006  
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from its current pool, call it Pool A, to a new pool, call it Pool B. When such an amendment occurs, the **transfer between pools will be deemed to have occurred as of the first annual rate setting actuarial valuation that recognizes the new contract amendment. In this case that will be the June 30, 2007 actuarial valuation.** So, if this proposed amendment is adopted, the plan will "cash out" of pool A and "buy into" pool B as of June 30, 2007. When the plan "cashes out" of Pool A, the plan will receive a prorated share of pool A's assets (excluding side funds) based on the ratio of the plan's liabilities to pool A's liabilities. The plan's remaining unamortized side fund as of June 30, 2007 will be added to this share of Pool A's assets to form the plan's total assets to cover the new higher liabilities that the plan brings into pool B as of June 30, 2007. The difference between total assets brought by the plan into pool B and the amount needed for the plan to "buy into" pool B will form the plan's new side fund.

### **Changes in Rate Volatility**

As is stated above, the cost estimates supplied in this communication are based on a number of assumptions about very long term demographic and economic behavior. Unless these assumptions (terminations, deaths, disabilities, retirements, salary growth, and investment return) are exactly realized each year, there will be differences on a year to year basis. The year to year differences between actual experience and the assumptions are called actuarial gains and losses and serve to raise or lower the employer's rates from year to year. So, the rates will bounce around, especially due to the ups and downs of investment returns.

The volatility in annual employer rates will be affected by this amendment. The reason is that this amendment will require your plan to transfer into a pool with higher benefits and earlier retirement ages. This will in turn require the accumulation of more assets per member earlier in their careers. Rate volatility can be measured by the ratio of assets to active member payroll. Higher asset to payroll ratios produce more volatile employer rates. To see this, consider two pools, one with assets that are 4 times active member payroll, and the other with assets that are 8 times active payroll. In a given year, consider what happens when assets rise or fall 10% above or below the actuarial assumption. For the pool with a ratio of 4, this 10 percent gain or loss in assets is the same in dollars as 40% of payroll and for the pool with a ratio of 8; this is equivalent to 80% of payroll. If this gain or loss is spread over 10 years (and we oversimplify by ignoring interest on the gain or loss), then the first pool's rate changes by 4% of pay while the second pool's rate changes by 8% of pay.

For all pools, the desired state is to be 100% funded (i.e., to bring assets to equal accrued liability). Therefore, we disclose the ratio of accrued liability to payroll rather than assets to payroll as a measure of the pool's potential future rate volatility. The higher the ratio, the more volatile the future rate may be. The table below contains these measures of potential future rate volatility for the plan's current pool and the new pool into which it would transfer. It should be noted that these ratios increase over time but generally tend to stabilize as the plan matures.

	<b>Current Pre-Amendment Pool As of 06/30/2006</b>	<b>New Post-Amendment Pool As of 06/30/2006</b>
Pool's Accrued Liability	912,988,585	1,280,157,040
Pool's Payroll	200,320,145	304,898,179
Volatility Index	4.6	4.2

**CONTRACT AMENDMENT COST ANALYSIS - VALUATION BASIS: JUNE 30, 2006**  
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### Changes in the Present Value of Benefits

The table below shows the change in the plan's total present value of benefits for the proposed plan amendment. The present value of benefits represents the total dollars needed today to fund all future benefits for **current** members of the plan (i.e., without regard to future employees). The increase in this amount must be paid by increases in future employer and perhaps future employee contributions. As such, the change in the present value of benefits due to the plan amendment represents the total "cost" of the plan amendment. Some of this total cost may be covered by additional employee contributions and/or current side fund surplus.

	<b>Pre-Amendment As of 06/30/2006</b>	<b>Change As of 06/30/2006</b>	<b>Post-Amendment As of 06/30/2006</b>
Plan's Present Value of Benefits	3,441,185	249,118	3,690,303

### Change in Superfunded Status

A plan with actuarial value of assets (AVA) in excess of the total present value of benefits is called **superfunded**, and neither future employer nor employee contributions are required. Of course, events such as plan amendments and investment or demographic gains or losses can change a plan's condition from year to year. For example, a plan amendment could cause a plan to move from being super-funded to being in an unfunded position. It is CalPERS policy to retain a plan's superfunded status throughout a fiscal year based on the most recently completed actuarial valuation regardless of plan amendments. So, superfunded status would change only on the subsequent valuation date, for the 2009/2010 fiscal year. The projected superfunded status for fiscal 2009/2010 with and without this plan amendment is shown below.

	<b>Pre-Amendment Fiscal Year 2009/2010</b>	<b>Post-Amendment Fiscal Year 2009/2010</b>
Plan's Superfunded Status	No	No

### Changes in Accrued Liability

It is not required, nor necessarily desirable, to be superfunded. Instead, the actuarial funding process calculates a regular contribution schedule of employee contributions and employer contributions (called normal costs) which are designed to accumulate with interest to equal the total present value of benefits by the time every member has left employment. As of each June 30, the actuary calculates this "desirable" level of funding as of that point in time. The **accrued liability** is equal to the present value of benefits less the present value of scheduled future employee contributions and future employer normal costs. That is, the present value of benefits represents the funding level needed if there is to be no future contributions and the accrued liability represents the funding level if there is to be future contributions (employee contributions and future employer normal costs). When a plan is "on schedule", only future employee contributions and future employer normal costs are needed. A plan that is "behind schedule" must temporarily increase contributions to get back on schedule and a plan that is "ahead of schedule" can temporarily reduce future contributions. The change in your plan's accrued liability as of June 30, 2006 as if the amendment were recognized in that actuarial valuation is shown below.

	<b>Pre-Amendment As of 06/30/2006</b>	<b>Change As of 06/30/2006</b>	<b>Post-Amendment As of 06/30/2006</b>
Plan's Accrued Liability	1,938,428	101,680	2,040,108



**CONTRACT AMENDMENT COST ANALYSIS - VALUATION BASIS: JUNE 30, 2006  
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**Changes in the Plan's Side Fund**

As stated in the section on transfers between pools, if this amendment is adopted in time to be recognized in the June 30, 2007 actuarial valuation, the plan will be deemed to change pools on that valuation date. In this case, the plan's side fund will be adjusted as necessary as of this date. Shown below is the development of the plan's projected assets to be "cashed out" of the pool it is leaving as of June 30, 2007.

<b>Projected Pre-Amendment Amounts as of 06/30/2007</b>	
1. Plan's projected Accrued Liability without the plan amendment	2,183,316
2. Current Pool's projected Accrued Liability	997,768,810
3. Plan's share of current Pool's projected Accrued Liability (1) / (2)	0.219%
4. Current Pool's projected Actuarial Value of Assets excluding side funds	974,350,178
5. Plan's share of Current Pool's projected non-side fund Assets (3) x (4)	2,132,071
6. Plan's projected side fund without plan amendment	(392,155)
7. Plan's projected total asset "cash out" of current pool at actuarial value (5) + (6)	1,739,916

Shown below is the plan's "buy in" to the new pool and the change in the plan's side fund projected as of June 30, 2007.

<b>Projected Post-Amendment Amounts As of 06/30/2007</b>	
1. Plan's projected Accrued Liability with plan amendment	2,315,745
2. New Pool's projected funded ratio	96.5%
3. Projected assets needed to "buy into" new Pool (1) x (2)	2,235,203
4. Plan's projected total Assets Available (from (7) in table above)	1,739,916
5. Plan's projected new side fund (4) - (3)	(495,287)

**Changes in the Initial Employer Contribution Rate**

CalPERS' policy is to implement rate changes due to plan amendments immediately on the effective date of the change in plan benefits. This change is displayed as the "Change to Total Employer Rate" below. If the contract amendment effective date is on or before June 30, 2008, the change in the employer contribution rate will be added to the employer's rate for the current fiscal year.

In general, CalPERS' policy provides that, upon a plan amendment, the side fund will be broken into two components. The first component is the change in the side fund due to the plan amendment. This component will be separately amortized over 20 years. The second component of the side fund is the remaining unamortized portion of side fund as though no amendment had occurred. This pre-existing component will continue to be amortized as it was prior to the plan amendment. Finally, these two components will be added together to form a single side fund amount. The amortization period of this combined single side fund will be set to produce a single side fund payment that is as close as possible to the payment that would have resulted had the two side fund components not been combined. CalPERS amortization policies may require a further change in the amortization period known as a fresh start. These policies are contained in Appendix A of Section 2 of your 2006 annual actuarial report.

The table below shows the change in your plan's employer contribution rate for fiscal 2008/2009 due to the plan amendment. The post-amendment information shown is the actual initial contribution rate that will apply during fiscal 2008/2009 if you adopt the amendment prior to fiscal 2008/2009. The change in normal cost may be much more indicative of the long term change in the employer contribution rate due to the plan amendment. The

**CONTRACT AMENDMENT COST ANALYSIS - VALUATION BASIS: JUNE 30, 2006**  
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plan's amortization of its side fund is a temporary adjustment to the employer contribution to "get the plan back on schedule" over the amortization period shown.

	<b>Pre-Amendment Fiscal Year 2008/2009 Rate</b>	<b>Change to Total Employer Rate</b>	<b>Post-Amendment Fiscal Year 2008/2009 Rate</b>
2008/2009 Employer Rate			
Pool's Net Employer Normal Cost	8.377%	1.324%	9.701%
Pool's Payment on the Unfunded Liability	0.656%	0.226%	0.882%
Surcharge for Class 1 Benefits			
a) FAC 1	0.000%	0.633%	0.633%
Phase out of Normal Cost Difference	0.522%	0.000%	0.522%
Amortization of Side Fund	4.028%	1.104%	5.132%
Total Employer Rate	13.583%	3.287%	16.870%
Side Fund Amortization Period	12		13
2009/2010 Estimated Employer Rate	13.0%	3.3%	16.3%

The table below shows the change in your plan's employee contribution rate (if any) for fiscal 2008/2009 due to the plan amendment.

	<b>Pre-Amendment Fiscal Year 2008/2009 Rate</b>	<b>Change to Total Employee Rate</b>	<b>Post-Amendment Fiscal Year 2008/2009 Rate</b>
2008/2009 Employee Rate	8.000%	0.000%	8.000%

### **Additional Disclosure**

If your agency is requesting cost information for two or more benefit changes, the cost of adopting more than one of these changes **may not** be obtained by adding the individual costs. Instead, a separate valuation must be done to provide a cost analysis for the combination of benefit changes. If the proposed plan amendment applies to only some of the employees in the plan, the rate change due to the plan amendment still applies to the entire plan, and is still based on the total plan payroll.

Please note that the cost analysis provided in this document **may not** be relied upon after August 1, 2008. If you have not taken action to amend your contract by this date, you must contact our office for an updated cost analysis.

Descriptions of the actuarial methodologies, actuarial assumptions, and plan benefit provisions may be found in the appendices of the June 30, 2006 annual report. Only mandated benefit improvements included in the June 30, 2006 annual report have been incorporated into this cost analysis. Please note that the results shown here are subject to change if any of the data or plan provisions differ from what was used in this study.

**CONTRACT AMENDMENT COST ANALYSIS - VALUATION BASIS: JUNE 30, 2006**  
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**Certification**

This actuarial valuation for the proposed plan amendment is based on the participant, benefits, and asset data used in the June 30, 2006 annual valuation, with the benefits modified if necessary to reflect what is currently provided under your contract with CalPERS, and further modified to reflect the proposed plan amendment. The valuation has been performed in accordance with standards of practice prescribed by the Actuarial Standards Board, and the assumptions and methods are internally consistent and reasonable for this plan, as prescribed by the CalPERS Board of Administration according to provisions set forth in the California Public Employees' Retirement Law.



Richard Santos, ASA, MAAA  
Senior Pension Actuary, CalPERS

Fin Process Ids: Annual - 300028, Base - 304904, Proposal - 304905  
Type: A

**CONTRACT AMENDMENT COST ANALYSIS - VALUATION BASIS: JUNE 30, 2006  
MISCELLANEOUS PLAN FOR CITY OF LIVE OAK**

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**Summary of Plan Amendments Valued**

**COVERAGE GROUP 70001**

**Pre-Amendment**

- The final compensation is calculated as the monthly average of the member's highest 36 consecutive months' full-time equivalent monthly pay (no matter which CalPERS employer paid this compensation).

**Post-Amendment**

- The final compensation is calculated as the monthly average of the member's highest 12 consecutive months' full-time equivalent monthly pay (no matter which CalPERS employer paid this compensation).

**CONTRACT AMENDMENT COST ANALYSIS - VALUATION BASIS: JUNE 30, 2006**  
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**COVERAGE GROUP 70002**

**Pre-Amendment**

- The final compensation is calculated as the monthly average of the member's highest 36 consecutive months' full-time equivalent monthly pay (no matter which CalPERS employer paid this compensation).
- The Service Retirement benefit calculated for service earned by this group of members (applying to active members only) is a monthly allowance equal to the product of the 2.5% @ 55 benefit factor, years of service, and final compensation. (Final compensation is reduced by \$133.33 per month for members with a modified formula). The benefit factors for retirement at integral ages are shown below:

<u>Retirement Age</u>	<u>2.5% at 55 Factor</u>
50	2.000%
51	2.100%
52	2.200%
53	2.300%
54	2.400%
55 and older	2.500%

**Post-Amendment**

- The final compensation is calculated as the monthly average of the member's highest 12 consecutive months' full-time equivalent monthly pay (no matter which CalPERS employer paid this compensation).
- The Service Retirement benefit calculated for service earned by this group of members (applying to active members only) is a monthly allowance equal to the product of the 2.7% @ 55 benefit factor, years of service, and final compensation. (Final compensation is reduced by \$133.33 per month for members with a modified formula). The benefit factors for retirement at integral ages are shown below:

<u>Retirement Age</u>	<u>2.7% at 55 Factor</u>
50	2.000%
51	2.140%
52	2.280%
53	2.420%
54	2.560%
55 and older	2.700%

ENDORSED FILED

APR 25 2008

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SUTTER  
CLERK OF THE COURT  
By JENNIFER LAMBERT Deputy

Report  
of the  
2007-2008  
Sutter County Grand Jury

ROBERT WILIAM AHU, KIMBER LEE ANDERSEN, GLENN ARONOWITZ,  
MARIA A. ARREOLA, DEBORAH LEE BAKER, KEVIN CHARLES BERMINGHAM, KENNETH  
DEAN BROOKE-FOREPERSON, NANCE ANN CONTRERAS,  
JOAN DUBUISSON DOOLITTLE, KENT BRYON EKBERG, JOHN EDWARD ELLIOTT,  
THERESE ANN GUIDERA, DOUGLAS JAMES HEACOCK, SATOKO SHINOZAKI KIM,  
TAMI RENE KING, JODY MARIE MCGINNIS, SARA NEILAH NEUKIRCHNER, CYNTHIA LEE  
TAYLOR, DIANE REBECCA UUTELA

Final report [pursuant to Penal Code Section 933(a)] on subject:

The Brown Act

Kenneth D. Brooke  
Kenneth D. Brooke,  
07-08 Grand Jury Foreperson

4-8-08  
Date

\*\*\*\*\*

# Brown Act Complaint

## Introduction

The Grand Jury received and investigated a complaint regarding violations of the Brown Act by the Sutter County Board of Supervisors (BOS).

The complaint was investigated by the County Government Committee comprised of the following jurors: Glenn Aronowitz, Deborah Baker, Nance Contreras, Tami King, Kevin Bermingham, and Diane Uutela. Kenneth Brooke (foreperson) also participated in this investigation.

## Discussion

Upon receiving the complaint regarding alleged Brown Act violations, the County Government Committee researched the Brown Act. To gain further knowledge and understanding of the Brown Act, an interview with Sutter County's District Attorney Carl Adams was initiated by the committee. A second interview with Carl Adams also included County Administrative Officer Larry Combs. Sutter County Counsel Ronald Erickson declined to participate, asserting attorney-client privilege. Mr. Erickson's position is that he is the attorney for the BOS and Sutter County, not for the citizens of Sutter County. This is a position supported by Mr. Adams.

The County Government Committee reviewed "The Brown Act: Open meetings for local legislative bodies" from the California Attorney General's Office. Former Attorney General Bill Lockyer produced a document to provide brief descriptions of the Brown Act to "assist public officials and those who monitor the performance of local legislative bodies to minimize and resolve disputes over interpretations of the Brown Act." The Ralph M. Brown Act, commonly referred to as the "Brown Act," is contained in section 54950 et seq. of the Government Code.

### **From the Attorney General's interpretation,**

*"The Act represents the Legislature's determination of how the balance should be struck between public access to meetings of multi-member public bodies on the one hand and the need for confidential candor, debate, and information gathering on the other. ... As the courts have stated, the purpose of the Brown Act is to facilitate public participation in local government decisions and to curb misuse of the democratic process by secret legislation by public bodies. (Cohan v. City of Thousand Oaks (1994) 30 Cal.App.4th 547, 555.)*

*"However, the Act also contains specific exceptions from the open meeting requirements where government has a demonstrated need for confidentiality. These exceptions have been construed narrowly; thus if a specific statutory exception authorizing a closed session cannot be found, the matter must be conducted in public regardless of its sensitivity. (Section 54962; Rowen v. Santa Clara Unified School District (1981) 121 Cal.App.3rd 231, 234; 68 Ops.Cal.Atty.Gen 34, 41-42 (1985).)*

*"While the Act creates broad public access rights to the meetings of legislative bodies, it also recognizes the legitimate needs of government to conduct some of its meetings outside of the public eye. Closed-session meetings are specifically defined and are limited in scope. They primarily involve personnel issues, pending litigation, labor negotiations and real property acquisitions. (Sections 54956.8, 54956.9, 54957, 54957.6.) Each closed-session meeting must be preceded by a public agenda and by an oral announcement. (Sections 54954.2, 54957.7.) When final action is taken in closed session, the legislative body may be required to report on such action. (Section 54957.1.)"*

According to the complaint received, an alleged violation of the Brown Act occurred on April 17, 2007, when public comment was not allowed prior to the BOS' vote on an Appearance Item portion of the agenda.

**From the Attorney General's interpretation – Public Testimony:**

*"Every agenda for a regular meeting shall provide an opportunity for members of the public to directly address the legislative body on any item under the subject matter jurisdiction of the body. With respect to any item which is already on the agendas, or in connection with any item which the body will consider pursuant to the exceptions contained in section 54954.2(b), the public must be given the opportunity to comment before or during the legislative body's consideration of the item. (Section 54954.3(a).)"*

**The Brown Act states:**

**54954.3. (a)** *Every agenda for regular meetings shall provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public, before or during the legislative body's consideration of the item, that is within the subject matter jurisdiction of the legislative body, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by subdivision (b) of Section 54954.2. However, the agenda need not provide an opportunity for members of the public to address the legislative body on any item that has already been considered by a committee, composed exclusively of members of the legislative body, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the legislative body."*

In the agenda and minutes from the BOS' meeting dated April 17, 2007, there is ample advertising of public participation just prior to the Consent Calendar and just after "Correspondence Not Included in Agenda Pack". Examination of the minutes from the April 17, 2007, meeting reflects a specific instance in which public participation was solicited from those in the audience. To ensure the accuracy of "the minutes," the Grand Jury also reviewed a video of the April 17<sup>th</sup> meeting and confirmed that there was, in fact, a request for public participation made prior to the vote on the 'Consent Calendar.'



The complaint also alleged on-going violations of the Brown Act regarding non-disclosure of pending litigation upon which the Board has apparently agreed. Three particular instances have been noted in the complaint and all are related to closed session communications.

**From the Attorney General's interpretation - Report at the Conclusion of Closed Sessions:**

*"Once a closed session has been completed, the legislative body must convene in open session. (Section 54957.7(b).) If the legislative body took final action in the closed session, the body may be required to make a report of the action taken and the vote thereon to the public at the open session. (Section 54957.1(a).) ... In the case of a contract or settlement of a lawsuit, copies of the document also must be disclosed as soon as possible. (Section 54957.1(b) and (c).) If final action is contingent upon another party, the legislative body is under no obligation to release a report about the closed session. Once the other party has acted, making the decision final, the legislative body is under an obligation to respond to inquiries for information by providing a report of the action. (Section 54957.1(a).)"*

**54957.1(a)** *The legislative body of any local agency shall publicly report any action taken in closed session and the vote or abstention of every member present thereon, as follows:*

**(1)** *Approval of an agreement concluding real estate negotiations pursuant to Section 54956.8 shall be reported after the agreement is final, as specified below:*

**(A)** *If its own approval renders the agreement final, the body shall report that approval and the substance of the agreement in open session at the public meeting during which the closed session is held.*

**(B)** *If final approval rests with the other party to the negotiations, the local agency shall disclose the fact of that approval and the substance of the agreement upon inquiry by any person, as soon as the other party or its agent has informed the local agency of its approval.*

**(2)** *Approval given to its legal counsel to defend, or seek or refrain from seeking appellate review or relief, or to enter as an amicus curiae in any form of litigation as the result of a consultation under Section 54956.9, shall be reported in open session at the public meeting during which the closed session is held. The report shall identify, if known, the adverse party or parties and the substance of the litigation. In the case of approval given to initiate or intervene in an action, the announcement need not identify the action, the defendants, or other particulars, but shall specify that the direction to initiate or intervene in an action has been given and that the action, the defendants, and the other particulars shall, once formally commenced, be disclosed to any person upon inquiry, unless to do so would jeopardize the agency's ability to effectuate service of process on one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.*

## **From the Attorney General's interpretation - Pending Litigation Exceptions:**

*"The codified pending litigation exception relating to local bodies is contained in Section 54956.9. This section authorizes bodies to conduct closed sessions with their legal counsel to discuss pending litigation when discussion in open session would prejudice the agency in that litigation. "Litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body, hearing officer or arbitrator. For the purpose of this section, litigation is pending when any of the following occurs: litigation to which the agency is a party has been initiated formally (Section 54956.9(a); 69 Ops.Cal.Atty.Gen.232,240 (1996) [issuance of tentative cease and desist order initiates an adjudicatory proceeding]; the agency has decided or is meeting to decide whether to initiate litigation (Section 54956.9(c); or in the opinion of the legislative body on advice of its legal counsel, there is a significant exposure to litigation if matters related to specific facts and circumstances are discussed in open session (Section 54956.9(b)(1). Agencies are also authorized to meet in closed session to consider whether a significant exposure to litigation exists, based on specific facts and circumstances. (Section 54956.9(c)(2); see 71 Ops.Cal.Atty.Gen.96, 105 (1988) Existing facts and circumstances which create a significant exposure to litigation consist only of the following:*

*\*The agency believes that facts creating significant exposure to litigation are not known to potential plaintiffs. (Section 54956.9(b)(3)(A).*

*\*Facts (e.g., an accident, disaster, incident, or transaction) creating significant exposure to litigation are known to potential plaintiffs. (Section 54956.9(b)(3)(B).)*

*\*A claim or other written communication threatening litigation is received by the agency. (Section 54956.9(b)(3)(C).)*

*\*A person makes a statement in an open and public meeting threatening litigation. (Section 54956.9(b)(3)(E).)*

*\*A person makes a statement outside of an open and public meeting threatening litigation, and an agency official having knowledge of the threat makes a contemporaneous or other record of the statement prior to the meeting. (Section 54956.9(b)(3)(E).)*

*"Prior to conducting a closed session under the pending litigation exception, the body must state on the agenda or publicly announce the subdivision of section 54956.9 which authorizes the session. If litigation has already been initiated, the body must state the title of the litigation unless to do so would jeopardize service of process or settlement negotiations. (Section 54956.9(c).)*

*"In 75 Ops.Cal.Atty.Gen. 14, 20 (1992), this office concluded that the pending litigation exception could be invoked by a body to deliberate upon or take action concerning the settlement of litigation. "*

**54956.9(c)** *Based on existing facts and circumstances, the legislative body of the local agency has decided to initiate or is deciding whether to initiate litigation.*

**From a response to an interpretation presented by the Sacramento Newspaper Guild, the Attorney General elaborated and further concluded:**

*"This interpretation is supported by Section 54957.1(a)(3), which requires the body to disclose settlements where the body accepts a signed settlement agreement in closed session unless the agreement must be approved by another party or the court."*

**The Brown Act states:**

**54957.1(3)** *Approval given to its legal counsel of a settlement of pending litigation, as defined in Section 54956.9, at any stage prior to or during a judicial or quasi-judicial proceeding shall be reported after the settlement is final...*

The Brown Act clearly states, "If the legislative body took **final** action in the closed session, the body **may be** required to make a report of the action taken..." According to Mr. Adams the only time information must be disclosed after a closed session is when there has been a finalized agreement. He went on to explain that reporting on pending litigation in an open session could jeopardize the outcome of the case.

*"... unless to do so would jeopardize the agency's ability to effectuate service of process on one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage."*

If the litigation has been finalized on a separate day other than the BOS' closed session meeting day, the BOS does not need to disclose that information. According to Mr. Adams and the Grand Jury's interpretation of the Brown Act, if asked about a specific case that has been filed, then information must be released.

Closed sessions could also be held to discuss possible litigation and whether or not to enter into litigation, weighing pros and cons, including expenses involved.

*"Agencies are also authorized to meet in closed session to consider whether a significant exposure to litigation exists, based on specific facts and circumstances."*

According to Mr. Combs, Mr. Erickson advises all members involved in the closed session whether or not there is something to report. Mr. Combs and Mr. Adams went on to explain that the BOS can release any information they want from closed sessions, but on the advice of counsel, do not release any information due to the circumstances previously discussed. Mr. Combs explained that the BOS defers to Mr. Erickson's expertise and explanations regarding matters that occur in closed sessions. County Counsel advises the BOS not to disclose any information they are not legally obligated to disclose, even for informational purposes.

The operative language of the Brown Act, by which the BOS, on advice of County Counsel, limits disclosure of matters discussed in closed session regarding pending litigation is "... litigation to which the agency is a party has been initiated **formally**." Any intervening event, prior to initiating litigation, would

preclude that litigation from being formally initiated and, therefore, an exception under the Brown Act. Due to this practice, the BOS rarely, if ever, has anything to report subsequent to a closed session regarding pending litigation.

## **Findings**

The Grand Jury finds no violation of the Brown Act Section 54954.3(a) as alleged in the complaint. The agenda, minutes, and video of the April 17, 2007 BOS' meeting reflect two separate occasions for public participation or comment.

The Grand Jury further finds no violations of the Brown Act Section 54957.1(a) or 54957.1(a)(2) as alleged in the complaint regarding non-disclosure of pending litigation.

## **Recommendations**

*"...the purpose of the Brown Act is to facilitate public participation in local government decisions and to curb misuse of the democratic process by secret legislation by public bodies."*

Transparency in government benefits all of its citizens. Therefore, the Grand Jury recommends that the BOS and County Counsel, in addition to adhering to the letter of the law, adhere to the spirit of the law, as it relates to the Brown Act.

The Grand Jury recommends that the BOS and County Counsel, whenever prudent, should disclose as much information as possible to the public.

## **Respondents**

Sutter County Board of Supervisors  
County Counsel, Ronald Erikson  
County Administrative Officer, Larry Combs  
District Attorney, Carl Adams

# Salaries of the Board of Supervisors

## Introduction

The 2007-2008 Sutter County Grand Jury initiated an investigation into the current salaries of the Sutter County Board of Supervisors.

This investigation was conducted by members of the County Government Committee, comprised of the following jurors: Glenn Aronowitz, Deborah Baker, Kevin Bermingham, Nance Contreras, Tami King and Diane Uutela.

## Discussion

In the most recent round of salary increases for Sutter County employees, during the spring of 2008, the Board of Supervisors (BOS) declined to grant themselves a pay raise. Due to the inherent political ramifications of raising their own pay, Boards of the recent past have allowed their salaries to fall well below the average level of comparable bodies. This issue was addressed, and remedies proposed, by both the 1989-1990 and 1996-1997 Sutter County Grand Juries.

The Grand Jury learned that serving on the BOS can be akin to a full-time job. In interviews with the Grand Jury, each Supervisor described their responsibilities and a typical work week. Their duties, in part, encompass; committee meetings, BOS meetings, regional Board meetings, office and social functions, corresponding and communicating with constituents, study and research, and emergencies to which time and attention must be devoted. While there can and will be debate as to whether the office of County Supervisor represents, or even should represent, a full-time job, the Grand Jury finds it unreasonable to characterize the job as simply "part-time."

The current monthly salary of a member of the BOS is \$2,873. That salary has not changed since 1997. Additionally, health and pension benefits are provided.

A Classification Salary Comparison of Boards of Supervisors in 10 surrounding counties (Exhibit A) dated February 2008, reflects that the salary for Sutter County Supervisors reflects a disparity of 53.4% less than the mean average. Closer to home, Sutter County Supervisors earn 25% less than their counterparts in Yuba County.

Service on the BOS should not be limited to those who are financially well-off or to those, by contrast, who accept financial loss as a condition of service. The Grand Jury acknowledges that individuals voluntarily seek to occupy the Office of Supervisor with full knowledge of its attendant pay. However, this elected position should pay a respectable salary that would attract a variety of equitable and qualified residents of Sutter County. A typical person, with a family to support, would not be inclined nor be able to serve given the current salary.

In a 1996-1997 Grand Jury report (Exhibit B) regarding the salaries of the BOS, it was stated that recommendations of increases to the BOS salaries by the 1989-1990 Grand Jury were never implemented and, at that time, salaries were ranked 9<sup>th</sup> out of 11 counties in a comparison survey. The Grand Jury went on to note that the BOS salaries were still rated 9<sup>th</sup> out of 11 counties with a 30% disparity as of January 1995. A recommendation was made that the BOS increase its salaries by 46% comprised of five increases over a three year period. The 1996-1997 Grand Jury realized that the final pay would still be below normal, in comparison with other counties, as their salaries would also likely continue to increase. The BOS considered, but ultimately rejected, the recommendation of the Grand Jury, opting instead to take a one-time increase of 30%.

This 30% increase, voted for and approved in 1997, was 16% less than the Grand Jury recommended at that time and was the last pay increase for the office of Sutter County Supervisor.

The 1989-1990 Grand Jury also recommended that the BOS adopt one of two recommended mechanisms for automatically setting future salary increases. They were:

- 1. that the Board of supervisors set its salary in relationship to counties of similar size, utilizing data provided by the Alameda County Taxpayers Association's Annual salary Survey or*
- 2. that the Grand Jury review and set the Board of Supervisors' salary each year.*

The BOS did not implement either recommendation.

The 2007-2008 Grand Jury believes that a salary setting mechanism makes sense in light of the recurrence of this issue and the obvious political dynamic involved. This mechanism should be as far removed as possible from local political considerations.

In order to bring the salary of Sutter County Supervisors in line with Supervisors in comparable jurisdictions, a significant pay raise, in the neighborhood of 60%, would be required. It should be noted that such an increase, if adopted, would only bring their pay in line with the "mean average." The Grand Jury is not ignorant of the political realities and ramifications that would result if the BOS were to adopt a 60% pay increase for themselves. Those political ramifications are behind the disparity that exists today and, most obviously, speak to the need for a salary setting mechanism.

There will no doubt be those who howl in protest if the BOS adopts an ordinance to begin the process of moving their salary toward a reasonable level. The Grand Jury observes that the current salary paid to all members of the BOS represents one tenth of one percent of the current county budget of approximately \$190 million dollars. The symbolism of an increase would dwarf any genuine fiscal impact on Sutter County.

**From the 1989-1990 Grand Jury, in their report on this very subject, stated:**

*“This Grand Jury feels it to be imperative that serving on the Board of Supervisors should not entail financial loss nor limit those who serve only to the wealthy. While the situation described above may not be current circumstance, holding the Board of Supervisors’ salaries below inflation for a number of years will result in just that happening.”*

**Their report went on to observe:**

*“It is vital to remember that this Grand jury is recommending a mechanism for setting salaries for a position and not for individuals. It is not the intent of this report to justify more or less money for any one person or persons currently serving on the Board of Supervisors. The voters will ultimately judge each individual’s job performance now and in the future.”*

The 2007-2008 Grand Jury concurs.

## **Findings**

The office of Sutter County Supervisor has not received a salary increase since 1997.

The current BOS salaries are approximately half the median salaries of other comparable counties.

There is no mechanism in place that would permit BOS salaries to rise, absent the political consideration of an affirmative vote.

## **Recommendations**

The Grand Jury recommends that the BOS adopt an ordinance increasing the salary of each Supervisor by at least 20% in each of the next three fiscal years.

The Grand Jury recommends that a salary setting mechanism be employed by Sutter County regarding future pay increases beginning in Fiscal Year 2009-2010.

The Grand Jury recommends that the mechanism should be implemented as follows: Sutter County Supervisors salary shall increase at the same rate awarded to Superior Court Judges by The State of California in the preceding fiscal year.

## **Respondents**

Sutter County Board of Supervisors

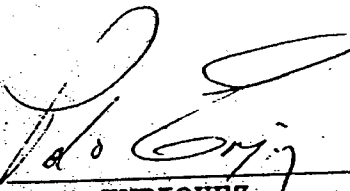
## EXHIBIT A

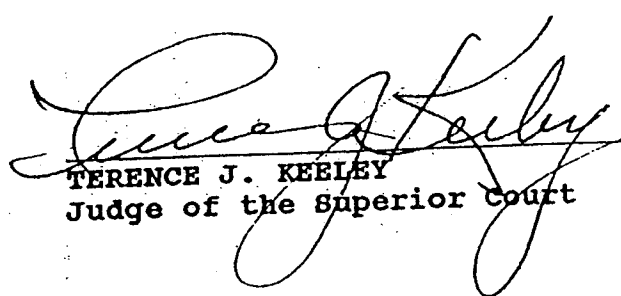
CLASSIFICATION SALARY COMPARISON 10 Counties			
Board of Supervisor			GEN31
	AGENCY	TITLE	SALARY
1	Humboldt	Board of Supervisor	\$6,221
2	Lake	Board of Supervisor	\$4,807
3	Madera	Board of Supervisor	\$5,722
4	Mendocino	Board of Supervisor	\$5,667
5	Napa	Board of Supervisor	\$6,736
6	Nevada	Board of Supervisor	\$3,287
7	San Benito	Board of Supervisor	\$3,621
8	Tehama	Board of Supervisor	\$1,045
9	Tuolumne	Board of Supervisor	\$3,099
10	Yuba County	Board of Supervisor	\$3,854
<b>SUMMARY</b>			
	Sutter County	\$2,873	Disparity
	Mean	\$4,406	-53.4%
	Median	\$4,331	-50.7%

February 2008



A FINAL REPORT  
ON THE SALARY SETTING MECHANISM FOR THE SUTTER COUNTY  
BOARD OF SUPERVISORS  
SUTTER COUNTY GRAND JURY  
1989-90

  
\_\_\_\_\_  
POLO ENRIQUEZ  
Foreman

  
\_\_\_\_\_  
TERENCE J. KEELEY  
Judge of the Superior Court

✓  
relationship to counties of similar size, utilizing data provided by the Alameda County Taxpayers Association's Annual Salary Survey.

3. That the Board's salary amount be tied to either management scale or general (employee) scale.

4. That the Board of Supervisors agree to an hourly amount and be paid by the hour, the "punch the clock" method.

5. That the current Board of Supervisors vote on the salary to be effective at a date after the next election of Board members.

6. That the salary be based on the average of all county department heads.

7. That a panel of six (6) individuals, consisting of two (2) Grand Jurors, two (2) Taxpayers Association members, and two (2) members appointed by the Board of Supervisors be given the task of setting a salary.

#### CONCLUSION:

It is vital to remember that this Grand Jury is recommending a mechanism for setting salaries for a position and not for individuals. It is not the intent of this report to justify more or less money for any one person or persons currently serving on the Board of Supervisors. The voters will ultimately judge each individual's job performance now and in the future.

#### RECOMMENDATIONS:

We decided to recommend a mechanism that was easily duplicated and implemented.

A. That the Board of Supervisors adopt one of the

following mechanisms for determining salaries for members of the Board.

1. That the Board of Supervisors set its salary in a relationship to counties of similar size, utilizing data provided by the Alameda County Taxpayers Association's Annual Salary Survey. (See Attachment A)

2. That the Grand Jury review and set the Board of Supervisors' salary each year.

B. With regards to other elected officials, that the County continue to use the current procedure of setting salaries for elected officials, other than the Board of Supervisors. This involves the utilization of the Personnel Department to survey both internal and external conditions, various duties required and market conditions of those positions. The Board of Supervisors should maintain, as they currently have, final control over these salaries and this salary setting procedure.

# The County Administrator

## Introduction

The 2007-2008 Sutter County Grand Jury initiated an investigation into the County Administrator (CAO) and his office.

An investigation and review was initiated by the County Government Committee comprised of the following Jurors: Glenn Aronowitz, Deborah Baker, Kevin Bermingham, Nance Contreras, Tami King, Diane Uutela.

The scope of the CAO's influence upon Sutter County Government necessitated dividing this report into two sections: Management Style and Financial Philosophy.

## Management Style

### Discussion

The 2007-2008 Grand Jury County Government Committee met with Larry Combs, Sutter County Administrator on numerous occasions to discuss and review various aspects of the CAO and his office. The CAO's office is comprised of eight people: the CAO, Assistant CAO, two deputy CAO's, an administrative analyst, two clerical support staff, and the Public Information Officer (PIO).

Mr. Combs has held his position as Sutter County's CAO for 24 years, making him one of the longest serving CAO's in the state of California. Mr. Combs views his position as being equivalent to that of a CEO of a company.

Mr. Combs was direct in his assessment of current problems facing Sutter County. He identifies them as budget, crime, growth, the increasing traffic problem and increasing gang activity. Mr. Combs stated that public safety is an issue as a result of our current levee status. Due to this concern, Mr. Combs was instrumental in forming a Joint Powers Agency for Sutter County, Sutter Butte Flood Control Agency, to address the current levee conditions and probable future problems that will need solving. This Agency has brought together Sutter and Butte Counties, the cities of Yuba City, Live Oak, Gridley and Biggs, Levee District 1 and Levee District 9, enabling them to work together to address the levee problems as a whole rather than as individual counties or cities.

Mr. Combs prides himself on his ability to employ people who are team players and can be "home grown" future Sutter County managers and administrators. The perceived advantage of "home grown", according to Mr. Combs, is that they are people who are here to stay and are not "up and out". His philosophy is to help them stay and benefit our community by utilizing their knowledge of our system and by already knowing our community and its people. He also acknowledged a disadvantage to this theory. He recognizes that it is the same knowledge, no new blood and or ideas to help make positive changes to Sutter County. Mr. Combs acknowledged having in excess of one-third or more "home grown" department heads and elected officials.

The CAO recognizes that the county has not utilized the media well. It is his view that his job is to manage the county, not publicize its efforts and good work. He also feels that the local media has not

been particularly interested in presenting a positive image of local government, and stated, "The media sometimes skews the information, serves the people poorly, and that the media focuses on the negative and are often incorrect with information or facts." To better inform the public, Mr. Combs recommended, and the BOS approved, hiring a Public Information Officer.

As CAO, Mr. Combs is responsible for the completion of annual performance reviews of non-elected department heads. Prior to 2008, these reviews were sporadic, often oral, and not a priority of the CAO. He has reasoned that day to day communications supplant required written reviews. According to the Sutter County Employee Rules and Regulations:

*"Department Heads designated below shall have their work performances evaluated annually no less than fifteen calendar days before the employee's anniversary date or on the month and date of the employee's adjusted date of hire each year for those employees on step 5 or the longevity step. The County Administrative Officer shall evaluate the work performance of all such Department Heads. The results of such evaluations shall be forwarded to the Board of Supervisors. The subject annual evaluation shall be used in determining what salary increases, if any, will be received by said Department Heads at their salary anniversary date in accordance with the established step plan. Notwithstanding the provisions of Sections 13 and 17 of Sutter County Resolution Number 77-121, designated Department Heads shall not receive any such salary increase within a range unless said Department Head's performance is meritorious. This provision shall be effective for the designate Department Heads subsequent to the date of execution of this agreement by County.*

*Agricultural Commissioner – Director of Weights & Measures  
Chief Probation Officer  
Director of Child Support Services  
Director of Community Services  
Director of Human Services  
Director of Information Services  
Director of Library Services  
Museum Director/Curator  
Public Works Director"*

The CAO says county department heads are professionals and, because they are "at will" employees, termination of a non –performing employee, even without a documented and written basis, would not pose a problem for Sutter County. However, the CAO did allow that, given our litigious society, written performance evaluations would be a useful safeguard in the event of a wrongful termination suit brought against the county.

Failure to conduct and complete a formal written evaluation can also ignore the positive aspects of recognizing superior performances. Mr. Combs stated he meets regularly with department heads and talks with them openly and "they know where they stand." All county employees are eligible for pay raises in exactly the same fashion. Certain steps, corresponding to years of service, automatically qualify an employee for a pay raise. Salary increases for department heads are awarded by the Board of Supervisors (BOS) based upon a recommendation from the CAO. Partially, as a result of the Grand Jury's inquiry into the annual review status of department heads, Mr. Combs has scheduled performance evaluations and reviews to be done on all of the department heads in March, in closed session with the BOS, bringing the annual reviews up to date for this year.

Due to the length of Mr. Comb's tenure as CAO, and his management style, there is no aspect of the operations of county government that he does not affect in a significant way. He readily acknowledges this and accepts the accountability that ensues from it. This has made him a "lightning rod" for those who disagree with actions the county has taken. The ongoing and public dispute with the Auditor/Controller has increased the perception that Mr. Combs has become a polarizing figure. He attributes this perception to the skewed reporting of local media as well as to accusations leveled at him at BOS's meetings – primarily by supporters of the Auditor/Controller.

Mr. Combs serves at the pleasure of the BOS. They and they alone determine who holds the position of CAO. In interviews with the Grand Jury, the vast majority of the BOS expressed confidence in Mr. Combs and admiration for the job he has done and is doing.

## **Findings**

Prior to March 2008, Mr. Combs has failed to conduct employee evaluations of non-elected department heads, on a regular basis, as is required under The Sutter County Rules and Regulations. Since the writing of this report, all required performance evaluations for the calendar year 2008, have been completed.

The methodology and paperwork employed by Mr. Combs to assess work performance appears antiquated and outdated.

The objective of the newly-created position of PIO is to improve communication and public outreach between Sutter County and its citizens.

## **Recommendations**

The Grand Jury recommends that Sutter County Rules and Regulations regarding evaluations of non-elected department heads be amended to require that the evaluations be standardized and in writing. The Grand Jury also recommends amending the ordinance to mandate the completion of a written evaluation prior to any employee being eligible to receive pay with distinction.

The Grand Jury recommends the 2008-2009 Grand Jury follow up and assess the performance of the PIO in aiding improved communications within Sutter County.

## **Financial Philosophy**

### **Discussion**

Mr. Combs sees himself as "professional, devoted, experienced, and honest." He also describes himself as a strategic planner and a savvy financier who is fiscally conservative. He is responsible to the BOS for proper and efficient administration of county affairs. He directs surveys and studies on a wide variety of administration and budgetary subjects and makes recommendations to the BOS. The CAO directs the analysis and evaluation of annual budget requests of all county departments and continuously reviews county expenditures throughout the fiscal year to determine if such expenditures are necessary and in accordance with BOS policy. Currently, Sutter County's net budget is approximately \$190 million,

including Federal and State funding. As of this writing, the county holds approximately \$21 million in a Capital Reserve Fund account. These are designated as “unrestricted funds,” meaning that their use is solely at the discretion of the BOS and not designated for any mandated purpose. Mr. Combs stated that because he budgets conservatively, there has been a budget surplus each year during his tenure as CAO.

There are those who would contend that Mr. Combs “over-budgets.” This is no doubt the case. Exhibit A reflects budgeted versus actual expenditures for Sutter County dating back to fiscal year 2001-2002. In the fiscal year ending June 2007, the county actually spent \$14,403,470 less than budgeted as reflected in the Annual Financial Report. For the last four years, actual expenditures were considerably less than the amount budgeted.

The surpluses are responsible for the balance in the Capital Reserve account and have enabled the county to pay cash rather than finance a wide array of capital improvements. Among them are: the Star Bend Levee improvement project and the purchase of several buildings, such as the Probation Department’s office building, the current CAO’s office building, the building adjacent to it, and numerous undeveloped plots of land.

According to Mr. Combs, there are three "critically needed" capital improvement projects. First, a new building for the Health and Human Services Department is a "critically needed" capital improvement. There is a pressing need for a 65 thousand square foot building. Mr. Combs stated the construction phase is currently on hold due to the uncertainty of state funding assistance. He had no time frame for the completion. A second "critically needed" capital improvement encompasses the consolidation of the District Attorney's office. In order to accomplish the consolidation, a newly constructed building is needed to house the Auditor/Controller, Information Technology, Treasurer/Tax Collector, and the Assessor. According to Mr. Combs, Sutter County has already purchased land to accommodate a new "General Government building". He advised the Grand Jury that appropriations for a study and the design for the new building have already been added to next years budget. Actual construction of the new General Government building may be dependant on how severe the budgetary cuts are from the State of California. Mr. Combs clarified, this new building "will be built", but the occupants remain unclear or uncertain. This new building could eventually house either the Treasurer/Tax Collector, Information Technology, the Auditor/Controller, or the new District Attorney's office, contingent upon state funding for a new court house to be built near the new Government Building, or be a new "General Government" building, housing Mr. Combs, County Counsel, the Board of Supervisor's and other Sutter County Government entities. The third "critically needed" capital improvement project is a new, larger and up to date Animal Control Building. According to Mr. Combs, no design plans have been completed, but he stated appropriations for the design and construction will be in next year’s budget.

The budget philosophy employed by the CAO with the resulting savings has permitted Sutter County employees to enjoy remarkable job security during his tenure. Mr. Combs, the BOS, and several Department heads interviewed all expressed pride in the fact that no Sutter County employee has been laid off due to budgetary concerns during the last two decades. As previously stated, the funds in the Capital Reserve account are unrestricted and used for purposes other than capital improvements. For example, with the anticipated state budget cuts, which the CAO estimates will delay payment of \$3-\$5 million in state funds due to Sutter County in Fiscal Year 2008-2009, the county is able to draw from that account rather than making drastic budget cuts to departments and ongoing projects in Sutter County.

The CAO characterizes funds, once deposited into the Capital Reserve Fund, as “one-time money” and is philosophically opposed to using those monies to fund ongoing operations or expenditures. To fund the

latest pay increases, awarded by the BOS in February 2008, \$1.3 million was transferred from the Capital Reserve Fund to cover the cost of that increase for the Fiscal Year 2007-2008. Mr. Combs expressed the legal necessity to use "one-time money" to cover the cost of the pay increases for that first year. Budgetary changes are not allowed mid-year. The Grand Jury questioned Mr. Combs regarding this transfer and the pay raises that required it. The basis of the Grand Jury's question was that since county revenue will almost certainly be reduced in the coming years due to current economic conditions, including; falling home values that will reduce property tax revenue, reduced fees from building permits, and lower and slower reimbursements from the state. Since costs to the county are certain to rise, including, but not limited to, the pay raises for county employees approved over the past four years and the attendant pension increases, it appears that on-going transfers from the Capital Reserve Fund would be required to balance the county budget. If this comes to fruition, then this would represent a direct contradiction of the CAO's philosophy regarding "one-time money." Mr. Combs disagreed with the premise of the Grand Jury's question and predicts, based partly upon a forecast from the County Assessor, increased county revenue in the coming years.

**According to Mr. Mike Strong, Sutter County Assessor:**

*"For the 2008-2009 assessment roll, we are conservatively forecasting very minimal, but positive roll growth of slightly above 2% over the prior year".*

In fact, Mr. Strong calculated the actual growth to be 2.04% net change from 2007-2008.

**He went on the state:**

*"The above anticipated level of roll growth stands in marked contrast to the actual percentage roll growth experienced in the two immediately preceding assessment periods, at 8.73% (2007-2008) and 17.21% (2006-2007), respectively."*

Mr. Strong explained his jurisdiction is generally limited to property assessments only, but was kind enough to estimate approximations of county revenues obtained from property assessments by applying the 1% base property tax rate to total assessment roll, then adjust the result to reflect the approximate percentage of positive tax dollars in Sutter County.

Mr. Strong also explained because of significant decline in the real estate market, an increase in mandated Proposition 8 assessments have occurred in Sutter County. Prop 8 "establishes a requirement that the assessed value of the property must be no greater than the lesser of either its current market value or its 'factored base year' value." Mr. Strong stated roughly 2,500 properties already have received Prop 8 designations. He projected a dramatic increase to encompass some 3,500 – 4,000 properties by final roll closing 2008.

The Grand Jury, despite the CAO's track record, is skeptical that the county will enjoy increased revenue in the coming few years. Our view is admittedly empirical and informed by the huge deficits currently forecasted by the State of California, Yuba City, Sacramento County, and most other surrounding governments. Sutter County is most certainly in a better position to weather the coming financial storm than most governmental entities and, for that, the CAO deserves a good deal of credit. However, to project that Sutter County will emerge entirely unscathed seems overly optimistic.

It is important to note that all decisions regarding county budgets and county expenditures are ultimately the sole responsibility of BOS.



## **Findings**

Sutter County, during Larry Combs tenure as CAO, has budgeted conservatively, incurred almost no debt, and amassed considerable savings.

The Grand Jury finds that Mr. Combs has a very optimistic view for future property assessment revenue. Anticipated county property assessment revenue is forecast to rise just 2% for 2008, a considerable decline from preceding years.

A back log of capital improvements, some identified by the CAO as "critically needed," has developed in recent years. Sutter County currently has no concrete plans, time frames, or cost estimates to implement several of the much needed capital improvements. The new Animal Control Building is to be planned and designed first. If so, it would be the first to be completed. The new Health and Human Services Department has been designed but the construction is currently delayed due to the lack of state funding. Finally, and probably the largest undertaking, is the design, planning, and construction of a new General Government building. Currently, there has not been any study completed for this new building, but according to Mr. Combs, one will be proposed for the 2008-2009 budget, pending BOS approval. Again, it is still unclear and uncertain who will reside in the new General Government building; Auditor/Controller, Information Technology, Treasurer/Tax Collector and Assessor, or the District Attorney's office, or Mr. Combs and Sutter County Government.

## **Recommendations**

The Grand Jury recommends that the CAO, and his staff, implement a capital improvement plan. This plan must consist of a prioritized list of capital improvements and timeframes for completion, with short-term and long-range funding strategies.

## **Respondents**

Larry Combs, County Administrative Officer  
Sutter County Board of Supervisors

County of Sutter  
Salaries & BenefitsFYE 2002, 2003, 2004, 2005, 2006, 2007 Actual  
FYE 2008 Budgeted

	Budgeted 2001-02	Actual 2001-02	Budgeted 2002-03	Actual 2002-03	Budgeted 2003-04	Actual 2003-04	Budgeted 2004-05	Actual 2004-05
51010 - Permanent Salaries	\$ 34,576,745.04	\$ 31,882,764.95	\$ 38,065,437.00	\$ 34,896,127.70	\$ 40,054,970.00	\$ 37,061,829.78	\$ 40,322,497.00	\$ 38,034,671.53
51011 - Planning Commission	7,700.00	4,785.00	7,700.00	4,180.00	5,000.00	2,255.00	5,000.00	4,290.00
51013 - Special Pay	148,055.00	164,853.06	181,932.00	190,947.49	184,979.00	193,431.33	194,975.00	190,360.34
51014 - Other Pay	125,641.00	82,993.98	130,585.00	109,630.30	171,913.00	139,322.25	403,835.00	357,278.65
51020 - Extra Help	873,241.00	1,181,809.49	744,784.80	1,072,949.31	839,933.00	1,237,202.76	913,698.00	1,231,298.59
51121 - Contr Deferred Comp	-	-	-	-	-	-	-	-
51022 - Reserves	114,946.00	54,767.66	85,246.00	46,584.45	55,446.00	94,328.62	73,300.00	82,785.73
51030 - Overtime	747,364.00	1,150,335.85	590,103.00	933,318.34	595,076.00	679,763.42	604,202.00	648,967.56
51100 - County Contribution FICA	2,748,787.25	2,556,806.24	2,938,817.00	2,735,150.51	3,056,742.00	2,867,598.35	3,149,470.00	2,927,683.68
51101 - Co Contribution Medicare	-	-	-	-	-	-	-	-
51102 - Payroll Taxes	-	-	-	-	-	-	-	-
51110 - Co Contribution Retirement	3,311.00	-	-	9,151.11	1,140,882.00	1,126,442.72	5,221,367.00	4,739,155.19
51111 - Retirement Allowance	2,471,693.00	2,252,180.73	2,681,321.00	2,490,666.64	2,607,064.00	2,648,243.66	3,088,724.00	2,895,294.45
51120 - Co Contr-Group Insurance	4,270,740.00	3,692,470.41	5,141,817.00	4,476,405.74	5,465,401.00	5,151,248.53	7,063,944.00	6,445,369.29
51122 - Co Contr-Retirees' Insurance	-	-	-	-	-	-	-	-
51130 - Co Contr-Unemployment Ins	90,051.00	82,008.00	88,594.00	143,824.52	97,801.00	109,586.48	82,481.00	98,442.00
51150 - IF Worker's Comp	988,992.00	988,826.89	1,167,024.00	1,162,878.28	2,486,236.00	2,486,824.04	3,067,754.00	3,067,753.85
<b>Total Salaries &amp; Benefits</b>	<b>\$ 47,167,266.29</b>	<b>\$ 44,094,602.26</b>	<b>\$ 51,823,360.80</b>	<b>\$ 48,271,814.39</b>	<b>\$ 56,761,443.00</b>	<b>\$ 53,798,076.94</b>	<b>\$ 64,191,247.00</b>	<b>\$ 60,723,350.86</b>

This includes all expenditure accounts in the Salaries &amp; Benefits object level.

51111 is the employee portion of retirement costs paid by the county

2.7% at 55 was implemented mid year 2004-05 (12/04)

FY 01/02 &amp; 02/03 only include funds 0001-0305.

FY 03/04-07/08 only include funds 0001-4591.

County of Sutter

Salaries & Benefits

FYE 2002, 2003, 2004, 2005, 2006, 2007 Actual

FYE 2008 Budgeted

	Budgeted 2005-06	Actual 2005-06	Budgeted 2006-07	Actual 2006-07	Budgeted 2007-08
51010 - Permanent Salaries	\$43,377,018.00	\$38,780,266.65	\$48,171,303.10	\$41,164,825.54	\$50,207,830.00
51011 - Planning Commission	5,000.00	5,087.50	5,000.00	2,997.50	5,000.00
51013 - Special Pay	194,895.00	182,744.98	197,669.00	188,630.27	253,694.00
51014 - Other Pay	416,274.00	580,567.70	446,087.00	626,564.20	363,958.00
51020 - Extra Help	985,170.00	1,207,351.33	1,026,856.00	1,215,570.78	933,990.00
51121 - Contr Deferred Comp	-	-	-	-	-
51022 - Reserves	90,500.00	44,777.82	50,000.00	22,332.50	32,000.00
51030 - Overtime	598,433.00	893,568.33	873,718.00	1,356,141.10	660,408.00
51100 - County Contribution FICA	3,301,855.00	3,009,292.05	3,440,459.00	3,239,313.53	3,774,206.00
51101 - Co Contribution Medicare	-	-	-	3,587.16	-
51102 - Payroll Taxes	-	-	-	1,315.16	-
51110 - Co Contribution Retirement	8,052,757.00	7,230,021.87	7,561,288.00	6,984,273.53	8,604,112.00
51111 - Retirement Allowance	3,423,772.00	3,111,603.41	3,553,948.00	3,285,592.21	3,998,500.00
51120 - Co Contr-Group Insurance	7,999,076.00	6,794,002.76	8,293,513.00	7,132,870.54	8,319,222.00
51122 - Co Contr-Retirees' Insurance	-	-	-	-	-
51130 - Co Contr-Unemployment Ins	81,359.00	85,752.59	89,521.00	66,809.00	63,000.00
51150 - IF Worker's Comp	2,626,796.00	2,517,946.04	2,404,289.00	2,366,125.27	2,031,052.00
<b>Total Salaries &amp; Benefits</b>	<b>\$71,152,905.00</b>	<b>\$64,442,983.03</b>	<b>\$76,113,651.10</b>	<b>\$67,556,948.29</b>	<b>\$79,246,972.00</b>

This includes all expenditure accounts in tl  
51111 is the employee portion of retiremer  
2.7% at 55 was implemented mid year 200  
FY 01/02 & 02/03 only include funds 0001-  
FY 03/04-07/08 only include funds 0001-4!

# 2008 Primary Election

## Introduction

The 2007-2008 Sutter Grand Jury investigated the contingency plans the Elections Department had for the 2008 Primary Election, held on February 5, 2008 instead of June 2008. Also, the Grand Jury inquired into the use of the decertified electronic voting machines.

The investigation was conducted by the County Government Committee comprised of the following jurors: Glenn Aronowitz, Deborah Baker, Kevin Bermingham, Nance Contreras, Tami King and Diane Uutela.

## Discussion

The 2007-2008 Grand Jury County Government Committee met with Chris Goforth, Sutter County Assistant Registrar, in order to determine if the Elections Department was prepared for the recent changes made in the 2008 Primary Election date. The committee also wanted to determine if the Elections Department was up to date with their procedures following the re-approval and conditional use of the electronic voting machines.

Beginning in 2008, primary elections were held in February instead of June. When we met with Ms. Goforth on November 11, 2007, she explained the process of preparing the ballots, sending them out to the public and how they are received and counted. All prepared ballots, absentee ballots and unused ballots are stored in a secure room, locked behind a gate, in a separate area, away from day-to-day operations. In order to enter this separate area, you must sign in and have a key that accesses the locked door. Secured behind another door are the electronic voting machines.

Ms. Goforth showed the committee each of the eight new required "seals" on top of the other required security seals imposed by Secretary of State Debra Bowen. At this time, Ms. Bowen has approved the machines as usable for disabled persons only. As part of the re-approval, Ms. Bowen imposed the requirement of five or more votes on the electronic machine, in order for the votes to be counted and remain anonymous. In order to be accessible and in compliance with the Help America Vote Act (HAVA), one electronic voting machine must be placed at each polling place. Although Ms. Goforth stated that any voter could request to use the electronic machine. At the time of our interview, confusion still remained about some of the new re-approval conditions set forth by Ms. Bowen. One source of confusion is that each electronic voting machine must have at least 5 votes in order to be counted and assure anonymity. Ms. Goforth assured us that all confusion would be cleared up by the Primary Election.

Ms. Goforth also explained the in depth security measures taken in order to prevent any computer hacking, the reasoning Secretary Bowen used for decertifying the machines. The concern is regarding the writing of the ballots and the security of the room or computer and its software. The machines used in Sutter County are manufactured by Sequoia Voting Systems. Sequoia has upgraded their systems to enhance their security. They've also taken steps to educate the Election officials in ways to avoid hacking. Sutter County has been compliant with all of the provisions set up by Secretary Bowen. 100% of the electronic votes must be tallied and accounted for, and then the cartridge inside the electronic machine is hand carried by two poll workers to the Elections Department staff. In order to access this cartridge, one must cut through all of the "seals." Finally there is a limited number of people, only upper

administrative staff from the Elections Department, that have access to the computer system that reads the cartridges and counts the votes. The computer that reads and writes the cartridges and paper ballots is not connected to any other network server or online service. Again, this is a very secure room, with limited access.

## **Findings**

The Elections Department was able to plan effectively and prepare the paper ballots for the early Primary Election held early in February 2008.

The Elections Department was well prepared, trained, and had experience running the paper ballot reader machines. As in previous years, the Information Technology Department was on staff to run the manual ballot reader and assist the Elections staff. The County Government Committee was able to observe the ballot intake and reading process of paper ballots, and was very impressed with the efficiency of the Elections and IT Departments. After observing the process for three to four hours, with close to half of the polling places accounted for, it was noted that not one electronic voting machine had been used. Polling places were visited by the County Government Committee, inquiring about the electronic machines. The poll workers appeared knowledgeable about the machines, the required "seals," and the confidentiality required. One poll worker showed us a log (Exhibit A) that must be filled out four times throughout the Election Day after ensuring the seals have not been tampered with.

The Elections Department should be commended for being prepared for the early Primary Election. They should also be commended in their efforts to keep all ballots and electronic voting machines secured and locked, separate from the day-to-day operations.

The Elections Department should also be commended for its effort in keeping up with the continuously changing requirements and re-approval process of the electronic voting machines.

## **Recommendations**

The Grand Jury recommends that the Elections Department remain current and up to date on the electronic voting machines, making the necessary changes imposed by Secretary of State, Debra Bowen.

## **Respondents**

Donna Johnston, Clerk/Recorder

Precinct Number	Edge Serial Number	VVPAT Serial Number	Card Activator Serial Number

		ELECTION DAY					Must be completed as part of closing polls procedures.
Picture #	Seal Description	Seal #	Pre Election Logic & Accuracy Testing (PreL/AT)	Verification must be completed as part of <b>opening</b> poll procedures.	Check 1	Check 2	
			<b>[✓] / Initials</b>	Open Polls <b>[✓] / Initials</b>	Time: _____ <b>[✓]</b>	Time: _____ <b>[✓]</b>	Close Polls <b>[✓]</b>
	<b>EDGE VOTING UNIT</b>						
	Strapping Seal ( <b>BLUE</b> label seal)		<b>[ ] /</b>	<b>[ ] /</b>	N/A	N/A	N/A
1	Edge Case, by handle ( <b>RED</b> label seal)		<b>[ ] /</b>	<b>[ ] /</b>	<b>[ ] /</b>	<b>[ ] /</b>	<b>[ ] /</b>
2	Edge Case, opposite of handle ( <b>RED</b> label seal)		<b>[ ] /</b>	<b>[ ] /</b>	<b>[ ] /</b>	<b>[ ] /</b>	<b>[ ] /</b>
3	Rear Screen Cover, ( <b>HOLOGRAPHIC</b> seal) top & bottom		<b>[ ] /</b>	<b>[ ] /</b>	<b>[ ] /</b>	<b>[ ] /</b>	<b>[ ] /</b>
4	Rear Screen Reset Switch ( <b>HOLOGRAPHIC</b> Seal)		<b>[ ] /</b>	<b>[ ] /</b>	<b>[ ] /</b>	<b>[ ] /</b>	<b>[ ] /</b>
5	1 <sup>st</sup> Polls Open/Closed Cover ( <b>RED</b> lock seal)		<b>[ ] /</b>	<b>[ ] /</b>	<b>[ ] /</b>	<b>[ ] /</b>	<b>[ ] /</b>
6	2 <sup>nd</sup> Polls Open/Closed Cover, under door ( <b>RED</b> lock seal)		<b>[ ] /</b>	<b>[ ] /</b>	<b>[ ] /</b>	<b>[ ] /</b>	<b>[ ] /</b>
7	Results Cartridge Door ( <b>RED</b> lock Seal)		<b>[ ] /</b>	<b>[ ] /</b>	<b>[ ] /</b>	<b>[ ] /</b>	<b>[ ] /</b>
	<b>VOTER VERIFIED PAPER AUDIT TRAIL (VVPAT)</b>						
8	VVPAT Cover ( <b>RED</b> lock Seal)		<b>[ ] /</b>	<b>[ ] /</b>	<b>[ ] /</b>	<b>[ ] /</b>	<b>[ ] /</b>
9	VVPAT @ Edge Rail Top ( <b>RED</b> lock Seal)		<b>[ ] /</b>	<b>[ ] /</b>	<b>[ ] /</b>	<b>[ ] /</b>	<b>[ ] /</b>
	<b>CARD ACTIVATOR</b>						
10	Activator Bottom, 1 left & 1 right ( <b>HOLOGRAPHIC</b> seal)		<b>[ ] /</b>	<b>[ ] /</b>	<b>[ ] /</b>	<b>[ ] /</b>	<b>[ ] /</b>
11	Activator Side ( <b>BLUE</b> seal tape)		<b>[ ] /</b>	<b>[ ] /</b>	<b>[ ] /</b>	<b>[ ] /</b>	<b>[ ] /</b>
12	Cartridge Transport Case ( <b>BLUE</b> seal)		<b>[ ] /</b>				<b>[ ] /</b>

**In the event any seals display signs of tampering  
STOP. Do not proceed with setup of this unit.  
Immediately call the Elections Office at 822-7122**

118

## Paper Ballot Verification

### Ballots Issued

Party Ballots	Beginning Serial #	Ending Serial #	Quantity	Inspector Pickup	Open Polls
DEM					
REP					
AIP					
GRN					
LIB					
PF					
NP					
<b>Ballot Box Seal:</b>					

I certify the above ballot serial numbers and quantities have been verified and are accurate, and that the above ballot box seal was applied to the box at the time of sealing.

I certify the above ballot box security seal was secure and did not display signs of tampering at the time it was opened and that the ballot serial numbers and quantities have been verified and are accurate.

Signature	Date	Signature	Date
Signature	Date	Signature	Date

## Supplemental Ballots Issued Verification

Party	Beginning Serial #	Ending Serial #	Quantity	New Total Quantity	Received & Verified By (2 Signatures)

Figure 1

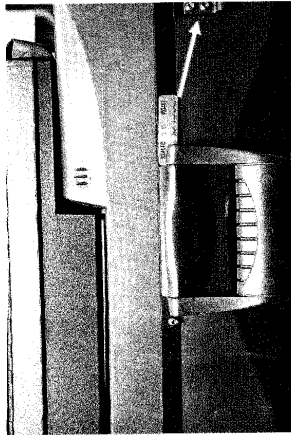


Figure 2



Figure 3

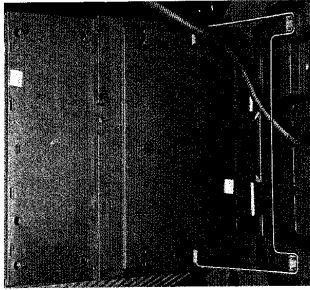


Figure 4

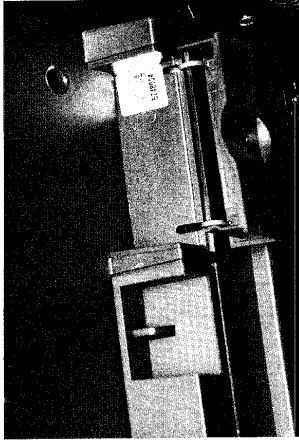


Figure 5

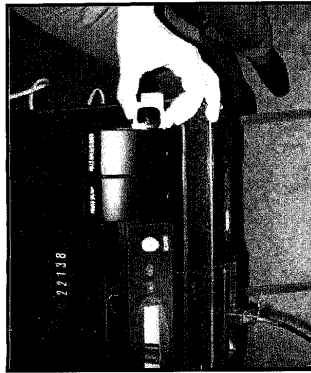


Figure 6

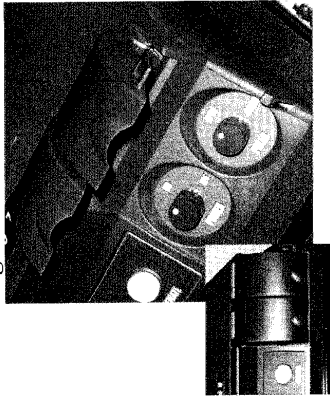


Figure 7



Figure 8

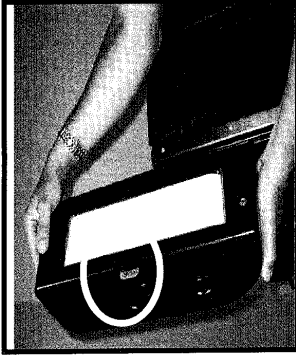


Figure 9



Figure 10

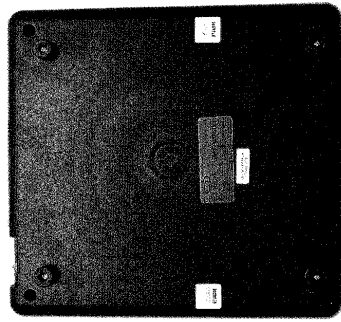


Figure 11

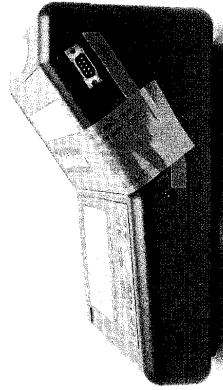
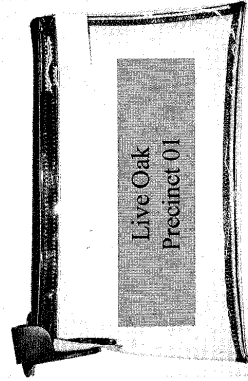


Figure 12





# Replacement of Elected Officials

## Introduction

The 2007-2008 Sutter County Grand Jury investigated the procedures employed by Sutter County in replacing an elected official in the event of their resignation during their term.

## Discussion

In the 2007-2008 Grand Jury year, two elected officials tendered their resignations prior to the completion of their term. Joan Bechtel, Clerk-Recorder submitted her resignation citing “health reasons,” leaving three years remaining on her term. Sherriff Jim Denney subsequently resigned his position to take a position in the private sector.

Currently, the Government Code does not have specific provisions for the replacement of an elected official when they voluntarily resign. If a Board Supervisor resigns, the Governor is able to appoint another in their place for the remainder of their term. The Code is antiquated and there are few precedents for determining the tested procedures.

Prior to appointing a new Clerk-Recorder, County Counsel Ronald Erickson submitted an opinion to the Board of Supervisors regarding whether or not the Board could add this position to the next General Election. Although some Sutter County citizens urged the Supervisors to investigate the possibility of an election to replace this position, as there was such a significant amount of time left in her term, Mr. Erickson’ opinion was that State law precluded such an election.

### **From County Counsel Ronald Erickson’s Opinion on Propriety of Calling a Special Election to Fill Vacancy in Elected County Clerk's Office (Exhibit A):**

*“Government Code section 25304 provides generally for vacancies occurring in elective county offices. It reads:*

*"The board of supervisors shall fill, by appointment, all vacancies that occur in any office filled by the appointment by the board and elective county officers, except judge of the superior court and supervisors. The appointee shall hold office for the unexpired term or until the first Monday after January 1 succeeding the next general election"*

*The Attorney General's office was asked this specific question with respect to an elected Constable who resigned during his term. It rendered its opinion at 57 Cal.Ops.Atty.Gen. 149 (1974) and concluded that the board of supervisors of a general law county may not call a special election to fill the unexpired term of the elected constable who resigned during his term, in lieu of appointing a person to fill the vacancy for the unexpired term. It relied, in part, on the California Supreme Court decision of People ex rel. Murphy v. Col (1901) 132 Cal. 334... It held the phrase “next general election” does not refer to the general election immediately following the vacancy but to the first ensuing general election at which the particular office is normally filled for the full term...”*

Traditionally, the County has commissioned County Administrative Officer (CAO), Larry Combs to advertise, screen, interview and recommend for appointment all candidates for these positions. In the case of the Clerk-Recorder position, Mr. Combs performed the interviews with a panel of other Clerk-Recorders to determine the best candidate.

Technically, these elected positions may be filled by anyone who is over eighteen years old and a citizen of the United States regardless of additional qualifications. However, in the case of an appointment, the CAO's office uses criteria resembling a traditional skilled job interview. Following the interviews, the CAO's office makes a recommendation of one candidate for the appointment. In every case, the Board of Supervisors has approved the recommendation of the CAO.

When asked how this practice started, CAO Larry Combs indicated that, in the past, Supervisors were apt to ask inappropriate questions of interviewees in a public forum. At least one Supervisor, Stan Cleveland, expressed concern over this process, claiming that the Board was not involved in the process in any way.

**From Letter sent to Grand Jury from Stan Cleveland, December 28, 2007:**

*"This note is to inform you that I am very disappointed in the final process in selecting the new Clerk/Recorder. The Board had nothing to do with it except that we are expected to rubber stamp the recommendation of the County Administrator!!"*

## **Findings**

The Grand Jury finds that Sutter County acted within the law in the process they employed to fill the vacancies created by the resignations of the Clerk/Recorder and the Sheriff. However, the Grand Jury further finds that the process employed was the least public permissible by law. Because these vacancies involved elected officials, a more public process, more approximating an election, should have been employed. Members of the Board of Supervisors, as representatives of their constituents, should have a choice of candidates as opposed to simply ratifying a candidate selected by the County Administrator.

## **Recommendations**

The Grand Jury recommends that, in the event of a vacancy in an elected office, a committee be formed to advertise, screen, interview and recommend up to three candidates for consideration by the Board of Supervisors. A scripted public interview could then be conducted with specific questions designed by the committee to determine the best candidate for the position.

The Grand Jury recommends that a nominating committee, selected by the Board of Supervisors, be comprised of a member of the CAO's office, other department heads and interested citizens. The Grand Jury believes that with basic direction from the CAO's office, and proper preparation, committee members could be sufficiently instructed not to ask inappropriate questions of the candidates.

Presenting more than one candidate for the Board of Supervisor's consideration, and doing so in a public forum, is a process that better resembles a democratic election.

## **Respondents**

Sutter County Board of Supervisors



*Office of the County Counsel*  
*County of Sutter*

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Tel (530) 822-7110 FAX (530) 822-7194

ROBERT A. MULLER  
ASSISTANT

November 29, 2007

RICHARD STOUT  
JANET E. BENDER  
JAMES E. LEWIS  
DEPUTIES

TO: Board of Supervisors

RE: **Propriety of Calling a Special Election to Fill Vacancy  
in Elected County Clerk's Office**

The issue has arisen as to whether the Sutter County Board of Supervisors may call a special election to fill the unexpired term of the County Clerk who is resigning mid-term for health reasons.

Short Answer: Our conclusion is that the Board of Supervisors of a general law county, such as Sutter, may *not* call a special election to fill the unexpired term of the elected County Clerk who resigns during her term, in lieu of *appointing* a person to fill the vacancy for the unexpired term. The person appointed would serve out the full term of the predecessor clerk.

**Analysis**

Government Code section 25304 provides generally for vacancies occurring in elective county offices. It reads:

"The board of supervisors **shall fill**, by *appointment*, all vacancies that occur in any office filled by the appointment by the board and *elective* county *officers*, except judge of the superior court and supervisors. The appointee shall hold office for the unexpired term or until the first Monday after January 1 succeeding the next general election." (Emph. Supp.)

The Attorney General's office was asked this specific question with respect to an elected constable who resigned during his term. It rendered its opinion at 57 Cal.Ops.Atty.Gen. 149 (1974) and concluded that the board of supervisors of a general law county may *not* call a special election to fill the unexpired term of the elected constable, who resigned during his term, in lieu of appointing a person to fill the vacancy for the unexpired term. It relied, in part, on the California Supreme Court decision of *People ex rel. Murphy v. Col* (1901) 132 Cal. 334. There the Supreme Court interpreted similar language in the

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## Board of Supervisors

November 29, 2007

Page 2 of 3

predecessor statute to section 25304, section 25, subdivision 19, of the County Government Act of 1897, with respect to its application to the elective office of county auditor. It held the phrase "next general election" does *not* refer to the general election immediately following the vacancy, but to the first ensuing general election at which the *particular office is normally filled* for the full term. This ruling was also followed by the Supreme Court in *People ex rel. Richardson v. Cobb* (1901) 133 Cal. 74, which involved an elected city justice. The Attorney General at 57 Cal.Ops.Atty.Gen. 149 also relied on several earlier Attorney General opinions at 11 Cal.Ops.Atty.Gen. 136 (1948), which likewise made the above finding in connection with an elected county clerk; 32 Cal.Ops.Atty.Gen. 108, 112 (1958) [other county officers] and 33 Cal.Ops.Atty.Gen. 60 (1959) [a treasurer-tax collector].

In 57 Cal.Ops.Atty.Gen. 149, *supra*, quoting former authority from 33 Cal.Ops.Atty.Gen. 60, 61 (1959), the California Attorney General stated:

"Although the statute [Gov. Code, § 25304] has been codified and recodified since the *Col* and *Cobb* decisions, there has been no significant change in its terms. In the absence of any substantial change, the codified statute is but a continuation of its predecessor. (*Sobey v. Maloney*, 40 Cal.App.2d 381, 385; Gov. Code, § 2.) When the Legislature re-enacted the statute, it presumably knew of the decisions construing it and intended that it receive the same meaning. (*People v. Jefferson*, 47 Cal.2d 438, 445.)"

In 57 Cal.Ops.Atty.Gen. 149 (1974), *supra*, the Attorney General concluded, in pertinent part:

"Thus it appears clear, ...from the general statute relating to other elective county offices, that in the case of a vacancy in the office of [an elected county official], the board of supervisors only has power to *appoint* a successor for the total portion of the original term remaining unexpired; the successor appointed to fill the vacancy does not have to run for office until the next general election at which the *office would normally be filled* and the board *may not appoint* an individual for a *shorter* term to be filled at the next general election occurring in the county." (Emph. Supp.)

The Supreme Court in *People v. Col*, *supra*, in fact, found that the special election, there at issue which was held "under special proclamation of the board," at the next ensuing November election, at which county officers were *not* normally elected, to fill the unexpired term, was *without authority of law* and *void*. (*Id.* at p. 339.)

**Board of Supervisors**

November 29, 2007

Page 3 of 3

In summary, the board of supervisors of a general law county, such as Sutter, may *not* call a special election to fill the unexpired term of the elected county clerk who resigns during her term, in lieu of appointing a person to fill the vacancy for the unexpired term. Any special election to do so would be unauthorized and void according to the California Supreme Court. The person so appointed serves out the full term of the resigning predecessor. The next "regular election" means the one next occurring at which the particular class of officers are to be chosen.

Very truly yours,

RONALD S. ERICKSON  
SUTTER COUNTY COUNSEL



ROBERT A. MULLER  
ASSISTANT COUNTY COUNSEL

RAM:js

cc: Larry T. Combs, County Administrative Officer  
Curtis R. Coad, Interim Assistant County Administrator  
Shawne Rising, Deputy County Administrator

# Gang Enforcement in our Community

## Introduction

The 2007-2008 Sutter County Grand Jury initiated an investigation with the purpose of understanding the influence of gang activity in our county and to explore strategies and solutions to combat this growing concern.

From a Grand Jury interview with Yuba City Police Gang Detective Aaron Moe, on May 6<sup>th</sup>, 2008:

**Grand Jury:** *“Detective Moe, would you characterize our current position, as it relates to gangs, as holding our own – are we treading water?”*

**Detective Moe:** *“Honestly, I’d have to say we’re drowning”*

This bleak assessment by Detective Moe underscores the reason the Grand Jury initiated this report.

This investigation was conducted by the Criminal Justice Committee, comprised of the following jurors: Maria Arreola, Kenneth Brooke, Kent Ekberg, Therese Guidera, Jody McGinnis and Cynthia Taylor.

## Discussion

During our term, the Grand Jury interviewed every department head with either management or oversight responsibilities over law enforcement in Sutter County; Yuba City Chief of Police Richard J. Doscher, Sutter County Sheriff J. Paul Parker, former Sutter County Sheriff Jim Denney, Sutter County District Attorney Carl Adams, Sutter County Administrative Officer Larry Combs, Yuba City Mayor Rory Ramirez, and every member of the Sutter County Board of Supervisors. There was unanimity in their belief that, other than the risk of catastrophic flooding, the largest threat to the safety of Sutter County’s citizens and their property is the criminal activity associated with gangs.

Gang related shootings and stabbings have become a frequent occurrence in Sutter County. What once was a problem thought to be confined to major cities has clearly arrived, and become a major threat, in our community.

Statistics provided to the Grand Jury by the District Attorney’s office reveal an alarming trend:

### **Adult Criminal Cases Filed:**

**2005: 3120 felony and misdemeanor cases filed**

**2006: 3100 felony and misdemeanor cases filed**

**2007: 3608 felony and misdemeanor cases filed**

### **Juvenile Criminal Cases Filed:**

**2006: 119**

**2007: 236**

**2008: 77 (through March)**

Because a significant percentage of gang crime is committed by juveniles, the significant rise in juvenile filings is an obvious indicator of a fast growing problem.

To better understand the scope and intricacies of the problem, the Grand Jury conducted interviews with those who deal with gang issues on the “front lines.” Yuba City Police Detective Aaron Moe, Sutter County Sheriff’s Detective Mercy Garcia, and Sutter County Deputy District Attorney Cameron King were all interviewed regarding their thoughts on the magnitude of the problem and their recommended strategies for combating it.

According to Detective Moe, the realization that Sutter County did, in fact, have a serious gang problem occurred in May of 2005. During that month alone, there were thirty separate reports of shootings. Detective Moe stated that “local government’s acknowledgement of the existence of the problem was slow.”

**When asked if there was any neighborhood in Sutter County that hasn’t been touched in some way by gang activity, Moe and King both answered, “No.”**

**When asked if gangs now represented a bigger threat to the safety of Sutter County citizens and their property, King and Moe both answered, “Yes.”**

There are numerous reasons for the rapid increase of gangs and their associated violence in Sutter County. One primary reason given by Detective Moe was that intensive gang enforcement activities in other jurisdictions, particularly Southern California, have driven gang members to our area. King and Moe both stated to the Grand Jury that eradicating the gang problem is not a realistic goal. They estimate that there are currently 1,500 to 2,000 documented gang members active in our area.

The very nature of gangs makes them a very difficult problem to confront. Gangs have existed, in some form, since the founding of our nation. They are not a loosely knit association of individuals who happen to commit crimes but rather a criminal enterprise tightly bound by social, cultural, and even family ties. Gangs operate under strict codes of conduct and have their own, often brutal, means of enforcing them.

“Gangs are evolving and are expert at it,” according to Cameron King. During the last year, many violent crimes attributed to gang activity have become more brazen. Shootings and stabbings in broad daylight and in public places have become common. One explanation for this is, according to Detective Moe, “gangs feed off the fear in the community – it is one aspect that motivates them and explains the flagrant nature of many of the crimes they commit.”

A particularly sad and frightening element of the gang problem is the participation of children. Incredibly, children of elementary school age are recruited, and become involved, in gangs. Juvenile gang members, “wannabes” as they are called, are “as dangerous, and often more so, than veteran

gang members,” according to Detective Moe. The typical hierarchy of gangs has veteran gang members, “shot callers,” issuing orders to the “wannabes.” In order to advance in the gang hierarchy, these younger members must commit crimes at the behest of veteran members. Another method of advancement is serving time in jail or prison. As a result, juvenile gang members have very little fear of punishment if they are caught committing a crime. Prison is not a deterrent because, as Detective Moe explained, “Any time you send a ‘wannabe’ to prison, he receives a free education in gang life.”

Prosecution of gang crimes is especially difficult. As Cameron King explained, “The number one obstacle in prosecuting suspects is the lack of cooperation from victims and witnesses.” The victims of gang violence are quite often other gang members. Their “ethical” code prohibits them from testifying in a criminal proceeding. Witnesses not affiliated with gangs are often reluctant to come forward for fear of retaliation. Many cases filed against gang members are plea-bargained rather than taken to trial. A primary reason for this is the unreliability of witnesses. Witnesses often will not show up or not testify truthfully because they fear retribution from the gang more than any sanction a court could impose.

Another reason the vast majority of gang related charges are plea-bargained, as with all crimes, is the limitation of Sutter County’s court system. We are, in relative terms, a small county. With only three courtrooms, limited prosecutorial staff, and all the other matters attended to by the courts, taking more than a very small percentage of gang cases to trial would essentially clog the system. The Probation Department has been equally overburdened; however both Detective Moe and ADA King both agree that the department has done an outstanding job under the circumstances.

One set of tools available to prosecutors are “gang enhancements.” These are provisions under The Step Act (Street Terrorism Enforcement Protection Act). Essentially, gang enhancements add additional time to the sentence based upon crimes committed in furtherance of gang activity.

There are no easy solutions to Sutter County’s gang problem. Family involvement, community awareness, and the education system are critical to the success of any efforts to stem the tide. Detective Moe and Detective Garcia are actively involved in the community. Their efforts to educate children, parents and teachers regarding the danger of gangs are truly commendable. However, there are obvious limitations to the success these efforts can produce.

The elements currently lacking in Sutter County’s strategy are dedicated assets. There are only two YCPD Detectives, Detective Aaron Moe and Detective Stephanie Maky who are solely tasked to gangs. Detective Mercy Garcia, while he is the gang specialist for the Sheriff’s Department, is tasked to a variety of other duties. Cameron King, in the D.A.’s Office, is the only experienced prosecutor assigned to handle gang cases, but prosecutes additional criminal cases unrelated to gang prosecution.

YSAGE (Yuba-Sutter Area Gang Enforcement) is a task force developed to target gang activity. YSAGE is a collaborative effort that has as its mission, “to reduce gang violence in Yuba and Sutter Counties



through proactive enforcement efforts, intelligence gathering, and improved communications.” The Members of YSAGE are:

1. Sutter County Sheriff’s Department
2. Yuba County Sheriff’s Department
3. Marysville Police Department
4. Wheatland Police Department
5. Yuba-Sutter California Highway Patrol
6. Yuba County Probation Department
7. Sutter County Probation Department
8. Marysville Parole Office
9. Immigration and Customs Enforcement (ICE)
10. California Department of Corrections
11. Department of Justice Criminal Intelligence Bureau
12. Yuba and Sutter County District Attorney’s Offices
13. Yuba Community College Police Department
14. Bi-County Narcotics Enforcement Team (NET-5)

Although YSAGE has achieved success, they are limited in their capacity due, in part, to the other responsibilities of its members. A broader collaborative effort, despite all the resources brought to bear by its members, may not be as effective as a team tasked and dedicated solely to one objective.

The Yuba-Sutter Narcotic Enforcement Team (Net-5) could be a model for a more effective strategy to combat gang violence. Members of Net-5 focus their efforts exclusively on combating drug crime. This focus allows them to immerse themselves in the intelligence gathering and tactics necessary for success.

Since the problem of gang violence is eclipsing that of drug violence in our area, such a strategy seems to make sense. Detectives Moe and Garcia both stressed to the Grand Jury the importance of intelligence gathering and “knowing who the players are.” Additionally, they separately told the Grand Jury that their current efforts are often focused on “driving gang members out of the area by making it difficult for them to operate.” An expanded force of officers, tasked solely to gang enforcement, would be better equipped to meet both objectives.

## **Findings**

The Grand Jury finds that gangs, and their associated violence, are a substantial and growing threat to the citizens of Sutter County.

The Grand Jury finds that there are brave and dedicated law enforcement officers who are battling the problem of gang violence in our community everyday. Regrettably, at present, they are losing that battle.

The Grand Jury finds that, absent a change in strategy, there is no reason to believe the situation will improve.

The enormity of the problem demands that more dedicated assets be assigned exclusively to gang enforcement.

## **Recommendations**

The Grand Jury recommends that the Sutter County District Attorney's Office encourage and arrange for the training of more of its prosecutors to become experts in gang related prosecution.

The Grand Jury recommends that those with oversight of the member bodies of YSAGE convene a forum. The purpose of this forum should be to discuss the advantages and feasibility of creating a dedicated gang enforcement unit.

## **Respondents**

Sutter County Board of Supervisors

J. Paul Parker, Sheriff

Richard J. Doscher, Yuba City Police Chief

Carl Adams, District Attorney

# SUTTER COUNTY JAIL

## INTRODUCTION

The 2007-2008 Sutter County Grand Jury Criminal Justice Committee conducted an onsite visit to the Sutter County Jail, located at 1077 Civic Center Blvd., on October 10, 2007. The tour was lead by Captain Lewis McElfresh Commander, Jail Division; Under Sheriff J. Paul Parker, Jail Division; and Lieutenant Norman Bidwell, Jail Division.

The investigation was conducted by the Criminal Justice Committee comprised of the following jurors: Maria Arreola, Kent Ekberg, Therese Guidera, Jody McGinnis, and Cynthia Taylor.



## Discussion

The Criminal Justice Committee toured the jail. During the tour, Captain McElfresh shared what he considers to be the jail's mission statement. The mission statement includes that it is imperative the officers always display a professional demeanor in front of the inmates and to the public who visit the jail, and that consistency between teams and officers is the key to gaining cooperation from the inmates. He feels working well with other divisions within the Sheriff's department and other law enforcement agencies provides the best service to the community.

The Sutter County Jail was built in 1977. Sutter County's rapid growth has presented a need for additional correctional officers for the jail. Total capacity is 352 inmates, with a designated number of beds available for the female population. At the time of our visit there were 218 inmates. There are two maximum security pods, built in 1998, which house fifty-two inmates. The 2006-2007 Grand Jury found that there is a shortage of space in maximum security, the women's section, isolation and holding. Visiting space is inadequate. The 2007-2008 Criminal Justice Committee also observed these

deficiencies. Monies were allocated last year to fund a feasibility study concerning construction of a new jail.

The Control Room is the heart of the jail. It provides surveillance for the whole facility and to date is inadequate and in disrepair. There are exposed wires running along the floor and a hole that makes it very hazardous. The control panel needs to be repaired or replaced for safety and security. The department has requested funds for these repairs, but was only granted \$90,000. All current bids have come in significantly higher.



Control Panel



Control Panel with Damaged Floor and Wires



Exposed Wires on Floor of Control Room

There is no air conditioning throughout the entire facility. The jail was originally built with chillers. Today these chillers are inadequate and an air conditioning system is greatly needed.



Air Chiller

The kitchen was very clean and orderly. A nutritionist reviews and approves the weekly menu and medically necessary dietary needs are met. State law requires that inmates receive one hot meal a day. However, the Sutter County jail is very proud that it provides two hot meals plus a sack lunch per day at the current cost of \$1.25 per meal.

Satellite video is used in the jail for all arraignments. An inmate may be sentenced to a maximum of one year in this county jail unless other charges are pending. Sentences can run consecutively or concurrently. Any single sentence over one year can be credited as time served if sentenced to prison. The minimum age of inmates is eighteen. Minors are held at Juvenile Hall pending trial.



Regular cell searches are conducted for contraband. Sutter County Jail banned the use of tobacco in their facility, in 1994, due to fire hazard. According to California law, (Title 15, Senate Bill 384), effective July 1, 2005, "It is unlawful for inmates to have or possess tobacco. Giving tobacco to an inmate is not permitted." Illegal tobacco use continues to present a problem in this facility and is addressed when necessary.

Currently, six nurses rotate eighteen hour shifts, while the projected goal is twenty-four hour coverage in the near future. An on-call mental health professional is available once a week to administer medications. Regular mental health and suicidal evaluations are routinely performed. In the event a suicide watch is necessary, it is then recorded and the inmate is observed every fifteen minutes, until the inmate is considered stable.

Inmates have access to a commissary, in which they can purchase such items as food and personal hygiene products. Profits from the commissary go to the Inmate Welfare Fund. This fund is used for health; welfare; law library; cable programming; recreational equipment; educational programs, including a contract teacher for GED requirements, and other inmate needs. Religious services, work furlough, work release, and substance abuse programs are also provided.

## **Findings**

The Grand Jury finds that currently there is no central air conditioning system. The chillers that are in use are inadequate. The entire facility, including staff areas, is subject to this antiquated cooling system.

The 2007-2008 Grand Jury concurs with the 2006-2007 Grand Jury that space requirements in the visitation area, maximum security, women's section, isolation, and holding cell remain deficient.

The Grand Jury finds the disrepair of the control room presents a significant safety hazard to staff. The control panel is non-functional and must be replaced.

The 2007-2008 Grand Jury finds that the feasibility study concerning construction of a new jail is in progress.

## **Recommendations**

The 2007-2008 Sutter County Grand Jury recommends that priority attention be given to replacement of the air cooling system.

The Grand Jury recommends that the Control Panel be removed and replaced with an updated system. The Control Room needs to be redesigned to code with safety and security as the primary criteria. These upgrades and repairs need to be completed as soon as possible.

The Grand Jury recommends a nurse be on duty twenty-four hours a day, seven days a week.

The Grand Jury recommends attention should be given to the need for additional correctional officers.

The Grand Jury recommends that the Sheriff's department follow up on the assessment of space requirements and the critical need for a new and larger jail.

## **Respondents**

J. Paul Parker, Sutter County Sheriff

# Yuba Sutter Juvenile Hall Camp Singer Youth Guidance Center



## Introduction

The 2007 – 2008 Sutter County Grand Jury Criminal Justice Committee visited Yuba-Sutter Juvenile Hall and Camp Singer Youth Guidance Center, 1023 14<sup>th</sup> Street, Marysville, California 95901, on two occasions, September 26, 2007, and February 4, 2008. The purpose of the visits was to inspect the facilities and to interview Superintendent Frank Sorgea. Both Yuba and Sutter counties support the Yuba-Sutter Juvenile Hall and Camp Singer Youth Guidance Center, correctional detention facilities for youth. The two facilities, built on the same campus, and supervised by Superintendent Frank Sorgea, detain wards from both counties. The 2007 – 2008 budget is \$3,852,691.00 (EXHIBIT A).

The Criminal Justice Committee is comprised of the following jurors: Maria Arreola, Kent Ekberg, Therese Guidera, Jody McGinnis, and Cynthia Taylor.

## Mission Statement

*The Yuba Sutter Juvenile Hall's mission is "to promote the health and safety of the community through programs of prevention, intervention, treatment, and detention services."*

## Discussion

During the first visit, the committee interviewed Superintendent Frank Sorgea, whose own personal motto is "to make kids better!" The Superintendent explained the operational details of the institutions. He also described their methodology at Camp Singer of using a positive approach in attempting to change the wards into law abiding young men and women. One of his methods is the point system, where the youth can earn points for privileges. The Superintendent also told the committee that he does not "warehouse"



children. He said that he places emphasis on the safety and security of the wards. Additionally, every youth held in Camp Singer spends sixteen hours a day in programs, schooling, and projects.

Superintendent Sorgea then gave the committee a tour of Camp Singer and Juvenile Hall, with emphasis on Camp Singer. The tour of the facilities included the committee having a nutritious lunch in the dining hall with some of the wards and staff, which offered an opportunity for one-on-one interviews.

While passing through Juvenile Hall, Superintendent Sorgea showed the committee the booking area. He expressed concern that he still does not have separate areas for booking and visitors. Since the area is very small, the visitors and youth being booked come into close contact, which offers a greater chance for acts of violence. Also, there is a need for a no-contact visitation area, which would separate the wards from the visitors, he told the committee. The no-contact area, using phones and windows, for example, would make the visits safer and more secure for everyone.



Outside Entrance to both Booking and Visitor's area



Inside Entrance to both Booking & Visitor's area

Camp Singer is essentially a boot camp for the lower risk youth and also a place where they can continue and further their education, learn positive social and communication skills, and also develop moral and ethical values, and self-esteem, through counseling, programs and projects, and interaction with other wards.

At both Camp Singer and Juvenile Hall the youth are supplied with all clothing and necessities when first arriving there. They are not allowed to keep anything of their own. They also are given physicals and mental health checks.

The Camp Singer wards are assigned bunks in group sleeping rooms, which are under observation from an adjoining control room. Personalized programs are created for each ward. Religious services of various denominations are available once a week at the camp.

While touring a group sleeping room, the committee interviewed some of the youth present. Several wards told committee members that they felt life was going to be better for them as a result of their detention at Camp Singer. This included a few, who said they had previously been homeless before being sent to Camp Singer.

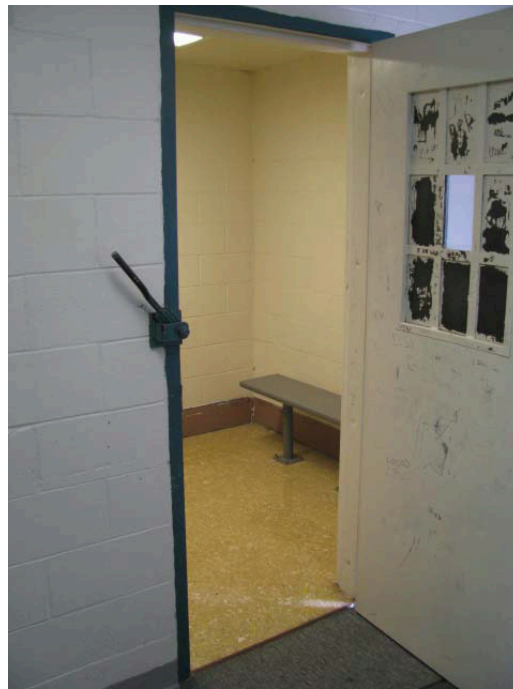
Camp Singer is clean and orderly, with the grounds well maintained by the wards.

The camp also has one staff member per ten detainees; twenty-seven group counselors; eight supervisors; seven control room personnel; and four full-time, fully accredited schoolteachers.

The second visit to Juvenile Hall took place, February 4, 2008. The emphasis was on the Juvenile Hall part of the facilities. Brent Hungrige, Deputy Superintendent, conducted the tour. Juvenile Hall, built in 1976, is the older part of the campus, and had its last major expansion a few years later. In spite of its age the building is clean and well maintained, although it does have several problem areas including broken windows mechanisms, broken locks on security doors and perpetual roof leaks.



Water damage to ceiling



Broken Security Door lock

During this visit the committee also inspected “the shu,” (Secure Housing Unit). It is a separate building that is currently not in use, although it is being considered for more classrooms in the future, if funding becomes available.

The committee learned that during admittance to Juvenile Hall, all wards are given medical and dental examinations. They are also given a nationally recognized, computerized psychological screening, called MAYSI-2. This mental health test, which is bilingual, helps the staff determine immediate special needs or problems concerning new wards, such as a suicide watch, for example.

While the rules are strict for the entire campus, they are even more stringent in Juvenile Hall. However, many of the Juvenile Hall wards can earn their way to the other part of the campus, Camp Singer.

During the second visit, the committee visited both a math class and a reading class, in the Camp Singer part of the campus, and talked with some of the teachers. The fully-credentialed teachers, with whom the committee spoke, were enthusiastic and highly motivated. They explained their math and reading programs used at Camp Singer. The teachers also told the committee that a staff member is present in each class to prevent any potential discipline problems. Plus, the wards are initially tested, and individual, educational programs are determined for each ward. The wards spend approximately 6 hours a day in classes, with most classes running approximately 80 minutes each.

Regardless which part of the campus in which the wards are located, family therapists and probation officers continuously work with the families or guardians of the wards, in an effort to help the wards become useful and positive members of society upon their release.

## **Findings**

The roof in Juvenile Hall has large major leaks in various areas. There is damage to the ceilings and insulation, as a result of these leaks.

Many of the locks on the heavy security doors, which are used for lockup in the cells, are broken or are no longer working correctly.

The windows in Juvenile Hall are old and their mechanisms are no longer working.

The same floor in Juvenile Hall has been down for over 30 years and is worn out.

The electronics in the Control Room are cumbersome, and antiquated. Some of them are no longer working and cannot be repaired.

The construction of separate booking and no-contact visitors' areas has not been accomplished at the time of this report, as recommended by the 2006 – 2007 Grand Jury.

## **Recommendations**

The Grand Jury recommends that the roof be repaired or replaced as soon as possible, as it will only become more expensive and a greater hazard as time progresses.

The 2007 – 2008 Grand Jury concurs with the 2006 – 2007 Grand Jury that the construction of a separate booking area from a no-contact visitors' area be implemented directly.

The security doors need to be replaced as they present a potential security and safety issue.

The Control Room electronics require replacement with an up-to-date computer system.

The old windows in Juvenile Hall need to be replaced with the modern style windows currently considered appropriate in juvenile halls elsewhere.

The Juvenile Hall floor should be replaced when feasible.

## **Respondents**

Frank Sorgea, Superintendent of Institutions, Bi-County Juvenile Hall

Chris Odom, Chief Probation Officer, Sutter County

Steve Roper, Chief Probation Officer, Yuba County

Brian Aronson, Presiding Judge of Juvenile Court, Sutter County

James Curry, Presiding Judge of Juvenile Court, Yuba County

## Exhibit A

State Controller  
County Budget Act  
1985

### Yuba-Sutter Juvenile Hall and Maxine Singer Youth Guidance Center

BUDGET EXPENDITURE DETAIL  
BUDGET FOR THE FISCAL YEAR 2007-2008

Budget Form

SCHEDULE 9

Juvenile Hall

#### Detention & Correction

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	ACTUAL EXPENDITURES 2004-2005	ADOPTED BASE 2005-2006	DEPARTMENT BASE 2006-2007	DEPARTMENT REQUEST 2007-2008
108-3000-423 .01-01	REGULAR	1,546,641	1,575,892	1,698,261	2,023,837
108-3000-423 .01-03	EXTRA HELP	119,153	115,031	94,956	174,000
108-3000-423 .01-04	OVERTIME	4,441	10,027	9,993	10,000
108-3000-423 .01-05	HOLIDAY PAY	42,598	57,594	66,457	65,000
108-3000-423 .01-07	VACATION PAY	8,665	12,217	10,956	10,000
108-3000-423 .02-02	CO SHARE PERS	100,867	176,366	195,579	304,120
108-3000-423 .02-03	COPST	3,002	2,539	2,044	5,220
108-3000-423 .02-04	GROUP HEALTH INSURANCE	268,068	278,760	367,850	462,000
108-3000-423 .02-05	MEDICARE	23,270	23,814	25,045	27,845
108-3000-423 .02-06	WORKERS COMP INS	154,561	187,071	146,498	65,671
108-3000-423 .02-07	MGMT LIFE INS	338	442	414	451
108-3000-423 .02-08	UNEMPLOYMENT INS	8,554	10,214	3,877	10,119
108-3000-423 .12-00	COMMUNICATION	5584	3,973	6,996	10,000
108-3000-423 .13-00	FOOD	156,527	166,908	157,906	198,450
108-3000-423 .14-00	HOUSEHOLD EXPENSE	40,203	46,551	38,965	50,000
108-3000-423 .15-00	INSURANCE	4,489	22,758	37,213	30,069
108-3000-423 .17-00	MAINT EQUIP & SOFTWARE	5,076	5,037	8,148	10,000
108-3000-423 .18-00	MAINTENANCE/BLDG & IMPROV	21,389	31,791	22,435	23,625
108-3000-423 .19-00	MED, DENTAL, & LAB SUPPLIES	34,212	35,400	62,264	60,000
108-3000-423 .22-00	OFFICE EXPENSE	6,225	6,585	7,751	10,000
108-3000-423 .23-00	PROFESSIONAL SERVICES	4,025	11,446	29,090	10,000
108-3000-423 .24-00	PUBLICATIONS	1,731	502	296	3,000
108-3000-423 .27-00	SMALL TOOLS	651	527	3,901	5,000
108-3000-423 .28-00	SPECIAL DPMT EXPENSE	1,723	13,541	7,540	10,000
108-3000-423 .29-00	TRAVEL	5,465	3,420	3,683	15,000
108-3000-423 .30-00	UTILITIES	101,676	111,336	98,256	125,000
108-3000-423 .49-00	DEPRECIATION	0	4,462	3,967	0
108-3000-423 .53-01	A-87 CHARGES	8,846	138,779	191,803	129,284
108-3000-423 .62-00	FIXED ASSETS-EQUIPMENT	-13,929	-33	0	5,000
		<hr/>	<hr/>	<hr/>	<hr/>
		2,664,051	3,052,950	3,302,144	3,852,691
		<hr/>	<hr/>	<hr/>	<hr/>

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# Leo Chesney Community Correctional Facility



## Introduction

The 2007-2008 Sutter County Grand Jury Criminal Justice Committee conducted an on-site visit to the Leo Chesney Community Correctional Facility (LCCF) on January 9, 2008. The facility is located at 2800 Apricot Street, Live Oak, CA. The committee was given a tour by Paula Ford, Facility Director and Patrick Garland, Assistant Director.

The visit was conducted by members of the Criminal Justice Committee comprised of the following jurors: Maria Arreola, Kent Ekberg, Therese Guidera, Jody McGinnis, and Cynthia Taylor.

## Mission Statement

*"We are committed to making a difference together: We provide quality correctional treatment and educational services to those entrusted to our care. We provide safe, secure and cost effective programs. We reinvest financial resources to grow and improve our services and for the continued development of our staff. We work in partnership with contracting agencies, communities and families. We provide leadership throughout the industry. This is the **Cornell Difference!**"*

## Discussion

The Leo Chesney Community Correctional Facility (LCCF), owned by Cornell Companies, opened in April 1989. The facility houses up to 305 female inmates in dorms. Each dorm can hold up to six inmates. An inmate placement in this facility is determined through a contract with the California Department of Corrections and Rehabilitations (CDCR) and through screenings. Prior conduct, probability for rehabilitation, and future contribution to society are all determining factors. The time served at this prison is a maximum of two years; however, the average time is eight months. LCCF is the only privately



operated women's minimum-security prison in California. This facility has been given several accreditations and awards over the years for its outstanding achievements. A closed circuit camera system, concertina and razor wire, six inmate counts per day, and perimeter patrols are used to implement security.

Within two weeks of arrival, the inmate is tested to determine her education level. Inmates with an education level below the sixth grade are placed in the Adult Basic Education Program (ABE). Once aptitude is determined, the inmate is re-tested and placed into the next appropriate level. Additional education programs include General Equivalency Degree (GED) and college courses via satellite through Yuba College.

Available programs are designed to focus on the inmates positive attributes, helping them to make a productive transition back into society. Substance abuse, pre-release, parenting, self esteem, money management, and vocational programs are provided on a voluntary basis. Religious services are also available. The Trauma-Informed Substance Abuse Program (TSAP) will be provided in two modular units that are currently being remodeled.

Each inmate is assigned a forty-hour per week, paying job upon arrival. The pay is low, \$12.00 - \$56.00 per month; however, it prepares the inmate for future employment opportunities, helps teach financial responsibility and allows the inmate to feel independent. The money earned goes into a specific fund for each inmate. Each day worked is a day off their sentence. Twenty-one days prior to parole, the inmate has the opportunity to participate in the pre-release program.

Vocational training is provided. Currently, Copper Based & Fiber Optics System Cabling is taught. Upon completion, the inmate will be certified nationally as a Network Cabling Specialist. There is also a Landscape Maintenance and Pesticide Applicators Licensing program. Training in culinary arts, carpentry, plumbing, and gardening provide the inmate with employment possibilities upon release or parole.

Inmates are given the opportunity to perform community services such as maintaining parks and the grounds at the community pool, landscape maintenance around public buildings, USDA Food Distribution, set up/clean up of public activities and graffiti elimination.

LCCF has a Family Practitioner on-site two days (twenty hours) a week, with a Nurse Practitioner and RN available seven days a week. Blood work is currently performed at Biggs-Gridley Hospital. Lab services are performed at the facility. Test results are processed off-site. At this time, inmates are transported to California Correctional Women's Facility at Chowchilla (CCWF) for annual Gynecological Exams. There are no dental services provided at the facility. Inmates with dental needs are transported to CCWF. A request has been presented to the California Department of Corrections for a contracted dentist or dental program. A decision from the CDC is pending.

Once a year, a dietary nutritionist evaluates the menu. A vegetable garden, tended by the inmates, provides fresh produce daily. With a culinary expert on staff, all meals are prepared from scratch.

The gymnasium is open seven days a week. Physical fitness, team sports, and leisure activities are encouraged. Other activities include crocheting, picture framing, t-shirt art and making greeting cards.

At the time of our visit, some inmates were completing rocking-horses and birdhouses which they will donate to various schools for fundraisers.

## **Findings**

The Grand Jury finds that LCCF is an organized and well-managed facility.

The Grand Jury finds that the educational and vocational programs available provide inmates valuable tools to transition from confinement to release.

The Grand Jury finds there are no local dental services provided; however, efforts are being made to rectify this situation.

## **Recommendations**

The Grand Jury commends Leo Chesney Community Correctional Facility. The focus of the facility, promoting self-esteem and self-sufficiency among inmates, is a worthy objective and a benefit to society.

## **Respondents**

Paula Ford, Facility Director



# Sheriff's Department

## Introduction

The 2007-2008 Sutter County Grand Jury initiated an investigation into the Sutter County Sheriff's Office.

The investigation was conducted by the Criminal Justice Committee comprised of the following jurors: Maria Arreola, Kent Ekberg, Therese Guidera, Jody McGinnis and Cynthia Taylor.

## Discussion

Sutter County Sheriff Jim Denney resigned on April 4, 2008. The Board of Supervisors (BOS) appointed Under-Sheriff J. Paul Parker to serve out the remainder of Sheriff Denney's term, which ends January 2011.

The Sutter County Grand Jury would like to express our gratitude to former Sheriff Jim Denney, for his service to our community.

The Grand Jury congratulates J. Paul Parker on his appointment to Sheriff. His law enforcement career began as a cadet in 1972. Shortly thereafter, he was hired as a part-time dispatcher for the Live Oak Police Department. In 1974, J. Paul Parker became an Officer. In 1989 he was promoted to the rank of Sergeant in the Sutter County Sheriff's Department. By 1991 he was a Detective Investigator. He was then promoted to Captain in 1999 and later assumed the position of Under-Sheriff. Sheriff Parker attended both the Police Academy and the FBI Academy.

The general consensus among Sutter County Deputies is that they are pleased with his appointment and are proud to serve with Sheriff Parker.

## Findings

The Grand Jury finds that Sheriff J. Paul Parker is well qualified for his new appointment and has already begun to make changes in the department.

## Recommendations

Due to the short time J. Paul Parker has held this position, the 2007-2008 Grand Jury recommends that next year's Grand Jury follow up on his job performance.

## Respondents

J. Paul Parker, Sutter County Sheriff

# Yuba City Police Department



## Introduction

The 2007-2008 Sutter County Grand Jury conducted an investigation of the Yuba City Police Department (YCPD) on November 7, 2007, and May 2, 2008, at which time a tour was conducted. The YCPD is located at 1545 Poole Boulevard in Yuba City.

This investigation was conducted by members of the Criminal Justice Committee, comprised of the following jurors: Maria Arreola, Kent Ekberg, Therese Guidera, Jody McGinnis, and Cynthia Taylor.

## Mission Statement

*"While exercising principles of ethical behavior, reflecting positive values and respecting the constitutional rights of all we encounter; we work in partnership with the community toward the goals of protecting life and property, solving neighborhood problems and enhancing the quality of life in our city."*

## Discussion

The tour of the YCPD was conducted by Rob Landon, Deputy Chief of Police. The YCPD was built in 1988 and occupied in 1990. There is remodeling and expansion taking place at this time to accommodate additional office space. Currently, the YCPD is 18,000 square feet. According to Chief Richard J. Doscher, with a population of 63,500, Yuba City should have a facility measuring 49,000 square feet. Even with the completion of the remodel/expansion the building will be approximately 27,000 square feet. With the expansion, the police department will have adequate, temporary space. When the city is at maximum growth, based on current city limits, there will be between 108,000-130,000 people. The department will need to expand to approximately 90,000 square feet to accommodate the projected growth. An estimated construction budget of \$2.9 million, with a contingency for remodel and

expansion, is composed of a combination of general fund reserve and developer impact fees. There is a long term general plan for this expansion by the Police Department. The Police Department is currently in negotiations with landowners of the property just east of the Department, property currently owned by the Church of Jesus Christ of Latter Day Saints (LDS). If this comes to fruition, the YCPD will build a connecting two-story building giving them the approximate 90,000 square feet.

Areas of expansion include more parking and dedicated space for a Gang Division at the southwest side of the building. A locker room expansion is taking place at the north side of the building. The interior renovations for the building are as follows:

- A new office will be made available to the Field Training Officer as he is currently using one-third of the Briefing Room.
- The Sergeant's Office will be enlarged. There is one Sergeant on-duty at a time; however, shifts overlap and make it difficult to prepare and finalize paperwork with only one computer, desk, and chair. On rotation, the YSAGE Unit will use this office for tactical planning.
- The Traffic Office will be moved and expanded.
- The Gang Unit will move from the Investigation Room into their own Division allowing the use of two interview rooms and more space for Investigators to work.
- The Report Writing Room will be expanded from four stations with four computers to nine stations with nine computers. Report writing will then become more time effective for the officers as approximately eight officers generally need the space at the same time.

The expansion is necessary due to the overcrowding in these above mentioned offices. These work areas will now become more efficient and adequate for their needs.

The YCPD is a short-term holding facility. If a juvenile is arrested by the police, they are photographed and fingerprinted as required by state law. A juvenile can be held only a few hours. If a parent cannot be reached, the juvenile will be booked into Juvenile Hall.

YCPD employs 103 staff members, including five Sergeant Field Officers, two Lieutenant Watch Commanders, a Chaplain, sixty-eight sworn patrol officers with over-hire allotted for three more, and two full-time Gang Officers. Twenty-four percent of their work force is comprised of veterans and three active military reservists. There is a need for additional dispatchers and a records clerk in crime analysis when funding is available.

In the YCPD's 2007 Annual Report, Chief Richard J. Doscher, addresses the community's gang enforcement challenge. "Our Yuba-Sutter Anti-Gang Enforcement (YSAGE) cooperative acts as a regional augmentation to the individual efforts of area law enforcement agencies. The YCPD continues a high profile approach to gang targeting. It is of interest to note our combined local and regional efforts are used as models at the State level for others to emulate." The YCPD would like to see more emphasis on Gang Enhancement prosecutions to attack this anti-social behavior.

State-certified SWAT (Special Weapons and Tactics) and Hostage Negotiation teams cover Marysville, unincorporated Yuba City, Yuba City, Beale Air Force Base, as well as Sutter County. Both the SWAT Team and hostage negotiators are trained by the FBI. The SWAT Team is called out approximately 15-20

times per year.

The Police and Sheriff's Departments are included in the county's Master Tax Agreement (MTA). This agreement assures that all areas in Yuba City are covered either by the Police Department or Sheriff's Department. While the YCPD has now assumed responsibility for the Tierra Buena area, the South Walton area is still under the jurisdiction of the Sheriff's Department. According to the YCPD, adding the South Walton area will require an estimated \$1.2-\$1.6 million of additional budget allocations.

The number of registered sex offenders in Sutter County is average to low, with 103 registered in the Yuba City area at the time of our November 7, 2007 interview. The YCPD conducts regular field visits (290 sweeps) to those registered offenders.

The YCPD currently has two School Resource Officers, Officer Al Ortega at Yuba City High School, and Officer Charles Ernst at River Valley High School. These officers are liaisons for the public, staff, and students with emphasis on deterring any criminal activity, whether it be gang activity, drugs, fights, sexual battery, possible student-gang affiliation, or truancy. These officers provide mentoring and after school tutoring. There are Community presentations: Gang Awareness which offers counseling and intervention, and parenting classes. The Resource Officers also assist with updating the Safe School Plan annually. Officer Ortega runs a program called "Kans for Kids." Recyclables are donated at the student store, raising funds to help students in need of such items as PE clothing, binders, books, and any other academic material need a student may require to succeed in high school. Monetary donations can also be made at the student store at Yuba City High School.

The Resource Officers run the "stings" for "tobacco and alcohol buys" in our community to crack down on a minor's ability to purchase these items. There are two officers conducting this sting operation with the assistance of minors from the Cadet Officer Program. The officers are paid from overtime funds, therefore, these operations cannot be performed as often as they would like. They will be able to start conducting more of these operations starting with the new fiscal year. These operations have proven to be very successful. The Sutter County Health Department requested a sting operation in December of 2007, to highlight the need to pass an ordinance requiring licenses to sell tobacco products. This will allow for stiffer penalties, fines, and eventually the loss of their license.

Chief Doscher suggested to the committee that a one-half cent sales tax would assist the YCPD, Fire Department, and Levee District by bringing in an additional \$5.5 million per year for public safety. The City Council's position is the Fire Department is in good shape financially, therefore, a larger portion of the revenue would go to the police department and levee funding.

## **Findings**

The Grand Jury finds the remodel/expansion is only meeting the immediate needs of the department until maximum build-out.

The Grand Jury finds that construction of a separate facility, on YCPD grounds, is underway. This building will accommodate additional gang enforcement staff.

The Grand Jury finds that follow-up negotiations for the LDS property are continuing based on the

anticipated growth of Yuba City.

The Grand Jury finds an urgent need for more dispatchers and a criminal analysis records clerk, for the safety and security of the community.

The Grand Jury finds that the YCPD is in need of additional revenue. A one-half cent sales tax increase is one possible revenue source.

## **Recommendations**

The Grand Jury recommends the Master Tax Agreement be revisited. The citizens of Yuba City deserve the services of the city police department.

The Grand Jury recommends that funding be allocated to hire the needed dispatchers and records clerk.

The Grand Jury recommends YCPD pursue all avenues for increased revenue.

## **Respondents**

Richard J. Doscher, Yuba City Chief of Police  
City Council of Yuba City

# Encinal School

## Live Oak Unified School District

### Introduction

The Sutter County Grand Jury Education Committee conducted an investigation of Encinal School in the Live Oak Unified School District. The past four Grand Juries had made recommendations, some of which have yet to be implemented. The investigating committee was comprised of Robert Ahu, Kimber Andersen, Maria Arreola, Nance Contreras, Joan Doolittle, Satoko Kim and Jody McGinnis.

### Discussion

The Sutter County Grand Jury Education Committee interviewed Superintendent Tom Pritchard, of Live Oak Unified School District, on October 29, 2007, and February 28, 2008, at which times Encinal School was discussed, including the cracked and uneven condition of the playground surface. Encinal School Accident Reports were reviewed. The 2004 School Bond, the district's budget, and the delays and/or problems with addressing the recommendations of the past Grand Juries also were discussed. Funding, planning, and student/staff safety were key issues. Committee members visited Encinal School on February 28, 2008 and March 11, 2008. During a site visit, the committee visited with Mary Page, Encinal School Principal.

The 2004 School Bond did not include Encinal School's needs as School District Improvement Projects. Superintendent Pritchard stated that, to the best of his knowledge, no injuries have occurred as a direct result of the condition of the playground. Principal Page made the same observation. The school district's prudent planning provided for accomplishment of the recent improvements, which delayed previous Grand Juries' recommendations.



Student Loading Zone

Mr. Pritchard stated that money in the 2006 - 2007 budget had been allocated for the project of paving/resurfacing of the playground and loading zone areas. A later District Needs Assessment identified a construction project that took precedence, and which would require removal of any pavement in that area. The school district determined that it would be fiscally irresponsible to pave the area and then tear it out for the imminent construction project. In late 2007, a new building, including a handicapped-accessible bathroom, office space, and storage, was constructed on the school property.

Nevertheless, a visit to the playground indicated that it is still in need of repair. School Accident Reports, examined by the committee, did not indicate that any injuries were the result of playground disrepair. Re-surfacing of the playground has not yet occurred and has been rescheduled to a later date; however, completion is expected in 2008.

Education Committee members noted that the student loading zone construction area also needs to be finished, as the uneven surface presents a safety hazard.

Committee members noticed that no crossing guard was visible during arrival times. Unescorted children crossing the street, illegal u-turns and vehicles exceeding the speed limit, as indicated by the solar-powered speed sign, were observed. The committee opined that pedestrian safety was insufficient along Larkin Road, in front of the school property.



Young girl crossing busy street



Illegal U-Turn





Excessive Speed

## Findings

The Grand Jury finds that the playground surface at Encinal School is in disrepair, presenting a potential for accidents, as well as detracting from an aesthetically pleasing school environment.

The Grand Jury finds that the loading zone needs to be surfaced, to allow safe access to, and egress from, school buildings, especially during inclement weather.

The Grand Jury finds that road safety along Larkin Road, in the vicinity of the school, is insufficient. Committee members observed lack of supervision for children crossing the road, as well as numerous and varied traffic violations in the school zone.

## Recommendations

The Grand Jury recommends that the school district contact the California Highway Patrol and the Sutter County Sheriff's Department, requesting assessment of student safety near Encinal School on Larkin Road during arrival and pickup times.

The Grand Jury recommends that playground and student loading zone resurfacing be given a high priority.

## Respondents

Tom Pritchard, Superintendent, Live Oak Unified School District



# Live Oak Unified School District

## Introduction

The 2007-2008 Sutter County Grand Jury conducted an investigation of the Live Oak Unified School District to review the health and welfare of the District, as well as follow-up on recommendations of the 2006-2007 Grand Jury.

The investigation was conducted by the Education Committee, comprised of the following jurors: Robert Ahu, Kimber Andersen, Maria Arreola, Nancy Contreras, Joan Doolittle, Satoko Kim and Jody McGinnis.

## Discussion

Education Committee members interviewed Tom Pritchard, Superintendent of the Live Oak Unified School District (LOUSD) on October 29, 2007 and February 28, 2008. During an interview, the condition of the Encinal School playground was discussed. Committee members visited Encinal School on February 28, 2008, and March 11, 2008. Mr. Pritchard considered “the District running well, good teachers and staff, exemplary student attendance and a budget in the black,” points of pride for the District.

The Superintendent of Schools position is hired by a School District Board, comprised of five members elected by the people of Live Oak to serve four-year terms. The Board has four Trustee Areas; two schools are in one area, and one each are in three others. District schools include Luther Elementary School, Live Oak Middle School, Live Oak High School, and Encinal School. Encinal, once its own district, is now a “necessary small school” funded by the district. An alternative high school, Valley Oak, is adjacent to both the District Office and the high school. Each of three schools has its own principal, while Encinal School and Valley Oak Alternative High School share a principal:

Live Oak High School	Mat Gulbrandsen
Live Oak Middle School	Parm Virk
Luther Elementary School	Marjorie Jones
Encinal School and Valley Oak A.H.S.	Mary Page

District enrollment is approximately 1900 students. Over 60% are Spanish speakers, 25% are English Learners, and 15% are Punjabi speakers. There are almost 100 teachers at the five school sites. Mr. Pritchard indicated that it is difficult to get Punjabi-speaking teachers. Teachers are CLAD certified in ELD (English Language Development). The CUB House at Luther School is available for ELD activities and programs. Luther Elementary School and Live Oak Middle School are both Program Improvement Schools, out of compliance with the No Child Left Behind mandate. Areas not meeting State API (Adequate Progress Improvement) or Federal AYP (Adequate Yearly Progress) standards are English and Math.

Qualified teachers are drawn to the Live Oak area “by the slower pace, rural atmosphere and a good benefit package, including retirement, that the district offers,” related Mr. Pritchard. Also appealing is the District’s ability to maintain close to a 20:1 ratio of students to teachers, with a goal of all classes achieving that ratio. Teachers are usually in place for the start of school. Substitutes are used early in the school year in the event that a class needs to be divided. Staff meetings are held monthly. An

annual staff retreat is held for professional development planning; a similar instructional planning meeting is also held.

The District also employs a Chief Financial Officer, and a Director of Special Programs. A credentialed nurse is full-time this year, offering nursing-plus, and a three hour per week nurse's assistant is also available. The nurse spends two days a week at Luther School, and a half day at Encinal School and the Alternative School. The district has recently hired a K-8 Counselor.

Attendance rate in the District is a commendable 91-92%, up from 89% in 1999-2000, as is evidenced in the 2005-2006 School Accountability Report Cards, the most recent available, reviewed by Committee members. Luther Elementary School boasted 99.3% attendance, during the 2005-2006 school year. The same is true for parent involvement. Mr. Pritchard noted that attendance dips slightly at the middle school level, and again slightly at the high school level. Mr. Pritchard cited schools' dedication to developing a personal relationship with student families as the greatest influence on student attendance. Providing food at events at which parents are expected to be present has been helpful in rapport-building. Mr. Pritchard asserted that, "Meeting family needs is paramount." Absences receive follow-up calls "early on." Saturday School is used in lieu of suspension, for non-severe cases. Suspension in lieu of expulsion is used for a good student, along with a contract for that semester plus one more. The SARB (Student Attendance Review Board) is rarely accessed, but when it is, the Vice Principals or the Attendance Secretaries accompany the student and his parent or guardian.

A three-week break is now calendared for Christmas break, which helps the numerous families who leave the country at that time, thus increasing regular student attendance. According to Mr. Pritchard, students are warned that being gone longer will "risk not being able to continue in the same classes."

The committee inquired about the status of the Encinal School playground, as follow up to a 2006-2007 Grand Jury concern. Committee members had noticed that the playground has yet to be re-paved. Mr. Pritchard explained the delay, also reported in the separate Encinal School report. The playground is now budgeted and planned for 2008.

Three vice principals constitute "the safety committee," Mr. Pritchard explained. Campus security and student safety has not been a serious problem, to date, and he was not aware of any problem with timely delivery of emergency services due to train traffic. Classrooms have intercoms, gates are locked during the school day at every school except the high school, and cameras are used on buses. He considered the District's "weakest area" walk-on security at the high school. The Sheriff's Department is called "maybe once a week, to remove a student under the influence, usually of marijuana, on campus," said Mr. Pritchard. The high school has an open campus policy at lunchtime; other campuses are closed.

To plan for growth and updates to schools and facilities, Mr. Pritchard stated the local community had approved a school bond in 2004 to fund the plans. The plan was to purchase property to build a new high school, and convert the current high school into a middle school. The current middle school will be updated and continue to serve as a middle school. Mr. Pritchard stated that the original plans were no longer realistic due to the original cost estimates having almost doubled. At the time of these interviews with Mr. Pritchard new plans, some of which were reviewed by the committee, were already in progress but only in the proposal stage.

## **Findings**

The Grand Jury finds that the Live Oak Unified School District has very high student attendance and parent participation.

The Grand Jury finds that security at Live Oak High School is inadequate.

The Grand Jury finds that the Encinal School playground is still unpaved; additionally the student loading zone needs to be paved.

The Grand Jury finds that the District maintains a close to 20:1 ratio of students to teachers.

The Grand Jury finds that the Live Oak Unified School District continues to demonstrate forward thinking and prudent management of the funds entrusted to it by the local community.

## **Recommendations**

The Grand Jury commends the District for its high student attendance and efforts to meet student/family needs.

The Grand Jury recommends that an assessment of security needs and possible solutions be conducted as soon as possible. It is additionally recommended that money for implementing needed security measures be budgeted.

The present Grand Jury recommends that the 2008-2009 Grand Jury follow up on the anticipated paving of the Encinal School playground and student loading zone.

The Grand Jury commends the District on its success in meeting 20:1 student to teacher ratios.

The Grand Jury commends Mr. Pritchard for his leadership and example as was demonstrated during the education committee's investigation.

## **Respondents**

Tom Pritchard, Superintendent, Live Oak Unified School District

# Superintendent of Schools



## Introduction

The 2007-2008 Sutter County Grand Jury Education Committee investigated the office of the Superintendent of Sutter County School Districts, 970 Klamath Lane, Yuba City, CA, to familiarize itself with the district and follow-up on recommendations from the 2006-2007 Sutter County Grand Jury.

The investigation was conducted by the Education committee, comprised of the following jurors: Robert Ahu, Kimber Andersen, Maria Arreola, Nance Contreras, Joan Doolittle, Satoko Kim, and Jody McGinnis.

## Discussion

On September 17, 2007, members of the Education Committee met with Jeff Holland, Sutter County Superintendent of Schools, at the Sutter County School Districts offices, to discuss follow-up items from the previous year, including “completion and implementation of the two-way emergency communication system” and a review of emergency response procedures, as well as to learn about the Districts’ programs. During the interview Mr. Holland invited Jim Morasch, Principal of Feather River Academy, to inform the committee on the successes of the new school. In addition, Grace Espindola, School Attendance Review Board Coordinator of Sutter County School Districts explained the process and responsibilities of the School Attendance Review Board (SARB).

Mr. Holland is elected to a four-year term by Sutter County voters. He serves as advisor to the five-member Sutter County Board of Education, who are also elected, and responsible for deciding the budget. His office is “the guide” in the process of replacing board members. He considers fiscal solvency of all school districts in Sutter County his primary responsibility. The Superintendent is charged by the State for making sure that all Districts’ schools meet the requirements of the Williams Compliance Act, which includes inspecting low performance schools: Bridge Street and Park Avenue Schools, in Yuba City, and Luther Elementary and Live Oak Middle Schools, in Live Oak.

Also under Mr. Holland's supervision is Feather River Academy (FRA), which opened in 2005, and which provides alternative education for students enrolled in grades 7-12, who have been expelled or referred by the Probation Department. FRA Principal, Jim Morasch, informed the committee that the school has 9.5 certificated teachers, working in the Opportunity Classrooms, independent study and day program. Nine classrooms, including one special education classroom, are housed at the Klamath Lane site, and an additional Opportunity Classroom is located at Gray Avenue School. The independent study, Opportunity Classroom and day school programs have an average attendance of 128 students. The staff also includes a health specialist/nurse who is committed to two hours a week, distributed between teen pregnancy referral, group type dialogue and other responsibilities.

In reviewing the Districts' emergency response plans, Mr. Holland explained that as the result of an awarded \$250,000 SAFE Schools Grant seven more Blackberries have been purchased, and that he is looking forward to purchasing more two-way communication equipment. Mr. Holland went on to say that within the next eighteen months all principals within the county will receive training in pandemic and/or multi-casualty simulations. He stated that "training is the key." The Superintendent of Schools Office continues to maintain copies of safety/emergency plans from all districts and/or schools in the county.

According to Jeff Holland, he must annually review all county public schools to ensure they remain in keeping with the Williams Compliance Act. It requires that each public school student be provided with a "minimum level of services" to include necessary instructional materials, safe and appropriate school facilities, and qualified teachers. Additionally, each school must have an accountability report card and complaint procedures in place.

Programs offered by Sutter County Schools include:

**Career-Technical Education** encompasses the Regional Occupational Program (ROP), providing students with instruction correlated to a career goal that will lead to a Certificate of Completion.

#### **Alternative Education**

- Community School Program - serves students in grades 7-12; expelled or referred by the Department of Probation.
- Opportunity School Program - serves students in grades 7-9 with behavior, attendance or academic difficulties.
- Adult Education - serves adults in basic education, completion of high school diploma and other classes.

#### **Special Education**

- Infant Program - providing early educational services for infants/toddlers ages 0-3 with disabilities.
- Preschool Intervention Program - providing services for children three through five years old who do not need rigorous special education services.
- Multiple Severely Handicapped - providing services to students who have multiple severe disabilities.
- Severely Handicapped - providing services to students with moderate to severe developmental disabilities.

- Emotionally disturbed - providing services to students who have low academic success due to emotional issues.
- Deaf and Hard of Hearing - providing services to students who are hearing impaired or deaf.
- Non-Categorical - providing services to students who are unsuccessful academically and qualify for special education.
- Resource Specialist Program - providing services to those students who have specific learning disabilities.
- Language and Speech Services - providing services to students who have an identified speech or language disability.
- Psychological Services - providing services to students who are being evaluated for special education services and/or those who currently maintain a handicapping condition.

### **Outdoor Education Program**

Woodleaf Outdoor School Program serves over 5,500 students a year, from eight counties, in a five-day, in-residence, outdoor, interactive school focusing on environmental education, while promoting responsibility, observation skills, self-confidence and self-acceptance. This year is the last at the present Yuba County site. With the help of a 5.1 million dollar “bond offering,” a new 132 acre site in Nevada County has recently been purchased. What people have so affectionately called “Woodleaf” for 39 years has been renamed “Woodleaf Outdoor School at Shady Creek.”

### **Intervention and Prevention Programs (IPP)**

The Districts Office Programs provide professional development, technical assistance and instructional materials and services focusing on, but not limited to, drug/alcohol free lifestyles, violence prevention, and healthy lifestyles.

Review of 2005-2006, the most recent available, School Accountability Report Cards, indicated low student attendance, particularly in Yuba City Unified School District schools. Other Sutter County schools reported significantly higher attendance rates. Interviews by committee members with school officials drew attention to learning climate, parent involvement, discipline and the Student Attendance Review Board (SARB). Committee members attended SARB hearings and court sessions. Dave Morrow, Director of Student Welfare and Attendance for the Yuba City Unified School District, indicated to committee members that “the goal of SARB is to avoid court and what would seem a punitive response, but rather, help families get on track. The people on the Board bring different levels of advocacy.” Mr. Morrow cited “parents’ lack of understanding of the importance of education,” as one contributing factor.

SARB (*Education Code* sections 48320 et seq.) was enacted by the state legislature in 1974 “to enhance the enforcement of compulsory education laws and to divert students with school attendance or behavior problems from the juvenile justice system until all available resources have been exhausted.” The SARB process includes prevention, early identification and intervention. Prevention starts with clear and effective attendance policies and school-based incentives for good student attendance. Early identification includes identifying students with recurrent absences or unusual attendance patterns.

Intervention involves contacting families, and perhaps referring them to community resources, in an effort to help them resolve the problem. After a protocol of parent notification and contact by school officials, if the problem persists or worsens, the SARB addresses the concern. Grace Espindola, Coordinator of SARB in Sutter County Schools, is joined on the current Board by the following agency representatives:

Baljit Liddar, Sutter County Schools, Administrative Secretary  
Dave Morrow, CUSD - Director of Student Welfare and Attendance  
Tony Chillemi, Sutter County Probation- Youth Supervisor  
Martha Gustafson,\* Children's System of Care  
Jean Watkins,\* Children's System of Care  
Linda Bozza, Sutter County One Stop  
Deputy Sheriff Lyle Aken,\* Sutter County Sheriff's Department  
Deputy Sheriff Robert Rawlin,\* Sutter County Sheriff's Department  
Shannon Royston, Sutter County Child Protective Services  
Sue Nowinski, Public Health Nurse  
Dulia Aguilar, Sutter County Mental Health Services  
Matt Overton, Community Representative

\* Where two names are listed for the same agency, one or the other will be present at a SARB meeting.

It appears that the Board has a fairly well-rounded representation of public agencies. Ms. Espindola suggested that representation from the District Attorney's office would make it even more so.

At a SARB hearing, accurate and detailed attendance reports are presented, along with behavior, legal, and medical histories of the child and/or family. An evidence-based plan is formulated and a contract presented to the parent(s) and student before leaving. If the contract is broken in a significant way, the parent is subpoenaed to appear before Judge Brian Aronson in Sutter County Family Court, for resolution. A single SARB covers all thirteen school districts. It appears that early intervention is an important key to resolving student non-attendance. Over 180 cases were reviewed in the last year. The number of cases that reach SARB has decreased, as of early 2008. One possible explanation is a greater emphasis on incentives for regular student attendance at younger grade levels.

Committee members' observations are that smaller school districts are better able to develop rapport with students and families, and meet student/family needs, which, in turn fosters better student attendance. K-8 schools, in general, reported highest attendance and greatest parent support; however, Luther Elementary School in the Live Oak Unified School District boasts nearly 100% attendance and exemplary parent support, as well.

## **Findings**

The Grand Jury finds that attendance is higher and parent participation is greater in smaller school districts.

The Grand Jury finds that the Superintendent's office has implemented emergency response training for principals, with intent to complete training by February 2009.

The Grand Jury finds that fewer students are appearing before the SARB, indicating effective intervention at some level.

The Grand Jury finds that the SARB has a fairly well-balanced public agency representation, but that there is a lack of representation by the District Attorney's office.

## **Recommendations**

The current Grand Jury recommends that the 2008-2009 Grand Jury investigate the ways that schools meet student & family needs in relation to student attendance/non-attendance.

The Grand Jury recommends that the 2008 – 2009 Grand Jury follow-up on the district's intent to train all principals within the county in pandemic and/or multi-casualty simulations by February 2009.

The Grand Jury recommends that schools assess effectiveness of incentive programs and other early interventions implemented to encourage regular student attendance.

The Grand Jury recommends that a representative from the District Attorney's office be added to the SARB to represent the judicial system.

## **Respondents**

Jeff Holland, Sutter County Superintendent of Schools



# Sutter Union High School District

## Introduction

The 2007-2008 Sutter County Grand Jury investigated the Sutter Union High School District to familiarize itself with and review the well being of the District.

The investigation was conducted by members of the Education Committee, comprised of the following jurors: Robert Ahu, Maria Arreola, Kimber Andersen, Nance Contreras, Joan Doolittle, Satoko Kim and Jody McGinnis.

## Discussion

Committee members met with Ryan Robison, Superintendent of the school district, and Principal of its only school, Sutter Union High School (SUHS). Mr. Robison has spent twenty years with the District; ten years as Principal of the high school. The school serves approximately 719 students in grades 9 through 12. It has experienced decline in enrollment for the past three years, as Franklin School graduates now have the option to attend River Valley High School, in Yuba City. Decreased enrollment for the next school year is indicated by the real-estate debacle and state budget crisis. Nonetheless, more students are coming in than going out. Approximately 77% of the students speak a second language. A bilingual aide works daily with English Language Development (ELD) students and their families. The school maintains a 26:1 student-teacher ratio.

Holding both the position of Superintendent and Principal, Mr. Robison can see where the monies need to be allocated and respond expediently to benefit the students. His financial responsibility extends not only to students, but also to personnel, maintenance operations and the community. District funding is derived from student attendance and an allocation of state and federal funds. Mr. Robison's philosophy is, "Don't spend more than you're taking in, and keep a healthy reserve."

The Board of Education sets and approves the budget. The budget process begins with staff requests to the Superintendent, which are then forwarded to the Board of Education, after which the County Superintendent makes a review. Despite many unfunded state mandates, it is commendable that the district budget has remained "in the black" for the past several years.

The District strives to attract and keep quality staff by offering competitive salaries and benefits, fair treatment, and a good work environment. It boasts a good history of retention. Mr. Robison notes that approximately 50% of the teachers are "home grown." In addition to credentialed teachers, the school employs two full-time counselors, and one part-time academic counselor. A School Resource Officer, a member of the Sheriff's department, is currently shared with other county schools. They currently have a Health Aide but Mr. Robison has expressed a desire to add a full-time nurse on campus. All staff members have been trained as first-responders, in the event of a major emergency or disaster.

The District "wish list" also includes a cafeteria for its 45 year old campus, an agriculture facility, and a science building. State funding has already been requested for a new septic tank. Asked what he would do if he had a million dollars, Mr. Robison replied, "Start working on a grant to double it!"

Attendance at SUHS is a commendable 96%. Mr. Robison suggests that the greatest impact on attendance is “connection” to school through sports or clubs. “Kids will connect to anything...gangs, theft...that gives them a pat on the back. It’s human nature,” he says. Gang activity at Sutter High School has increased. The school would like to do its part in producing “good citizens with a sense of responsibility.” Security is provided through staff and use of surveillance cameras. The Principal and Vice Principal maintain high profile visibility in monitoring behavior. The school has a “zero tolerance” behavior policy. Insubordination or disrespect toward a teacher is grounds for automatic suspension. A three-day suspension is automatic for a first offense of violence and fighting. Students must have a 2.0 grade point average with no “F’s” to be able to participate in extracurricular activities. They may continue to practice, lest “connection” with the school be lost, but may not play or participate. In house suspension or 45 minutes per day work detail are options for less severe infractions. Students might also be placed at Butte View High School, an alternative school, if inappropriate behaviors continue. Drug possession on campus results in immediate expulsion from the District.

Points of pride in Sutter Union High School, opined Mr. Robison, are “the sense of community (within the school), support from outside community and the strength of a staff that cares about the programs and kids.” The Grand Jury considers Mr. Robison one of Sutter High School’s obvious assets, also.

## **Findings**

The Grand Jury finds that Ryan Robison should be commended for a fiscally sound and well-run school district. It recommends that he continue to offer the same level of caring, consideration and expertise that have precipitated this finding.

The Grand Jury finds that a full-time Resource Officer and the addition of a qualified nurse would benefit the school.

The Grand Jury finds that the high school is in need of a cafeteria, agriculture building and a science lab.

The Grand Jury finds that the school district has a lengthy list of wants and needs for updating the facility and expanding resources, each of which would increase or enhance educational opportunities, providing a small district school with the same or similar resources, equipment and opportunities offered at schools in larger communities.

## **Recommendations**

The Grand Jury recommends that Superintendent of Schools/Principal Ryan Robison continue to expand and nurture the staff, programs and facilities to further allow the district to flourish.

The Grand Jury recommends that funds be requested for the addition of a cafeteria.

The Grand Jury recommends that a full-time resource officer be exclusively assigned to Sutter High School.

The Grand Jury recommends that the school district develop and prioritize a long-range plan for program needs and facility expansion.

## **Respondents**

Ryan Robison, Superintendent of Sutter Union High School District

# Fire Services

## Introduction

The 2007-2008 Sutter County Grand Jury conducted a follow-up investigation of the Sutter County Fire Department, based on the 2006-2007 Grand Jury Findings and Recommendations. The Committee reviewed the Final Reports of 2006-2007 Grand Jury, the County Budgets for 2006-2007 and 2007-2008 and the contract for fire services between Sutter County and the City of Live Oak. On April 8, 2008 the committee conducted an interview with Dan Yager, Fire Services Manager for Sutter County.

This investigation was conducted by the Fire and Emergency Services committee, comprised of the following jurors: Robert Ahu, Kimber Andersen and Kevin Bermingham.

## Discussion

Sutter County is divided into four sections for fire services and they are designated as County Service Areas (CSA): CSA-F, CSA-C, CSA-D and CSA-G. CSA-F was the main concern in last year's Grand Jury reports.

The County Budgets of 2006-2007 and 2007-2008 show fourteen career firefighter positions allocated to CSA-F. According to the previous Fire Services Manager, staffing was "borderline sufficient." Currently all of the full-time, permanent (Career) positions are filled. Chief Yager stated that, "more career positions would be nice but they will do the best they can with what they have because they have to."

Volunteer firefighters are a major resource for Fire Departments. The Fire Services Manager stated he did not know why, but that the number of volunteers has increased in CSA-F. This may increase the number of volunteers responding to calls, which could address a "Finding" from last year's Grand Jury.

Last year's Grand Jury recommended the Oswald-Tudor Fire Station remodel one of its buildings to provide parking and security of fire trucks and other property. One fire truck is too big for the parking bay and the door cannot be closed and secured. The Fire Services Manager acknowledged this problem and stated that hopefully, within the next few years, the budget will provide resolution.

The Live Oak Fire Station is located in CSA-F. The City of Live Oak contracts with Sutter County for Fire Services. Last year's Grand Jury identified a problem regarding a power generator to be installed at the Live Oak station. The generator was in place at the station but NOT installed for use during last year's Grand Jury visit. At the time of the interview with the Fire Services Manager on February 8, 2008 and at the time of this report, May 14, 2008, the status of the generator has NOT changed. The cost of this project was estimated at approximately \$60,000 dollars. There is a disagreement of how much money the City of Live Oak and Sutter County are each to pay. The contract addresses this issue. But, the Fire Services Manager stated the City of Live Oak wants the County to pay more than is required under the contract. During an emergency situation, this generator could provide a critically needed source of energy to run medical equipment, recharge a wide variety of electronics, and provide heating/air conditioning.

A Reserve Firefighter Program was proposed and under discussion between Sutter County and the City of Live Oak. Both parties and the Grand Jury viewed the program as having potential. The parties entered into contract negotiations for Fire Services last year. The Reserve Program

unfortunately is included in this process. The negotiations process is still on-going at the time of this report.

## **Findings**

The Grand Jury finds the security of county property is insufficient at the Oswald-Tudor Fire Station.

The Grand Jury finds by review of the contract for Fire Services between Sutter County and the City of Live Oak that the request for the county to pay more for the installation of the generator is not in accordance with the contract. Further delay of installation could deny the citizens of the City a resource during an emergency.

The Grand Jury finds that contract negotiations between Sutter County and the City of Live Oak are hindering progress in regard to the Reserve Firefighter Program.

## **Recommendations**

The Grand Jury recommends that Sutter County remodel the Oswald-Tudor Fire Station to provide security for Sutter County property. This recommendation is consistent with a recommendation made by last year's Grand Jury.

The Grand Jury recommends that, in accordance with the contract for Fire Services between Sutter County and the City of Live Oak, the County and the City pay the contracted amounts and complete the installation of the generator. If the City of Live Oak is unclear as to the contractual obligations of Sutter County, they should consult with their City Counsel.

The Grand Jury recommends that Sutter County and the City of Live Oak obtain a mediator to settle their negotiations.

## **Respondents**

Dan Yager, Sutter County Fire Services Manager  
Larry Bagley, Director of Community Services  
Larry Combs, County Administrative Officer of Sutter County  
Sutter County Board of Supervisors

# Emergency Services Division

## Introduction

Following the severe storm on January 4, 2008, the 2007-2008 Sutter County Grand Jury conducted an investigation of the County's Emergency Services Division and its actions taken prior to and after the storm.

This investigation was conducted by members of the Fire & Emergency Committee comprised of the following jurors: Robert Ahu, Kimber Andersen and Kevin Bermingham.

## Discussion

The Emergency Services is a division of the Sutter County Department of Community Services. The Emergency Services Manager is John E. DeBeaux, Jr. The Emergency Services Program is responsible for planning, response, and recovery activities associated with natural and man-made emergencies and disasters throughout the County and coordination of those activities with Local Agencies, State Office of Emergency Services (OES) and the Federal Emergency Management Agency (FEMA).

The Grand Jury reviewed the County's Emergency Services Plan, and various Local Agencies, OES, and FEMA websites. On February 14, 2008 the Grand Jury conducted an interview with Larry Bagley, Director of Community Services and John E. DeBeaux Jr., Emergency Services Manager. Also interviewed on April 8, 2008 was Dan Yager, Fire Services Manager of Sutter County.

The Grand Jury was particularly interested in the early warning of approximately a week and the level of action taken at that time, the source(s) of information to update the County on the storm's progress, communication systems, coordination of services between the various agencies of government, delivery of services, post-storm evaluation and the learned experiences.

The county received at least a week's notice of the storm. The OES and the National Weather Service as well as the media were sources of information regarding the storm. The County initiated low level meetings at that time and high level meetings of staff approximately two days before the storm. All Emergency Service Agencies and Support Agencies were notified of the storm and its potential for damage. The amount of damage sustained, lower than could have been, was attributed to the amount of early warning time which allowed the community to prepare.

The community suffered a loss of electrical power, some phone lines, and access to the local radio stations and television. If the local radio station (KUBA) had been equipped or supplied with a back-up power generator, the county would have had a better communication resource. Communication was severely impacted in its ability to get information from the Emergency Alert Services to the public at large. Mr. Bagley described the agencies as "having had an internal ability to communicate between themselves but no external ability to communicate with the public."

During our investigation, the Sutter County Sheriff's department dispatchers were identified and credited as having given an outstanding performance of their duties during the storm. Computer capability was lost which impaired various areas of the job. Dispatchers had to resort to pen and paper. The dispatchers for a time had to take 911 calls for Yuba County. These individuals were still able

to get the job done and deliver services to the county under difficult conditions. The Grand Jury commends their performance and offers our gratitude. Lack of notification by crucial utilities of call-center closings and relocations made contact information a problem.

As a result of the interruption of power, the Robbins Water and Sewer system was a potential disaster due to one of the pumps being non-operational (a scheduled maintenance project) and to lack of communications between DWR and Sutter County. Essentially, the maintenance project was not communicated to the other agencies and confusion ensued.

Sutter County opened a shelter at the Veteran's Center located on Veteran's Memorial Circle while the Red Cross opened its shelter at the Onstott Road location. However, the ability to notify the public was hampered by the inability to communicate due to the loss of power. It was reported that few if any of the citizens knew of or went to the warming shelters.

A post-storm evaluation of the community was conducted, partly as a windshield survey completed by the county Emergency Services personnel, also as a telephone call-in. This survey was only a voluntary participation offered to the citizens of the community. Not all opted to respond. No lives were lost in Sutter County. Sadly, a Yuba County employee lost his life while performing his duties during the storm. The Grand Jury extends its condolences to the friends and family of Milton Smith.

There were many lessons learned, both positive and negative. As a consequence of this experience, the county has begun to resolve many of these issues.

## **Findings**

The Grand Jury finds that John E. DeBeaux, Jr. is to be commended for his outstanding performance of his duties, passion for his job and commitment of service to the citizens of Sutter County.

The Grand Jury finds that the Sutter County Sheriff's department dispatchers are to be commended for the outstanding performance of their duties during the storm. Equally commendable are the efforts of all other county employees involved in the response to the emergency.

The Grand Jury finds that the notification methods available to inform the public of established warming shelters were insufficient.

The Grand Jury finds that immediate communication between government departments, at all levels, as well as communication between allied agencies and other utilities needs to be improved.

The Grand Jury finds that not all weather related events will have as much of an early warning as this past storm and that community awareness and preparedness is a key factor in minimizing property and personal loss.

## **Recommendations**

The Grand Jury recommends that the county work together with the local radio station to provide local EAS reporting instead of relying on the Sacramento media market for emergency notices.

The Grand Jury recommends a concerted effort between agencies to establish a standard of communication between departments and recognizes the outstanding service provided by the Sheriff's dispatchers and other county responders.

The Grand Jury finds that as warming shelters are opened to the public, additional notification methods must be employed so that the public can access these resources.

The Grand Jury recommends that the Board of Supervisors do everything in their power to assist local radio stations to obtain power generators, perhaps in the form of zero interest loans. Had the January storm been a catastrophic event, the ability of citizens to access information from a local radio station could potentially be life-saving and well worth the investment required by Sutter County.

## **Respondents**

Larry Bagley, Community Services Director  
Larry Combs, County Administrative Officer  
Sutter County Board of Supervisors



# Human Services - Health Division



## Introduction

The 2007-2008 Sutter County Grand Jury Health, Mental Health and Social Services Committee conducted an investigation of the Sutter County Human Services-Health Division to familiarize itself with the facility and its programs. The investigating committee was comprised of Joan Doolittle, Cynthia Taylor and Diane Uutela.

## Discussion

Committee members interviewed Dr. Michael Kinnison, Health Officer, on March 20, 2008. At Dr. Kinnison's invitation, Amerjit Bhattal, RN, PHN, Assistant Director of Human Services, also participated. The committee was given a comprehensive tour of the Human Services facility at that time. Administrative Services Officer Peter Crowson was interviewed by committee members on April 10, 2008. Ms. Bhattal was also present during that interview.

California laws mandate an independent Health Officer M.D. position for all counties, hired by the Board of Supervisors. The position is responsible for overseeing publicly funded communicable disease control, immunizations and children's health, the last of which is largely grant-funded. The Health Division attends to Sutter County Jail inmates' health, which helps reduce jail costs. The Division is also charged with developing and implementing emergency preparedness and response procedures. An Adult Nutritionist is available one day a week for two hours, working mostly with diabetic patients. Special consultations for lipid disease and obesity are available. The nurse supervisor's span of control is overwhelming. The Department would like to have additional nurse supervisors. The Health Department has a monthly newsletter available on its website.

Funding for the Health Division totals approximately \$9.2 million, and is broken into five budget units. The operating budget of Public Health is \$8.05 million. California Children's Services and similar

programs are funded through specific revenues. Approximately \$3 million more is received by Public Health from grants, clinic fees, MediCal and government revenues. County Medical Services for “the working without insurance” is subsidized by \$3 million of re-allocated funds and approximately \$2.47 million from the County General Fund. The Administrative Services Officer position is responsible for all accounts payable and receivable for the Department, as well as overseeing computer services. Asked about maintaining a balanced budget, Mr. Crowson stated that, “It *has* to balance. Funding received is designated for very specific purposes.” Challenges to the position include keeping track of the many grant monies received, and understanding the specifics of each allocation. Ms. Bhattal added that “maintaining a good standard of care” is paramount. The Single Audit Act provides for one federal grant-funded external audit per year. For the past five years the audit has been provided by Smith and Newell CPAs. Bids are currently being accepted for this year’s audit.

The Health Division has taken a new program into three K-6 schools, Park Avenue, Bridge Street and April Lane Elementary Schools, providing flu mist immunizations to reduce absenteeism and also reduce the influenza load in the community. In April 2007, the Shots for Tots KIDS program commended Public Health for “*a 91% immunization rate (outstanding)! and continued, “You exceeded the Healthy People Goal by 1% and before 2010!”*” The Sutter County Health Department, in cooperation with Del Norte Clinics, provides mobile outreach to the entire county, including migrant camps and school-based clinics, additionally responding to culturally sensitive health screening needs. The term “Team Sutter” was coined by the Health Division to represent the county’s proactive approach to preventative health practices and “wellness.”

Ms. Bhattal calculated that WIC had served 4,225 clients in the past month, the outpatient clinic had served an average of 50 patients per day, and public health nursing attended to approximately 40 patient/clients per day. No numbers are available for those taking advantage of outreach programs, such as Sudden Infant Death Syndrome (SIDS) awareness or Shaken Baby Syndrome education. Approximately 280 jail inmate cases were seen in the previous month.

A new grant in the amount of \$9,000 will be used for cancer screening, mammography and related needs for women under the age of 39 experiencing unusual breast symptoms. Committee members noted that no preventative health programs for older adults were in place. It also noted that a sizeable, aging “Baby Boomer” generation is approaching. While rudimentary efforts are being made to address the growing concern about childhood obesity, the Department has yet to receive adequate funding for programs specific to this need.

A new grant funded position, the Public Health Emergency Response Coordinator for Planning, has been created. Through a Homeland Security Grant, an interoperability communication network van was purchased for use as a mobile command center. Simulated emergency response exercises are used to improve response capability. Committee members attended a public presentation by Dr. Kinnison, on February 24, 2008, at St. Andrew Presbyterian Church, regarding pandemic influenza risk and preparedness. Operating within the Division of Strategic National Stockpile guidelines, a mass distribution system is underway. One goal of the plan is the ability to administer flu shots to everyone in the county within 7 days, and to distribute prophylactic medication within 48 hours. Sutter County is offering training to other counties. Alternative care sites, such as the Veterans’ Center, the fairgrounds and larger church facilities, are being identified. These sites will require space for a minimum of 20-25 cots, IV poles and respirators, as well as kitchen facilities and bathrooms. The alternative sites will also require additional staff, which will be costly, and take time to prepare. During a random inspection, on June 15, 2007, by the Division of Strategic National Cities Readiness Initiative, Sutter County scored 81%

for overall program preparedness. It was further noted that they had achieved 100% in Security, Tactical Communications and Requesting SNS Support. The report stated that, *“in spite of the [relatively] small population, size and limited resources, Sutter County Public Health has out-done themselves. Their accomplishments are results of commitment not only from their staff, but from other County partner agencies and County leadership.”*

Dr. Kinnison acknowledged that “antiquated computer software” is being used in the Department. There is need for computer software upgrades that would provide electronic record-keeping, and offer “good I.T. support.”

In April 2008, the Board of Supervisors approved a feasibility study of possible privatization of the County Health Clinic. Justification was that the clinic is currently operating at a \$1.3 million deficit.

## **Findings**

The Grand Jury finds that the Health Division is maintaining a high level of care.

The Grand Jury finds that the computer software used by the Health Division is inadequate for accurate and efficient data storage, electronic record-keeping and financial services.

The Grand Jury finds that the Public health program has proactively identified and responded to a culturally sensitive and specific health screening need in our community.

The Grand Jury finds an absence of preventative health programs specifically addressing the needs of older adults.

The Grand Jury finds that there is insufficient funding to adequately support the programs addressing the increasing problem of childhood obesity.

The Grand Jury finds that the Health Clinic is operating at a \$1.3 million deficit, and a feasibility study has been approved to address possible privatization of the clinic.

## **Recommendations**

The Grand Jury commends the Health Division for maintaining a high standard of care.

The Grand Jury recommends that cost estimates for purchase of updated software be attained, and that commensurate funds be sought for making necessary upgrades, including electronic record-keeping.

The Grand Jury commends the Health Division for the mobile health services and its part in proactively addressing culturally specific health screening needs. It recommends that the Department actively promote and expand its services in this area.

The Grand Jury recommends that funding be secured and programs be developed, to provide preventative health care specific to older adults.

The Grand Jury commends efforts already made in addressing the problem of childhood obesity. It recommends that funds continue to be sought and programs be implemented, to address the issue.

The Grand Jury recommends that the 2008-2009 Grand Jury monitor development of the health clinic feasibility study, to balance patient needs with financial impact on the county.

## **Respondents**

Sutter County Board of Supervisors

Joan Hoss, Director of Human Resources

Michael Kinnison, M.D., Health Officer, Sutter County Human Services - Health Division

# Sutter – Yuba Mental Health Services & Psychiatric Emergency Services

## Introduction

The 2007-2008 Sutter County Grand Jury Health, Mental Health and Social Services committee conducted an investigation of the Sutter-Yuba Mental Health Services and Psychiatric Emergency Services, in response to observations and recommendations of the 2005-2006 and 2006-2007 Grand Juries, as well as to learn about the facility and its programs. The investigating committee was comprised of Joan Doolittle, Cynthia Taylor and Diane Uutela.

## Discussion

The committee interviewed Tom Sherry, Deputy Director of Mental Health Services, on January 30, 2008, at which time programs, budget, safety and improvements were discussed. Mr. Sherry led the committee on a tour of the facility, including the newly remodeled areas in the psychiatric wing. A separate site visit was made on January 25, 2008 to evaluate the current condition of parking areas and observe smoking areas.

Sutter-Yuba Mental Health Services continues to offer low or no-cost client-centered “psychiatric services to individuals and families who are experiencing serious or ongoing mental health problems”. The State of California subsidizes programs and services for eligible clients who are unable to pay. The staff of 175 includes Spanish, Hmong, and Punjabi-speaking doctors and therapists, and telephone-accessible translators for several other languages. Hmong client services have increased since the hiring of the Hmong-speaking clinician.

Psychiatric emergency services are available, without cost, 24 hours per day, seven days per week. After the initial intervention, referrals may be made to other mental health programs, or community resources. Inpatient capacity is 64. Remodeling of two bedrooms, a handicapped accessible toilet and handicapped accessible shower recently had been completed.

Sutter-Yuba Mental Health Services and the Housing Authority are working together to acquire between 12 and 15 four-bedroom, single-story, housing units for mentally ill individuals. A grant of \$750,000, obtained through the Mental Health Services Act, has been allocated for this purpose. Also under consideration are apartment accommodations for couples. Methods for addressing housing needs for families are being determined.

In following up on a recommendation of the 2006-2007 Grand Jury, *“that the unpaved parking area be graded and gravel be applied to fill in existing holes”*, a committee review of the past year’s accident reports confirmed two injuries happening in tandem on the same day, just two weeks prior to the committee’s second site visit. It was indicated that wet, uneven surface contributed to the mishaps. Neither person sustained injuries requiring medical treatment. During site visits, committee members noted that several areas at entry and egress to the unpaved parking lot had been filled with gravel, eliminating or reducing unevenness. Water-filled ruts up to three inches in depth were still evident on the parking lot surface, on a rainy January 25, 2008 visit. Paving considerations have been postponed, pending possible construction of a new Human Services building, which would require tearing out any

existing pavement. Mr. Sherry indicated that there are no immediate plans for construction of a new building at the current location. It is still being determined whether building, buying or leasing would be the most feasible alternative. The conjecture of committee members is that the cost of paving the parking area would be commensurate to the expense of maintaining the unpaved surface with repetitious grading and application of rock or gravel. It is also surmised that a permanent surface would reduce exposure to injury and increase indemnity.



Parking lot puddles



Depth of pothole

In addition, committee members noted a pothole in the main parking lot, adjacent to the sidewalk near the west end of the main building. The pothole was filled with rainwater to a depth of three inches, obscuring the hazardous terrain.

Discussion with Mr. Sherry confirmed that the current information technology system is outdated. Computer programs installed in the mid-1980s primarily addressed billing needs. New software is needed to provide an integrated billing and data storage system, including client demographics, and to move toward electronic medical records-keeping. The need has been identified as a goal at both Federal and State levels. Changes are necessary for State compliance. Software replacement is contingent on funding. Costs have yet to be determined.

Following up on the 2006 – 2007 Grand Jury's concern about lack of a definitive smoking area, to encourage adherence to County smoking ordinances, committee members observed that at least one cigarette ashtray/receptacle was determined to be within 12 feet of a main entrance, despite a notice on the door that smoking within twenty feet was prohibited. There are no indicators of that actual, distance from building entrances, for smokers' reference.



Ashtray within 20' of entrance



Notice on door

## **Findings**

The Grand Jury acknowledges the fiscally responsible decision to avoid immediate paving of the yet-unpaved parking lot, in anticipation of future construction. However, since construction is not imminent, the Grand Jury finds that the need for safety takes precedence over frugality, and that paving needs to be a priority.

The Grand Jury finds that an area of the paved parking lot, near the west end of the facility, is in need of repair.

The Grand Jury finds that the current computer software used by the Division is insufficient.

The Grand Jury finds that non-smoking areas are inadequately delineated.

## **Recommendations**

The Grand Jury recommends that the unpaved parking lot be paved as soon as possible, to increase safety and reduce liability.

The Grand Jury recommends that the pothole in the existing paved parking lot, near the sidewalk at the west end of the building be filled as soon as possible to increase safety for those walking to and from vehicles parked nearby.

The Grand Jury recommends that costs be determined for upgrading the information technology system for the Mental Health Services division, to accommodate required changes in government regulations. Furthermore, the Grand Jury recommends that the department continue to seek funding for such upgrades.

The Grand Jury recommends that ash trays/receptacles be placed a minimum of 25 feet from building entrances and that non-smoking areas be defined clearly, to encourage compliance with County Smoking ordinances.

## **Respondents**

Joan Hoss, Director of Human Services

# Sutter County Children and Families Commission

## Introduction

The 2007-2008 Sutter County Grand Jury Health, Mental Health and Social Services committee conducted an investigation of the Sutter County Children and Families Commission (SCCFC) to familiarize itself with the SCCFC and its programs, and follow up on recommendations made by the 2005-2006 and 2006-2007 Grand Juries.

The investigation was conducted by the Education committee comprised of the following jurors: Joan Doolittle, Cynthia Taylor and Diane Uutela.

## Mission Statement

*"The mission of the SCCFC is to provide a comprehensive system of information, programs and services which support all Sutter County children and families and which ensure that each child is prepared to enter school healthy and ready to learn."*

## Discussion

County Commissions throughout the state receive 80% of revenue generated by Proposition 10, the Children and Families Act, which placed a .50 cent per pack tax on cigarettes and other tobacco products purchased in the state, to fund programs for children ages 0-5. Sutter County receives approximately \$1.2 million annually in Prop 10 Funds, based on the number of births to Sutter County families. In working to further fund and provide the wide variety of programs necessary to meet needs of children ages 0-5 and their families, the SCCFC also collaborates with other county and private organizations.

The SCCFC provides health and educational opportunities under the direction of a board of commissioners. The nine commissioners, all professionals experienced in working with children and families, are appointed by the Sutter County Board of Supervisors, without term limits. Commissioners include:

Nancy Aaberg, Superintendent, Yuba City Unified School District  
Judge Brian Aronson, Sutter County Courts  
Richard J. Doscher, Yuba City Police Department Chief  
Dr. Olga Gonzales, Pediatrician; Board of Supervisors appointed Commissioner  
Lori Harrah, Assistant Director Sutter County Human Services-Social Services  
Joan Hoss, Director of Sutter County Human Services, replacing Ed Smith, upon his retirement  
Christine Odom, Chief, Sutter County Probation Department  
Tom Sherry, Deputy Director, Mental Health Services, replacing Joan Hoss  
Jim Whiteaker, Sutter County Board of Supervisor; Commission chairperson

The SCCFC staff includes Deborah Coulter, RN, Executive Director, and Bev Dal Porto, Administrative Assistant.



The Grand Jury interviewed Deb Coulter on November 29, 2007. She was accompanied by Ed Smith, then Sutter County Director of Human Services, and Joan Hoss, then Director of Mental Health Services. Committee members attended SCCFC meetings, interviewed one of the commissioners and observed SCCFC programs in operation. Subjects discussed with interviewees included the SCCFC Board composition and perceived need for a commissioner or commissioners directly involved in child development, concern about a noticeably large amount of reserve funds, and concerns about the Commission's success in being available to *"every child 0-5"* in Sutter County.

The programs provided by and through SCCFC continue to grow and expand. Attention given to the fiscal responsibility of managing currently funded programs and services, reflects a commitment to continued success of existing programs, awarding mini-grants to provide for complementary programs and services and reserving funds to ensure the continuation of existing, evidence-based, successful programs for as long as possible, within the purposes of the Children and Families Act. For the year ending June 30, 2007, the Commission reported:

Total program revenues	\$1,284,655
Total program expenses	1,508,600
Net assets, end of year	5,773,370

The report also indicates a balance of \$5,623,153 in reserved and unreserved funds:

Reserved funds (for encumbrances, obligations and First 5 California initiatives)	\$2,084,153
Unreserved funds (designated for local initiatives and program sustainability)	\$1,768,041
Unreserved undesignated	\$1,770,959

Of net assets reported, funds held in reserve total more than three years' operating costs. It concerned the committee that such a high reserve might preclude the SCCFC from receiving additional available grants. Also noticed, was that in the Sutter County CFC 2007-2010 Strategic Plan, the only mention of the Commission's Reserve Fund was an allocation from that fund in the amount of \$154,628. Unless that is clearly displayed elsewhere, it would seem that the Commission is being less than fully transparent about the size of their reserve. One would think that a government agency would err on the side of more disclosure, rather than place the burden on citizens to search for data.

Exhibit A: SCCFC Statement of Activities for the year ended June 30, 2007

Exhibit B: SCCFC Financial Statement, June 30, 2007

Exhibit C: SCCFC Strategic Plan 2007 – 2010, Three Year Budget

#### **Programs include:**

**Bright Futures**, held monthly, in varying locations, to offer free developmental and health screenings for children ages 0-5.

**Sutter County SMILES**, in collaboration with Peach Tree Clinic and the Yuba City Unified School District, provides mobile comprehensive dentistry and dental health education services. Few residents have taken advantage of the dental van's visit to outlying areas of the county, making the effort less cost effective. The van currently has Spanish and Punjabi speaking staff. Translators for other languages are secured as needed and available.

**Free immunizations**, funded by SCCFC, are administered by the Sutter County Health Department.

**Child Development Behavioral Specialist (CDBS)** Sharen Cornils, RN, PHN, MA, MFT, of the Sutter County Health Department, provides early screening, assessment, intervention and referrals for children exhibiting significant behavioral problems. Collaborating also with Family SOUP, Ms. Cornils offers parent education workshops related to child development and behavior.

**Family SOUP** works cooperatively with SCCFC and the Sutter County Health Department in fulfilling its mission “to empower families of children with special needs through support and education.”

**School Readiness** offers activities, education, learning materials and community resource referrals for children and their parents in low performing schools, to prepare them for a positive school experience. The program is provided at King Avenue School, Bridge Street School and Park Avenue School, in Yuba City, and Luther Elementary School, in Live Oak.

**Smart Start**, offered to all Sutter County children, is a four week summer program focusing on school readiness and transition activities for children without preschool experience. Kindergarten teachers serve as lead faculty.

**Toolbox for Tots: Parent Helpline** airs weekly on Comcast Cable Channel 19, featuring professionals addressing a variety of parenting concerns. Viewers may call or e-mail their questions to the live show.

Mini grants are typically awarded once a year. The Commission approved the release of \$77,100 for funding this round of mini grants. Three types of mini grants were available this year.

*Community Mini Grants* – community organizations may apply for a maximum of \$3,000 in funding for events, activities, classes or other projects that will benefit children ages 0-5 and their families in Sutter County.

*New Provider Start UP Packs* – Licensed childcare providers that have not received an SCCFC mini grant in the past can apply for a Start UP Pack containing carefully chosen materials, supplies, school readiness/early literacy activity suggestions and a gift certificate. Packs will be available in two sizes based on the number of children in their care.

*Creating Great Starts* – Licensed childcare providers (one provider per organization) can apply to participate in Creating Great Starts, a research based nutrition and physical activity curriculum that is integrated with educational standards. Participating providers will receive lesson plans, lesson planning support and materials/supplies for lessons. Mandatory provider classes will be held in August, October, January, March and May.

In a Grand Jury interview, Ed Smith explained that the original Family Intervention Team (FIT) was selected as the CFC starting board as much for their ability to manage large sums of money as their expertise in identifying and delivering services to children from birth to age 5. This was a rationale confirmed separately by Sutter County Administrative Officer, Larry Combs. There can be no disagreement that the Board has done an excellent job in managing the funds that flow into SCCFC, if

the amount of money saved is the measure of success. As previously stated, the Commission has amassed an enormous reserve.

Most Board members, being government department heads with expertise in budgets and planning, bring a valuable skill set to the Commission. However, the grand jury believes that the Commission would benefit greatly by balancing fiscal restraint with genuine expertise in the areas in which the Commission is charged. During a meeting with the Grand Jury, Joan Hoss defended the amount of the reserve fund, in part, by saying that “the Commission has a duty to ensure that it has the money to employ its staff and providers well into the future.” While this is a kind and commendable sentiment, it is also a bureaucratic concern expressed by a bureaucrat, not a relevant basis to justify the amount of the reserve. The Grand Jury believes this is an example of the kind of thinking that can permeate a Board comprised exclusively of government department heads.

In her response to the 2006-2007 Grand Jury recommendation that the Board of Supervisors consider changing the composition of the Commission Board, Deb Coulter responded, “The commissioners coming from the FIT Policy Board represent hundreds of years of experience both as citizens and as professionals working with thousands of families who do represent this community. As individuals, they do understand the needs of the citizens of this community, especially those who can most benefit from services to help their children become more successful in school and in the community and later as adults.” Nowhere in her response does she identify the profile of any FIT Board member who has any expertise in the needs of children from birth to age 5 or even allow that such expertise could possibly benefit the Commission.

For the most part, the success of existing programs is measured only by the number of children served. In the years ahead, the success of programs can be measured by the success of those who participated in programs against those who didn’t. Duerr Evaluation Resources is contracted by SCCFC to continually track numbers of children and their families served. Duerr has acknowledged and applauded the fact that the SCCFC, despite the lack of representation of early childhood experts on their Board, is accessing expertise through the providers of their programs.

Committee members agree that there is an ongoing concern about children and families in outlying areas who do not have ready access to health/dental services, and school readiness opportunities. The 2006-2007 Grand Jury made recommendations that the Board of Supervisors be more directly involved in overseeing delivery of services. This year’s committee has a vision of Deb Coulter and two or three members of the Board of Supervisors traveling to outlying areas, maybe taking pizza or lattes, to meet with school principals, teachers, and church leaders, with the goal of developing a strategy for immersing those areas with available services.

The SCCFC provides a wide array of programs, available to any child ages 0-5 and his or her family. The programs continue to be monitored, evaluated and adjusted to maximize effectiveness. It has been determined that very few children in outlying areas take advantage of services, even if provided in their area. With the exception of programs designed to benefit a specific population (e.g. special needs families, low performance schools), all programs and services are available to any child ages 0-5 in Sutter County. The need for services in outlying areas is still a concern. Funds are available. A synergistic effort among SCCFC, the Board of Supervisors and school officials, teachers and church leaders would promote on-going communication among those entities and encourage a strategy aimed at maximizing program/service delivery in the far-reaches of Sutter County.

In following up on the 2006-2007 Grand Jury's recommendation that the "Board of Supervisors take back responsibility for the SCCFC by making it a county agency," the committee determined that, by law, as an "agency of the county," a Commission is charged with "independent control over the strategic plan." (Health and Safety Code, Section 140130.1) However, the Board of Supervisors is welcome to review the strategic plan and make recommendations.

The 2006-2007 Grand Jury expressed concern about the "immense reserve fund" held by the SCCFC, recommending that "monies should be put to active use to benefit families and children." The Grand Jury agrees that the reserve fund appears to be excessive. It also is aware that, with the exception of mandated spending, use of funds is at the discretion of each Commission. Whether the funds are used to subsidize current programs and services or be set aside for future use, the monies ultimately will be used to fund programs and provide services to children and families. This finding does not negate the advisability of seeking additional funding sources.

The Grand Jury considered the 2006-2007 Grand Jury's recommendation that the SCCFC Board be restructured. While the Grand Jury has no objective reason to believe that the Board, in its current composition, is not doing a good job, it can't help but believe that it could do even better with some restructuring. It would be an unbelievable and remarkable coincidence if the FIT Policy Board, installed at the inception of a new program primarily to responsibly manage a large sum of money, just happened to be the best possible choice, even after the focus on money management has been dramatically altered.

## **Findings**

The Grand Jury finds that the composition of the SCCFC Board of Directors still reflects that of the original board, installed predominantly for reasons other than their expertise regarding needs of children ages 0-5.

The Grand Jury finds that there is a conspicuous absence of board members with expertise in child development.

The Grand Jury finds that there are still concerns about the efficacy of SCCFC in providing services to children and their families in outlying areas of the county.

The Grand Jury finds that there is little cooperative effort among SCCFC, school officials in remote areas of the county, and members of the Board of Supervisors relating to those constituencies.

The Grand Jury finds that the SCCFC has sufficient funds, but that none have been designated specifically for developing services to rural county regions.

The Grand Jury finds that a huge fund of money is being held to ensure longevity of, and job security for those employed within, current programs. It further finds that the amount held is beyond that necessary for three years of program expenses, exclusive of additional income.

## **Recommendations**

The Grand Jury strongly recommends that the Board of Supervisors considers changing the composition of the SCCFC Board of Directors, to include members with current training and education in the areas of child development for those ages 0-5. We are the third consecutive Grand Jury to recommend such action and it should be considered, at the very least, due to changing circumstances since the inception of the Commission and the installation of the original Board.

The Grand Jury commends the SCCFC for its programs and continued efforts to expand, improve and increase visibility to county residents. The Grand Jury recommends that those efforts be continued energetically and further recommends that the Commission continue to avail itself of experts in the area of child development with equal energy and consider board involvement by regular attendance of one or more individuals with child development experience.

The Grand Jury recommends that the SCCFC request Supervisors to regularly assess needs in their respective constituencies, and report them to the Commission. In turn, it is recommended that the SCCFC provide, annually, in writing, a report to each Supervisor, on services delivered in his District. It is also recommended that the Commission provide guidelines for the Supervisors' use in gathering pertinent data.

The Grand Jury commends the SMILES program. The Grand Jury recommends that the van visit all outlying areas of the county at least once during the year, averaging cost effectiveness with the better attended sites, to ensure accessibility to all eligible children.

The Grand Jury recommends that the SCCFC designate funds specific to program development in remote areas of Sutter County. It also recommends that the SCCFC Executive Director and members of the Board of Supervisors meet with, and provide lunch for, principals, teachers and area church leaders to develop a strategy for providing, promoting and maximizing health and educational support to outlying regions of the county.

The Grand Jury recommends that the SCCFC responsively reduce its reserve funds by one-third, still leaving more than two years' operating expenses in place, and that the Commission continue to seek additional grant funding and synergistic program opportunities.

## **Respondents**

Sutter County Board of Supervisors  
Deborah Coulter, Executive Director, SCCFC

## SUTTER COUNTY CHILDREN AND FAMILIES COMMISSION

Statement of Revenues, Expenditures and  
Changes in Fund Balance  
For the Year Ended June 30, 2007

REVENUES

Proposition 10 apportionment	\$ 1,112,565
Proposition 10 administration augmentation	62,797
Proposition 10 administration travel	3,787
Proposition 10 school readiness	98,743
Proposition 10 surplus money investment fund	6,763
Interest income	<u>224,825</u>
 Total Revenues	 <u>1,509,480</u>

EXPENDITURES

Current:	
Salaries and employee benefits	161,841
Services and supplies	103,585
Rent and utilities	18,431
Program evaluation	105,318
School readiness	258,561
Other program	<u>799,482</u>
 Total Expenditures	 <u>1,447,218</u>
 Net Change in Fund Balance	 62,262
 Fund Balance, Beginning of Year	 <u>5,560,891</u>
 Fund Balance, End of Year	 <u><u>\$ 5,623,153</u></u>

continued

The accompanying notes are an integral part of these financial statements.

## EXHIBIT B

## SUTTER COUNTY CHILDREN AND FAMILIES COMMISSION

Balance Sheet  
June 30, 2007ASSETS

Cash in County treasury	\$ 5,700,589
Due from other agencies	190,678
Interest receivable	59,057
Prepaid expenses	<u>1,500</u>
Total Assets	<u>\$ 5,951,824</u>

LIABILITIES

Accounts payable	\$ 323,944
Accrued salaries and benefits	<u>4,727</u>
Total Liabilities	<u>328,671</u>

FUND BALANCE

## Fund Balance:

## Reserved Funds:

Reserved for encumbrances	1,188,693
Reserved for obligations	80,000
Reserved for First 5 California initiatives	<u>815,460</u>
Total Reserved Funds	2,084,153

## Unreserved Funds:

Designated for local initiatives and program sustainability	1,768,041
Unreserved undesignated	<u>1,770,959</u>
Total Fund Balance	<u>5,623,153</u>

Total Liabilities and Fund Balance	<u>\$ 5,951,824</u>
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continued

The accompanying notes are an integral part of these financial statements.

## EXHIBIT C

**BUDGET****THREE YEAR BUDGET**

	2007-2008	2008-2009	2009-2010
<b>Revenue</b>			
State Prop 10 funds *	\$1,068,170.00	\$1,046,260.00	\$1,023,949.00
School Readiness **	\$125,000.00	\$125,000.00	\$125,000.00
Admin/Travel Augmentation ***	\$66,297.00	\$66,297.00	\$66,297.00
Interest earned (estimate)	\$168,000.00	\$164,500.00	\$161,000.00
Commission Reserve Funds	\$154,628.06	\$212,698.16	\$268,003.77
<b>Total Revenues</b>	<b>\$1,582,095.06</b>	<b>\$1,614,755.16</b>	<b>\$1,644,249.77</b>
<b>Administrative Expenses</b>			
Salaries & Employee Benefits	\$170,522.10	\$179,048.21	\$188,000.61
Services & Supplies	\$103,032.96	\$106,123.95	\$109,307.66
<b>Total Administrative Expenses</b>	<b>\$273,555.06</b>	<b>\$285,172.16</b>	<b>\$297,308.27</b>
<b>Evaluation Expenses</b>			
Duerr Evaluation Contract	\$75,000.00	\$75,000.00	\$75,000.00
<b>Total Evaluation Expenses</b>	<b>\$75,000.00</b>	<b>\$75,000.00</b>	<b>\$75,000.00</b>
<b>Program Expenses (core programs)</b>			
Sutter County Smiles ****	\$157,257.00	\$157,257.00	\$157,257.00
Sutter Co. Smiles PTC	\$30,000.00	\$30,000.00	\$30,000.00
Smart Start ****	\$253,230.00	\$253,320.00	\$253,320.00
School Readiness	\$309,053.00	\$324,146.00	\$335,496.00
Family SOUP ****	\$125,000.00	\$125,000.00	\$125,000.00
FREE Immunizations	\$30,000.00	\$30,000.00	\$30,000.00
Child Behavioral Specialist	\$100,000.00	\$100,000.00	\$100,000.00
Bright Futures	\$65,000.00	\$66,950.00	\$68,958.50
Backpacks	\$60,000.00	\$60,000.00	\$60,000.00
Community Education	\$17,000.00	\$19,000.00	\$21,000.00
Outreach	\$22,000.00	\$24,000.00	\$26,000.00
Mini Grants	\$65,000.00	\$65,000.00	\$65,000.00
<b>Total Program Expenses</b>	<b>\$1,233,540.00</b>	<b>\$1,254,583.00</b>	<b>\$1,271,941.50</b>
<b>Total Expenses</b>	<b>\$1,582,095.06</b>	<b>\$1,614,755.16</b>	<b>\$1,644,249.77</b>

\* Revenue estimates from First 5 California memo 2/6/2006

\*\* Re application for 2007/2011 funding to First 5 California approved 4/30/07

\*\*\* Budget assumes continued admin/travel augmentation from First 5 California

\*\*\*\* FY 2007/2008 funding approved at 4/07 Commission meeting



The three year budget is included to serve as information regarding current funded program levels. The Commission budget and funding for the identified core programs is approved on an annual basis by the Commission. The three year budget contains forecasts of revenues and expenditures. The SCCFC FY 2007/2008 Budget will be presented May 16, 2007 and placed on the Commission meeting agenda for approval at the June 20, 2007 Commission meeting.



# General Plan Update

## Introduction

The 2007-2008 Sutter County Grand Jury investigated the current General Plan update.

This investigation was conducted by the Planning & Environment Committee comprised of the following Jurors: Glenn Aronowitz, John Elliott, Doug Heacock, Tami King and Sara Neukirchner.

## Discussion

A General Plan is a comprehensive policy document intended to outline and address goals and policies for the growth of a county, its future land use decisions and the collective vision of its community.

Although a General Plan update is generally developed attempting to predict a county's needs over a 20 - 25 year period, it's not uncommon for counties to update their general plan every 10 – 12 years.

Sutter County's current General Plan was adopted in 1996. Since this plan's inception, the county has experienced considerable growth. Accompanying that growth are changing needs and an increasing demand on the county. Among other things, these demands impact development which affects a range of issues including, but not necessarily limited to, land use, infrastructure and multiple county services. Clearly the criteria from which the county's current plan was designed have significantly changed. Although there have been several changes or 'General Plan Amendments' to the general plan since the adoption of the 1996 update, there has been no formal update, leaving the current plan outdated and in need of comprehensive reform.

In the summer of 2007, Sutter County set out to develop a new General Plan. The General Plan update is a long and comprehensive process and is anticipated to take approximately thirty months to complete. According to Steve Geiger, the County's Principal Planner and the Project Planner for the current General Plan update, it's the county's intent to be in a position to adopt a new General Plan by the end of 2009 or the early months of 2010.

One of the reasons the county elected to begin the update, is the need to address crucial land use and zoning issues that have arisen as a result of recent growth spurts throughout the county. Measure M, the Sutter Pointe project is a prime example of growth that will have a significant impact on the southern portion of the county. There are also current controversial issues such as the rezoning for Ranchettes, traffic and a lack of substantial infrastructure to accommodate industrial growth. Several members of the Board of Supervisors advised the Grand Jury that these and many other issues can and need to be addressed in the current General Plan Update.

State law dictates that a General Plan must contain seven mandatory components. These required components are Land Use, Circulation (Roads & Traffic), Housing, Conservation, Open Space, Noise and Safety. In addition to these mandatory components, the county will include three optional components, Economic Development, Infrastructure and Community Services.

To manage and oversee the General Plan update process, a General Plan Advisory Committee and a Planning Team were assembled. The Advisory Committee is comprised of 25 members consisting of three representatives from each of the five Supervisorial Districts, a representative from both Live Oak and Yuba City, and 8 ‘Stakeholders’ representing various groups, associations, etc. These groups include Middle Mountain Foundation, Sutter County Resource Conservation, Sutter-Yuba Association of Realtors, Y-S Builders & Developers Association, Y-S Chamber of Commerce, Y-S Economic Development Corp and Y-S Farm Bureau.

The Planning Team is led by Mr. Geiger and assisted by an outside consulting firm PBS&J and its sub-consultants. Following a Request for Proposal (RFP) process, Sutter County chose PBS&J to assist them in this update. Even though their bid came in at well over the lowest bid, they chose PBS&J because of their past experience working with them and their reputation for thoroughness. The Planning Team meets approximately monthly to update the Advisory Committee. The Advisory Committee provides general oversight and review of information brought to it by the Planning Team.

The Grand Jury’s Planning & Environment Committee met with individuals from various county departments and agencies throughout the past year. To many of those we met with, we asked the question, “What concerns or challenges does the County currently face, and what did they foresee were its upcoming challenges?” A handful of issues were consistently raised and became a common theme in our discussions. These issues included but were not necessarily limited to land development pressures and future economic development impacts on our infrastructure; i.e., traffic, roads, water/sewer and levees.

## **Findings**

The Grand Jury finds that due to growth and the changing needs of the community, there are multiple core issues the General Plan needs to and intends to address.

It appears the General Plan Update process is well underway and on track. Those we spoke with, involved with the update, appeared to be well informed, helpful and dedicated to the process.

## **Recommendations**

During this update, the Grand Jury recommends that Sutter County officials give residents as many opportunities as possible to participate in this process by attending public meetings and workshops. The Grand Jury hopes that the public will participate in these opportunities and take advantage of the chance to be heard and help shape Sutter County.

## **Respondents**

Sutter County Board of Supervisors  
Lisa Wilson, Planning Department

# Levee District 1

## Introduction

The 2007-2008 Sutter County Grand Jury interviewed Bill Hampton, Levee District 1 Manager and reviewed the conditions of Levee District 1.

The interview was conducted by the Planning & Environment Committee, comprised of the following jurors: Glenn Aronowitz, Kent Ekberg, John Elliott, Doug Heacock, Tami King and Sara Neukirchner.

## Discussion

On March 29<sup>th</sup>, 2008 Levee District 1 manager, Bill Hampton, took Grand Jury members on a special guided Levee District 1 tour. We were shown areas of concern as well as repairs and reinforcements that have been completed. Levee District 1 protects Yuba City and parts of Sutter County in the Yuba City Basin. The district is governed by a three member elected Board and receives its funding from a benefit assessment collected by the county treasurer.

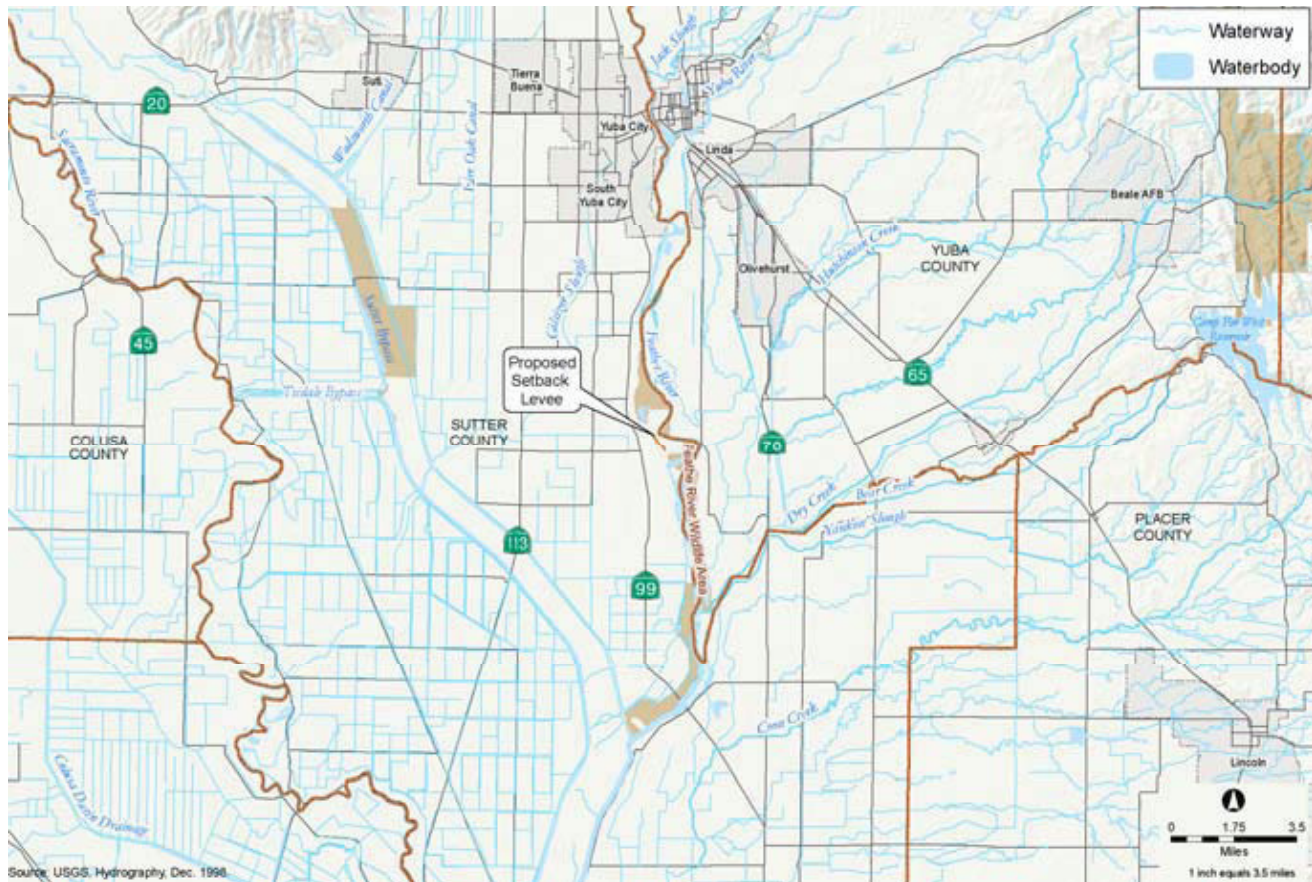
Levee District 1 is the oldest continuously operating levee district in the state, having been formed in 1868. Levee District 1 is approximately 17 miles long and runs north and south, along the Feather River from just south of Pease Road to the point where Wilson Road would intersect the levee, if it continued east. The levee is approximately 25 feet high, measured from the land side, which is a few feet higher than the anticipated high water level of the Feather River, and is constructed of earth and sand.

There have been many improvements over the years and many more improvements are scheduled within the next year, including the set back levee at Star Bend. The past, present, and future improvements include:

- A three mile long slurry wall built into the levee to prevent seepage. This slurry wall runs from approximately the area of the county mental health building south to the end of 2<sup>nd</sup> Street, by the airport.
- In 1987, 1,000 feet of bank protection, a “blanket” in the form of boulders, was placed in the area of the 10<sup>th</sup> Street Bridge. This is to help prevent erosion and provide strength to the levee. The theory is, if water seeps through it, the water cannot carry the dirt through the “blanket.”
- Forty-six relief wells were installed in a two mile stretch, beginning at the south end of the before mentioned slurry wall, from 2<sup>nd</sup> Street to the Shanghai Bend area, to alleviate ground water pressure on the levee.

- In 1998 the levee at Shanghai Bend was straightened and a state of the art slurry wall was added to take the curve out to improve the flow of the river during high water events. This slurry wall was installed twenty-five feet deep under the levee and then a six foot wide clay core was placed through the center of the levee.
- A toe drain (drainage channel) and filter berm, used to prevent silt from filtering through the levee, were installed in the area of Boyd's Pump.
- A filter berm and nineteen relief wells were installed from Star Bend northward. Repairs were also done on the river side of the levee in this same area. After the levee broke in 1997 on the Yuba County side, the sudden lowering of the water level, pulled off portions from the Sutter County side of the levee, for a distance of approximately 1 ½ miles. There is concern that some of the relief wells are not working properly. During a relatively minor storm in January of 2006 there was seepage through the levee near some of the relief wells. The Army Corps of Engineers assessed this issue late last year and it is hoped that their pending report will help to secure more federal funding to fix the problem.
- From Star Bend Road to Wilke Avenue a toe drain and twelve foot wide, twenty-five foot long filter berm was installed and the top of the levee was raised about one and a half feet.
- At the southernmost end of the district an 800 foot toe drain and filter berm was installed, where Wilson Road would intersect with the levee.
- Constant and ongoing efforts are made to prevent the overpopulation of ground squirrels and weeds.

The levee at Star Bend currently makes a severe curve. To improve the flow of the river during high water events, a set back levee is scheduled to be constructed next year. The project must be completed during one summer because soil from the existing levee will be removed to construct the new levee.



The project will cost 20.7 million dollars. \$16.3 million of that is being funded by the State Department of Water Resources. These funds have become available due to the passage of Propositions 1E and 84, last year. Sutter County will contribute local funds, some of which will come from a Calpine Grant. Yuba City and Levee District 1 will also provide funds. Funding was finally secured in April 2008, too late to start construction this season. Construction is scheduled to begin in the spring of 2009.

One additional area of concern is the erosion of the river bank occurring in the area behind the Court House. This repair will require funding from the Army Corp of Engineers to apply a “blanket” wall similar to the one constructed near the 10th Street Bridge.

Mr. Hampton stated that levee repairs on the Yuba County side of the river, at Plumas Lake, will improve the flow of the river, as well as lower the high water level, and therefore the pressure on the levee. These repairs should be just as beneficial to Sutter County as they are to Yuba County.

## Findings

The Grand Jury finds that Levee District 1 has made many upgrades and repairs over the years to improve the safety of the area in Sutter County that the District serves.

Funding seems to be adequate and the levees appear well maintained.

There are some relief wells to the north of Star Bend that may not be functioning as designed.

The Grand Jury further finds that the Board, Mr. Hampton and staff have worked hard to repair and maintain the levee to make it as safe as possible, and they should be commended.

## **Recommendations**

The Grand Jury recommends that the district pursue a resolution to the possible problems with the relief wells near Star Bend.

The Grand Jury also recommends that the district continues to pursue solutions, including funding from the Army Corps of Engineers, to resolve the erosion occurring along the river behind the Court House.

## **Respondents**

Sutter County Board of Supervisors  
Governing Board of Levee District 1

# Planning Commission

## Introduction

The 2007-2008 Sutter County Grand Jury investigated the Sutter County Planning Commission and its relationship with the Board of Supervisors.

The investigation was conducted by the Planning and Environment Committee, comprised of the following Jurors: Glenn Aronowitz, Kent Ekberg, John Elliott, Doug Heacock, Tami King and Sara Neukirchner.

## Discussion

The Grand Jury investigated the role of the Planning Commission and the relationship the commission has with the Board of Supervisors. The role of the Planning Commission is to advise the Board of Supervisors regarding the appropriateness and regional suitability of projects such as amendments, variances and rezones. They also have been granted the authority, by the Board of Supervisors, to approve or deny use permits and land divisions. The Board of Supervisors appoints a constituent from each of their districts. The cities of Yuba City and Live Oak also appoint a commissioner from their respective Planning Commissions to serve on the Sutter County Planning Commission. The current commission is comprised of the following members:

J.R. Griffin, District 1  
Jose Flores, District 2  
Paul Basi, District 3  
Diljit Bains, District 4  
Jana Shannon, District 5 (Chairperson)  
Annette Bertolini, City of Live Oak  
John Sanbrook, City of Yuba City

Recently, the Grand Jury became aware of events that occurred concerning denials of several ranchette applications by the Planning Commission and the subsequent overturn of those ranchette denials by the Board of Supervisors. These repeated denials caused discourse among commission members and the Board of Supervisors.

In many cases, the Planning Commission felt that the ranchettes were inconsistent with the General Plan, would adversely affect the neighboring agriculture or were simply inappropriately placed. The subsequent moratorium on zoning changes to accommodate the General Plan update has interrupted this controversy.

At its height, this controversy appeared to be directly between the majority of the Planning Commission and Sutter County Supervisor Jim Whiteaker. In May of 2007, Supervisor Whiteaker stated that he would appeal any Planning Commission denial of a ranchette that meets the minimum zoning criteria. The Board then approved, on a split vote, the overturning of a denial by the Planning Commission for a ranchette project. This was one of many recent instances in which the Board of Supervisors overturned recommendations by the Planning Commission.

During a study session conducted by the Board of Supervisors and the Planning Commission on September 10<sup>th</sup> 2007, the Chairperson of the Commission, Jana Shannon, spoke of her frustrations with the interaction between the Board and the Commission. Ms. Shannon gave an impassioned speech citing a lack of direction from the Board of Supervisors as well as an infrequency of study sessions to provide direction as a principal reason for the Commission's frustrations.

**From Speech delivered by Jana Shannon, BOS & PC Study Session, September 10, 2007:**

*"From the time I was appointed as a Commissioner in 2001, I have repeatedly requested work sessions with the Board of Supervisors so we would know what the focus of the Board of Supervisors truly is. Those meetings have been very infrequent and largely unsuccessful in providing any answers, cohesive background, or direction to the Planning Commission."*

Jana Shannon went on to explain her interpretation of the rules governing the approval of projects such as ranchettes. This explanation was in stark contrast to the stance taken by Supervisor Whiteaker who stated on numerous occasions that if a ranchette met the criteria enforced by the Planning Department, he would approve the application. This was contrary to the California Environmental Quality Act (CEQA) recommended method of using the discretion of the governing body to determine if the project was appropriate. The Grand Jury learned from the Chief of the Planning Department, Lisa Wilson, that the criteria for a ranchette to receive a Planning Department recommendation for approval are only the first layer of approval. It is absolutely up to the Planning Commission to approve or reject any application based on their discretion and subsequently for the Board to accept or deny that recommendation. The criteria are merely a formality to insure that erroneous applications do not proceed through the system.

**From Speech delivered by Jana Shannon, BOS & PC Study Session, September 10, 2007:**

*"According to Title 14: California Code of Regulations, Chapter 3; Guidelines for Implementation of the California Environmental Quality Act, Article 20, Definitions: Sections 15357. Discretionary Project:*

*"Discretionary project" means a project which requires the exercise of judgment or deliberation when the public agency or body decides to approve or disapprove a particular activity, as distinguished from situations where the public agency or body*



*merely has to determine whether there has been conformity with applicable statutes, ordinances, or regulations.*

*General Plan Amendments, Specific Plan or Rezones are discretionary projects, because those actions truly require decision making WITH thought. A General Plan Amendment, rezone and/or specific plan are actual changes to the local law that the Board may choose to accept or not. They are not God-given rights, but rather legislative decisions.”*

The Commission is frustrated with the contrary behavior of the Board of Supervisors. Supervisor Whiteaker publicly commented on the role of the Commission regarding ranchettes.

**From The Appeal Democrat, “Sutter Supervisor challenges Planning Commission,” May 30, 2007:**

*“Supervisor Jim Whiteaker has a message for the Sutter County Planning Commission: If a ranchette that meets the county’s criteria is denied, he will appeal it to the Board of Supervisors himself...*

*The board has set policy on ranchettes, and the Planning Commission, based on some biased decision making, has not enforced board policy,’ Whiteaker said.”*

Supervisor Whiteaker told the Grand Jury that since the Board sets the policy, it is up to the Planning Commission to carry it out. He felt that the planning commission was unfairly denying ranchettes that met the criteria. According to Supervisor Whiteaker, the process for approval is long, nine to twelve months, and expensive. He went on to say that a denial of an application that met the zoning criteria could be perceived as unfair.

In retort, during the September 10, 2007 study session, Chairperson Shannon criticized the Board for not discussing this with them in a study session before condemning them in a public forum.

**From Speech delivered by Jana Shannon, BOS & PC Study Session, September 10, 2007:**

*“There is not one Planning Commissioner on this Commission that is not committed to doing the best they can for this county. Lacking communication and direction from the Board, we look to the laws to guide us. To then be taken to task in the press, without even having a joint meeting and open dialogue or any communication is inappropriate, unprofessional and inexcusable. Personally, I am extremely disappointed with this Board’s lack of foresight AND courtesy.”*

## **Findings**

The Grand Jury finds that the Board of Supervisors and the Planning Commission have ceased to work as a cohesive team. It is inappropriate for County Supervisors to chastise other County

Commissions or Agencies in a public forum such as a Newspaper. It is more appropriate to take concerns directly to the people involved in the form of a study session or public meeting.

The Grand Jury agrees with the Commissioner's comment that land use decisions are discretionary and should be looked at on a case by case basis.

## **Recommendations**

It is understood that the county ordinances allow "any county officer" to appeal land use decisions and that currently, there is a moratorium on ranchette approval. It is hoped that during the next revision in the Sutter County general plan the matter of ranchettes will be more clearly defined and this issue will be resolved.

Until this happens, the Grand Jury recommends that the Board of Supervisors allow the Planning Commission to do the job it was appointed to do by allowing it to make land use decisions according to, not only the established scoring system and the criteria set by the zoning code, but the collective discretionary judgment of the commission. If the board decides to routinely overturn decisions made by the planning commission then it might as well take over the duties, as is done in other jurisdictions.

The Grand Jury further recommends that the Board of Supervisors hold more joint study sessions with the planning commission for the purpose of communicating the direction that the Board wishes to take concerning land use issues.

As the Planning Commission is a body that is populated by the Board of Supervisors and uses a combination of their direction, staff reports and the General Plan to make their recommendations, the Grand Jury recommends that the Board improve and solidify their direction to the commission to allow them to properly formulate their recommendations.

In conclusion, the Grand Jury recommends that, since the CEQA guidelines indicate that a Land Use decision should be discretionary, all land use decisions should be subjective and regardless of having passed the criteria for approval they should be objectively considered for their effect on the county.

## **Respondents**

Sutter County Board of Supervisors  
Sutter County Planning Commission

# Regional Sewer and Water Treatment Plant

## Introduction

The 2007-2008 Sutter County Grand Jury investigated the viability and benefits of a regional sewer and water treatment plant within Sutter County.

The investigation was conducted by members of the Planning and Environment Committee comprised of the following jurors: Glenn Aronowitz, Kent Ekberg, John Elliott, Doug Heacock, Tami King and Sara Neukirchner.

## Discussion

Throughout the course of the investigations and interviews conducted by the Planning and Environment Committee with key Sutter County, Yuba City and Live Oak government officials, there was talk of a need for a regional sewer and water treatment plant.

Based on information we received from Sutter County Supervisor, Larry Montna and Live Oak City Mayor, Diane Hodges, the most immediate and significant problem with sewer and water treatment lies in Live Oak. Four years ago, the city learned that their existing treatment method was no longer acceptable to the State of California and they were required to stop the planned upgrades to their facility. Live Oak was given an April 2009 deadline to comply with the increased standards relating to the treatment of its wastewater or incur fines of up to \$10,000 per day. City Manager Tom Lando announced in May of 2008, that Live Oak would not meet that deadline.

Currently the city uses a two stage filtration process. The state has mandated that they use a tertiary filtration process. Upgrades to the facility to accommodate this mandate are projected to cost the city at least \$22 million dollars, an increase of \$7 million from 2005 when they first obtained bids to accommodate the new requirements. The city had hoped to accomplish these upgrades through a series of grants, inter-fund borrowing and loans; however, as of the writing of this report, Live Oak has only managed to secure \$7.5 million in funding.

The communities of Sutter and Robbins are also facing significant challenges concerning sewer and water treatment. In both cases, the water table is so high that existing septic systems do not provide adequate filtration for the waste, causing potential ground water contamination and septic system failure. The remote location of each of these towns makes it impractical for them to contract for waste treatment services. According to Supervisor Montna, a regional plant could accommodate these remote areas. Despite an increasingly urgent need, there are no plans to address these issues.

In October of 2007 the city of Yuba City was granted a permit to continue with their secondary level of water treatment. They have managed to avoid the tertiary requirements via the permit appeals process and a concurrent law suit. The permit allows the city to expand their water treatment from 2003's, 7 million gallons per day to 10.5 million gallons per day (dry weather flow) which accommodates the city's current needs. According to Bill Lewis, Yuba City's Utilities Director, "As it sits today it is permitted for 10.5 million gallons/ per day dry weather flow. The take home was that as of right now Yuba City was successful in its appeals and litigation to convince the Water Control Board that we were entitled to dilution in the Feather River which overturned the 2003 permit. We have the new permit, it is in place and CSPA has filed an appeal. Yuba City has responded to the appeal and it is under consideration by the

state at this time.” An appeal was filed by the California Sportsfishing Protection Alliance and Yuba City responded in January of 2008. The current appeal remains with the State Water Control Board. The State Board is required to file an opinion by September of 2008, after which it may return to the Regional Board for a formal decision. Concurrently, a lawsuit has been filed by Yuba City in Contra Costa County pending the results of the State Board’s opinion. The city expects to prevail in this current appeal.

Countless other citizens and regions within Sutter County are still on septic systems and there is no existing plan to integrate them into a local sewer or water treatment facility.

The State of California routinely modifies their requirements for water treatment. The State’s current permit process allows for a permit that lasts only five years. Every five years local plants are faced with an ever-evolving array of standards, mandating the manner in which counties and cities must filter their waste. Supervisor Montna indicates that a prospective regional plant may cost between 50-60 million dollars. The state urges counties and regions such as the Yuba-Sutter area to develop regional treatment plants in order to accommodate these new requirements. Several city or county based plants cannot afford to continually modify their mode of operation whereas a single, large regional plant need only make the change to one facility, almost certainly saving money in the long-term.

The leaders of Sutter County and its cities, including the Sutter County Supervisors, the County Administrative Officer, the Mayors of Live Oak and Yuba City all agree that a key component to improving the viability of the communities revolves around economic development. Inviting and supporting large business and industry will be a cornerstone to the success of the cities and county as a whole. In order to accommodate meaningful economic development, particularly industrial development, the county and its interior cities must be able to provide the infrastructure to support these facilities. That means adequate sewer and water capacities. A regional plant is an essential component to attracting prospective commercial and industrial parties.

A regional plant with tertiary treatment would free up highly treated water to be used for agricultural purposes while freeing up ground water for commercial and residential uses. Tests were performed comparing ground water with tertiary treated waste water and concluded that the treated water contained fewer impurities and harmful substances than the ground water. In the nearby city of Lincoln, they have developed a regional water treatment plant and share their facility with parts of Rocklin and Roseville. Their treated water is also recycled to irrigate all the landscaping of public buildings in the region. Using treated, recycled waste water to irrigate fields could reduce the costs of irrigation for local farms and provide a useful outlet for this excess water.

Nearby Amador County has begun the process of developing a regional sewer and water treatment plant that would serve most of Amador County. Each agency within Amador County, including the Amador Water Agency, the cities of Amador, Jackson and Lone joined together and agreed to perform a comprehensive feasibility study for this development. The cost of this study was approximately \$200,000 with each agency contributing on a per capita basis. To achieve the same results in this county, the city councils of Live Oak and Yuba City, the Board of Supervisors for Sutter County and their respective water agencies and Public Works Directors would need to agree on a course of action to initiate this feasibility study.

All five Sutter County Supervisors, Stan Cleveland, Larry Montna, Larry Munger, Dan Silva and Jim Whiteaker have agreed that a regional sewer and water treatment plant is the wisest approach to solving Sutter County’s wastewater treatment problems. The mayors of Live Oak and Yuba City each

agree that a regional plant is the best course of action for future development and to rectify current issues. The City Manager of Yuba City, Steve Jepsen, also agrees that, while Yuba City is not in need of the services of a regional plant at this time, the concept still makes sense for the future. County Administrative Officer, Larry Combs, indicates that a regional sewer and water treatment plant has been considered for some time. No action has been taken to develop this idea.

## **Findings**

The Grand Jury finds that no plan, even a preliminary plan, exists to address the urgent needs of wastewater treatment in Robbins, Sutter, and Live Oak.

The Grand Jury finds that all of the leaders of Sutter County and its cities agree that a regional sewer & water treatment plant is the best solution to address their infrastructure challenges.

The Grand Jury further finds that to support economic development and community growth, a regional sewer and water treatment plant will be a necessary component to the area's infrastructure.

## **Recommendations**

The Grand Jury recommends that a feasibility study for a regional sewer and water treatment plant be performed immediately.

Following that feasibility study, the Grand Jury urges all in a position of responsibility to coalesce behind a plan of action to definitively address the wastewater challenge.

Lastly, the Grand Jury recommends that all efforts toward future growth, including the upcoming general plan revisions, consider regional options to pool resources as a viable alternative to local independent efforts.

## **Respondents**

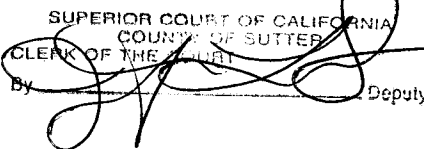
Live Oak City Council

Yuba City City Council

Sutter County Board of Supervisors

ENDORSED  
FILED

FEB 28 2008

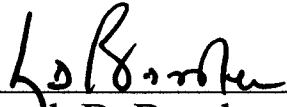
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SUTTER  
CLERK OF THE COURT  
By  Deputy

# Report of the 2007-2008 Sutter County Grand Jury

ROBERT WILLIAM AHU, KIMBER LEE ANDERSEN, GLENN ARONOWITZ,  
MARIA A. ARREOLA, DEBORAH LEE BAKER, KEVIN CHARLES BERMINGHAM, KENNETH  
DEAN BROOKE-FOREPERSON, NANCE ANN CONTRERAS,  
JOAN DUBUISSON DOOLITTLE, KENT BRYON EKBERG, JOHN EDWARD ELLIOTT,  
THERESE ANN GUIDERA, DOUGLAS JAMES HEACOCK, SATOKO SHINOZAKI KIM,  
TAMI RENE KING, JODY MARIE MCGINNIS, SARA NEILAH NEUKIRCHNER, CYNTHIA LEE  
TAYLOR, DIANE REBECCA UUTELA

Final report [pursuant to Penal Code Section 933(a)] on subject:  
Board of Supervisors' Response to 2006-2007 Grand Jury Report


---

  
Kenneth D. Brooke,  
07-08 Grand Jury Foreperson

FEB. 20, 2008  
Date

\*\*\*\*\*

Pursuant to Penal Code Section 933(a), the Presiding Judge makes the finding that the foregoing report is in compliance with Title 4, Chapter 3 of the Penal Code ("Powers and Duties of the Grand Jury").

  
Christopher R. Chandler, Presiding Judge  
Superior Court of California, County of Sutter

# Board of Supervisors' Response to Fiscal Year 06/07 Grand Jury Report

## Introduction

The 2007-2008 Sutter County Grand Jury investigated allegations of bias and political motivation on the part of the 2006-2007 Grand Jury made by the Board of Supervisors in their "Response to Fiscal Year 2006-2007 Grand Jury Report."

The current Grand Jury also initiated discussions with the County Administrative Officer (CAO) and the Board of Supervisors (Board) to establish a dialog with the intentions of restoring the mutual respect that should be inherent in their respective positions.

The investigation and discussions were conducted by the Continuity Committee comprised of the following jurors: Deborah Baker, Kenneth Brooke (Foreperson), John Elliott, Doug Heacock and Tami King.

## Discussion

The preceding three Sutter County Grand Juries (2004-2005, 2005-2006, and 2006-2007) were publicly accused of acting in a politically motivated fashion. Following the indictments of the Auditor/Controller, the 2004-2005 and 2005-2006 Grand Juries were accused publicly by The Sutter County Taxpayers Association (SCTA) and Citizens for Change of acting as "puppets" of the County Administrator. Similarly, the 2006-2007 Grand Jury was accused by the Board of acting as an agent of the SCTA. In both cases, these accusations are without merit and are supported only by innuendo. No evidence has ever been offered that could even remotely prove such allegations.

Grand Juries are, by design, apolitical; however, the Findings and Recommendations of Grand Jury reports can, and sometimes do, have political consequences. Members on both sides of the current "political divide" have viewed the work of recent Grand Juries through their own political prisms.

Although a prominent member of SCTA served on the Grand Jury, no allegation was made that she acted improperly or that she violated her oath in any way. Although hers was only one vote in nineteen, and her association with SCTA was well known, the County's position was to discredit, by that association, the entire jury and its report.

Richard Nelson, foreperson of the 2006-2007 Grand Jury, addressed the Board on September 25, 2007, prior to their vote to approve the Board's response to the *Grand Jury Report*.

**An excerpt from Mr. Richard Nelson's address to the Board of Supervisors, September 25, 2007:**

*"What seems to have happened is that from the moment the report was issued, the only response is to accuse 19 dedicated citizens of bias and personal political motives. Somehow it never occurred to me that producing significant findings and thoughtful reports so that local government and its processes are improved as a result of our service would be interpreted as bias or political motivation."*

In several portions of the *Response*, as approved by the Board, the 2006-2007 Grand Jury is accused of being politically motivated in several areas.

**From the 2006-2007 Response to the Grand Jury Report:**

*(Pg. 2) "...the manner in which they received it raises questions concerning the relationship between the County Auditor-Controller and the Audit and Finance Committee."*

*(Pg. 29) "...To then bolster this misleading information by misquoting the CAO in an effort to support the Grand Jury's desired conclusion underscores the biased and politically charged agenda present in the Grand Jury Report."*

*(Pg. 30) "...the Grand Jury apparently intentionally took language out of context to match its political agenda."*

*(Pg. 44) "...it is the proverbial attempt to make a "mountain out of a molehill" in furtherance of a political agenda."*

The Grand Jury and the CAO have engaged in lengthy and productive discussions regarding the County's *Response*. The County's *Response* attributed most disputed statements, findings and recommendations to bias or political motivation. The CAO has acknowledged that his office viewed the 2006-2007 *Grand Jury Report* as a political document requiring a political response.

Throughout the course of numerous meetings neither the County CAO, who was responsible for preparing the *Response*, nor the members of the Board who approved it, have presented the Grand Jury with any evidence of bias or political agenda on the part of the 2006-2007 Grand Jury.

## **Findings**

In reviewing those areas of the *Grand Jury Report* where the County has expressed concerns as to accuracy, both the 2007-2008 Grand Jury and the CAO are satisfied that any disputed facts or findings are the result of honest and genuine differences of opinion or less than perfect communication.



The Grand Jury finds that there is no evidence of bias or political agendas on the part of the 2006-2007 Sutter County Grand Jury.

The Grand Jury further finds that through direct dialogue with the CAO and Board, significant exchanges have occurred that will lend themselves to a more constructive relationship in the future.

## **Recommendations**

The SCTA and Citizens For Change, as private associations, are beyond the purview of the Grand Jury; however, the Grand Jury recommends that they, and all other interested parties, remember that the jury is comprised of nineteen citizens who voluntarily devote a year of their lives, work confidentially, and then render collective judgments to the best of their ability. Impugning their integrity and service should not be done lightly or without proof.

Unfounded allegations of bias, or the furtherance of a political agenda, as were directed by the County toward the 2006-2007 Sutter County Grand Jury and its *Report* do a disservice to the citizens of Sutter County. The Grand Jury system is dependent on the voluntary service of ordinary citizens who may be either reluctant to serve, or reluctant to initiate investigations of important matters, if their character or motives are called into question, without just cause, by government officials.

### **Sutter County CAO, Larry Combs, stated:**

*“One of the principles that formed the foundation of our discussions was the importance of the Grand Jury in assisting the County of Sutter in seeing its operations through the eyes of its citizens and, thus, enabling the County to correct identified problems or even perceptions of problems that dedicated public servants might not perceive because they are “part of the system.” This is an invaluable service, both to the County government and the citizens we all serve. It is apparent that conflict between the County and the Grand Jury would have a negative effect on the provision of that service by Grand Jury members who, after all, are dedicated members of the community volunteering their time and effort to help improve Sutter County government.”*

The Grand Jury concurs and recommends that the dialog established between the Board, the CAO, and the Grand Jury continue. It is the belief, and hope, of the Grand Jury that an ongoing dialog will contribute to an atmosphere that encourages a healthy exchange of information, analysis, ideas and constructive recommendations.

## **Respondents**

Sutter County Board of Supervisors  
Larry Combs, County Administrator

# Response Matrix to 06-07 Final Report

The following matrix for the Grand Jury activities for 2006 – 2007 notes the agencies that were inspected or investigated. It denotes those agencies which are headed by an elected official and which have recommendations that the agency head needs to respond to in a timely manner, (90 days of receipt of Final Report for elected officials and 60 days or receipt for– county and city administered officials Penal Code Sections 933 (c).)

<b>Agency</b>	<b>Elected Official?</b>	<b>Date Received</b>	<b>Location of Response</b>
Auditor-Controller, Sutter County	Yes	8-27-07 9-27-07	Auditor Controller's response, Board of Supervisors response
Bi-County Juvenile Hall	No	8-6-07 9-12-07 9-27-07	Yuba-Sutter Juvenile Hall Camp Singer Youth Guidance Center response, Yuba County Superior Court response, Board of Supervisors response
Board of Supervisors	Yes	9-27-07	Board of Supervisors response
City of Live Oak	Yes	7-25-07	Mayor, City of Live Oak,
City of Yuba City	Yes	7-5-07	City of Yuba City response
County Administration	Yes	6-28-07 8-21-07 9-27-07	Assistant Executive Officer CalPERS, Sutter County Counsel, Board of Supervisors response
Encinal Elementary School	No	7-11-07	Live Oak Unified School District response
Feather River Academy	No		
Leo Chesney Community Correction Facility	No	7-20-07	Cornel Companies, Inc. response
Live Oak Fire Station	No	7-25-07 9-27-07	Mayor, City of Live Oak, Board of Supervisors response
Live Oak Unified School District		7-11-07	Live Oak Unified School District response
Oswald-Tudor Fire Station	No	9-27-07	Board of Supervisors response
River Valley High School	No	8-6-07 8-21-07	Yuba City Unified School District
Robbins Fire Station	No	7-16-07	Laverne Driver, Secretary/Robbins-Sutter Basin Fire District response
Sutter County Children and Families Commission	No	8-6-07 8-14-07 8-21-07	Executive Director, SCCFC response, Yuba City Unified School District response, Sutter County Board of Supervisors response
Sutter County Clerk/Recorder Registrar of Voters	Yes	8-16-07 9-27-07	Sutter County Clerk/Recorder response, Board of Supervisors response
Sutter County Fire Services	No	9-27-07	Board of Supervisors response
Sutter County Planning Division	No	9-27-07	Board of Supervisors response
Sutter County Public Works Department	No	9-27-07	Board of Supervisors response
Sutter County Sheriff's Department & Jail	Yes	7-10-07 9-27-07	Sutter County Sheriff's response, Board of Supervisors response
Sutter County Superintendent of Schools			
Sutter Fire Station	No	9-27-07	Board of Supervisors response
Sutter-Yuba Mental Health Services		9-27-07	Board of Supervisors response
Yuba City Police Department	No	7-9-07	City of Yuba City, Police Department response
Yuba City Unified School District	No	8-6-07 8-21-07	YCUSD Superintendent's response

**SUTTER COUNTY GRAND JURY**  
**CITIZEN COMPLAINT FORM**

All complaints submitted to the Grand Jury will be treated confidentially.

MAIL TO:

**SUTTER COUNTY GRAND JURY**  
**Attention: Foreperson**  
**P.O. Box A**  
**Yuba City, CA 95992**

Date: \_\_\_\_\_

**(1) COMPLAINT**

Your Name: \_\_\_\_\_

Home Address: \_\_\_\_\_

Home Phone: \_\_\_\_\_ Driver's License No.: \_\_\_\_\_

Work Address: \_\_\_\_\_

Work Phone: \_\_\_\_\_

**(2) PERSON OR AGENCY ABOUT WHICH COMPLAINT IS MADE**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Person in Charge (if an agency): \_\_\_\_\_

**(3) BRIEF SUMMARY OF PROBLEM** (Include dates of all events, names of persons or agencies involved, etc.)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(Attach additional sheets as necessary)

**(4) WHAT OTHER PERSONS OR AGENCIES HAVE YOU CONTACTED ABOUT THIS PROBLEM?**

Name and/or Agency	Address	Date of Contact
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

**(5) PLEASE ATTACH ANY CORRESPONDENCE OR DOCUMENTS YOU HAVE RELATING TO THE PROBLEM.**

**(6) WHEN DID YOU FIRST LEARN OF OR DISCOVER THE PROBLEM?**

\_\_\_\_\_

**(7) WHOM DO YOU THINK SHOULD BE CONTACTED ABOUT THIS PROBLEM?**

Name and/or Agency	Address	Phone
_____	_____	_____

Reason to Contact \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Name and/or Agency	Address	Phone
_____	_____	_____

Reason to Contact \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(Add additional pages for persons as necessary)

**(8) WHAT ACTION DO YOU WANT THE GRAND JURY TO TAKE?**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(Signature)

# Acknowledgements

The Grand Jury wishes to acknowledge all of the people who participated in the creation of this report. Many governmental officials and employees of Sutter County (SC) and its cities went out of their way to accommodate the Grand Jury's investigations.

Special Thanks for the Sutter Courts support staff:

Jennifer Lambert, Laura Santana & Judge H. Ted Hansen

## County staff:

Karna-Lisa Aucoin, CAO's office  
Jessica Sumait, CAO's office  
Barbara Kinnison, Deputy CAO  
Stephanie Larsen, Asst. CAO  
Jan Smith, County Counsel's office  
Cameron King, Deputy District Attorney  
Bill Hampton, Levee District 1 Manager  
Connie Williams, YC City Manager's office  
Bonnie Briscoe, Auditor-Controller's office  
Ronda Putman, Auditor-Controller's office  
Mercy Garcia, Sheriff's Department  
Steve Geiger, Principal Planner  
Chris Goforth, Clerk-Recorder's office

## County of Sutter Department Heads:

Larry Combs, CAO  
Lisa Wilson, Planning Department  
Ron Erickson, County Counsel  
Mike Strong, Assessor  
Dan Yager, Fire Department  
Joan Hoss, Human Services  
Tom Sherry, Mental Health  
Amerjit Bhattal, Public Health  
Frank Sorgea, Juvenile Hall (Supt.)  
Larry Bagley, Community Services  
John DeBeaux, Jr., Emergency Services  
Michael Kinnison, MD, Health Department  
Peter Crowson, Health Department

## County Elected Officials:

Larry Munger, District 3 Supervisor  
Larry Montna, District 1 Supervisor  
Dan Silva, District 5 Supervisor  
Jim Whiteaker, District 4 Supervisor  
Stan Cleveland, District 2 Supervisor  
Robert Stark, Auditor-Controller  
Joan Bechtel, Former Clerk-Recorder  
Jim Denney, Former Sheriff  
J. Paul Parker, Sheriff  
Carl Adams, District Attorney  
Donna Johnston, Clerk-Recorder

## City of Live Oak:

Diane Hodges, Mayor  
Satwant Takhar, Finance Director  
Tom Lando, City Manager  
Brant Bordsen, City Counsel  
Alison Schmidt, Building

## City of Yuba City:

Rory Ramirez, Mayor  
Aaron Moe, Police Department  
Steve Jepsen, City Manager  
Bill Lewis, Utilities Director  
Richard J. Doscher, Police Chief  
Al Ortega, Police Department  
Charles Ernst, Police Department

## Education:

Jeff Holland, SC Superintendent of Schools  
Nancy Aaberg, YC Unified School District  
Deborah Coulter, SCCFC  
Ryan Robison, Sutter High School  
Mary Page, Encinal School  
Tom Pritchard, LO Unified School District  
David Morrow, YC Unified School District  
Grace Espindola, SARB  
Jim Morasch, Feather River Academy

## Law Enforcement:

Paula Ford, Director of Leo Chesney  
Community Correctional Facility

## Other:

Gabrial Singh, SC Planning Commission  
Jana Shannon, SC Planning Commission  
Merilee Smith, Independent Auditor  
John Lewin, 2006-2007 Grand Juror  
Richard Santos, CalPERS  
Jim Abercrombie, Amador County Water

**Cover Photo by:** Satoko Kim

**Cover Design Courtesy of:** R.J. Kulm, Duckling Photography