

2014-2015



FINAL REPORT

JUNE 2015

2014 – 2015 EL DORADO COUNTY GRAND JURY



BACK ROW (L-R) **ALAN CLARKE, DANNY CHEETHAM, C. DAVID HALL, KEN STEERS**
MIDDLE ROW (L-R) **MICHAEL MCGEE, EDMOND JACOBY, PETER MARTY, RICHARD COFFIN, FOREMAN JIM KERN**
FRONT ROW (L-R) **TOM SIMPSON, CATHERINE CLOSE, LYNN MANCHESTER, COLLEEN YOUNG, JANET SAWYER,**
MARY ANNE MINNICK, ROBERT EVANS
NOT PICTURED **KATIE SMITH**



EL DORADO COUNTY GRAND JURY 2014 - 2015

FINAL REPORT
JUNE 2015

JURORS

JAMES KERN, FOREMAN
DANNY CHEETHAM
ALAN CLARKE
CATHERINE CLOSE
RICHARD COFFIN
ROBERT EVANS
C. DAVID HALL
EDMOND JACOBY
LYNN MANCHESTER
PETER MARTY
MICHAEL MCGEE
MARY ANNE MINNICK
JANET GALLAWAY SAWYER
TOM SIMPSON
KATIE SMITH
KEN STEERS
COLLEEN YOUNG

EL DORADO COUNTY GRAND JURY
2014-2015
FINAL REPORTS

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GRAND JURY
El Dorado County

P. O. Box 472
Placerville, California 95667
(530) 621-7477 Fax: (530) 295-0763
Grand.jury@edcgov.us



June, 2015

To: Citizens of El Dorado County

Re: Final Report of the 2014- 15 El Dorado County Grand Jury

Dear Fellow Citizens:

This year's Grand Jury was highly productive due to the dedication of its members. Some of our reports were positive about the operation of county agencies and special districts while others were more critical. The role of the Grand Jury is to inform; this year we were successful in fulfilling that responsibility.

El Dorado County government has an acute need to be reformed. Our report *THE EL DORADO COUNTY CHARTER: TIME TO ADMIT & CORRECT A MISTAKE* details the history of the Charter and our recommended courses of action.

The Grand Jury is not political. El Dorado County citizenry are cynical about government. That cynicism touches on the constitution and operation of the Grand Jury. There is no doubt that county officials, both elected and appointed, have tried to manipulate and influence Grand Jury investigations and reports. Fortunately, that approach did not work for them this year. The Grand Jury is a completely independent government watchdog – we jealously guard that independence.

A pattern has emerged whereby El Dorado County government agencies *whitewash* our reports. Explanations vary from *risk management* concerns to obfuscation of the clear intent of the report's message. This approach by government is contemptuous, lacks transparency and has to stop. County officials, acting through the Grand Jury, owe citizens forthright communication when addressing their concerns.

A special thanks goes to the District Attorney for aiding the Grand Jury to exercise its responsibilities.

Respectfully,

James Kern
Foreperson, 2014/15 Grand Jury



GRAND JURY
El Dorado County

P.O. Box 472
Placerville, California 95667
(530) 621-7477 Fax: (530) 295-0763
grand.jury@edcgov.us

NOTICE TO RESPONDENTS

California Penal Code Section 933.05 mandates specific requirements for responding to grand jury reports. You are advised to carefully read the pertinent provisions below and prepare your official response accordingly. Please pay particular attention to required explanations and time frames. Incomplete or inadequate responses are likely to prompt further investigative inquiries by the grand jury and/or the court.

RESPONSE TO FINDINGS

The responding person or entity shall indicate one of the following:

The respondent agrees with the finding.

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

IMPORTANT NOTE ABOUT GRAND JURY FINDINGS

Grand Jury Findings are derived from testimony and evidence. All testimony and evidence given to the Grand Jury is confidential by law, and it is the Grand Jury's responsibility to keep it that way. California Penal Code §929 provides "... the name of any person, or facts that lead to the identity of any person who provided information to the grand jury, shall not be released." Further, 86 Ops. Cal. Atty. Gen. 101 (2003) prohibits grand jury witnesses from disclosing anything learned during their appearance including testimony given. This is to ensure the anonymity of witnesses and to encourage open and honest testimony.

RESPONSE TO RECOMMENDATIONS

The responding person or entity shall report one of the following actions:

The recommendation has been implemented, with a summary regarding the Implemented action.

The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation. It is the expectation of the grand jury that the timeframe be specific and reasonable.

The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.

The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

RESPONSE TIMES

The California Penal Code specifies differing response times.

PUBLIC AGENCIES

The governing body of any public agency (also referring to a department) must respond within 90 days from the release of the report to the public. The response must be addressed to the Presiding Judge of the El Dorado County Superior Court as indicated in the Response Section of each report.

ELECTIVE OFFICERS OR AGENCY HEAD

All elected officers or heads of agencies/departments are required to respond within 60 days of the release of the report to the public. Responses must be sent to the Presiding Judge of the El Dorado County Superior Court, as specified in the Response Section of each report, with a copy to the El Dorado County Board of Supervisors.

FAILURE TO RESPOND

Failure to respond as required to a grand jury report is in violation of California Penal Code Section 933.05 and is subject to further action. Such action is likely to include further investigation on the subject matter of the report by the grand jury.

The current Presiding Judge of the El Dorado County Superior Court:

Honorable Suzanne N. Kingsbury
Presiding Judge of the El Dorado County Superior Court
1354 Johnson Blvd, Suite 2
South Lake Tahoe CA 96150

The Presiding Judge of the El Dorado County Superior Court requests that responses be sent electronically as a *Word* or *PDF* file to facilitate economical and timely distribution. Please email responses to the El Dorado County Grand Jury at:
courtadmin@eldoradocourt.org

EL DORADO COUNTY GRAND JURY 2014-2015

FOLLOW-UP REPORT: HIGH SCHOOL DISTRICT UNWISELY DOES NOT WANT PROBLEMS ON PONDEROSA'S FOOTBALL FIELD FIXED

Case GJ-14-01

The Ponderosa High School football field turf was replaced with all-weather artificial materials as part of a ten million dollar project to replace the track and football fields at El Dorado Union High School District (EDUHSD) Schools.

The 2013-2014 Grand Jury reported a problem of two rows of depressions running the length of the field parallel to the hash marks, caused by installed material settling in two drainage ditches under the artificial turf. The Ponderosa field depressions are not uniform, varying up to 7/8 inch deep, 350 percent more than the acceptable 1/4 inch deviation. The depressions are not getting any smaller, and could become deeper.

The EDUHSD Superintendent's Office responded to the 2013-2014 Grand Jury Report by asserting, in essence, that they did not feel the problem was significant, and a fix of the depressions was not warranted. The District would only be monitoring any increase in the depressions to see if they are getting deeper.

The District's characterization that a fix is unwarranted is vexing. Depressions 350 percent greater than acceptable inherently means the Ponderosa football field artificial turf installers are obligated to remedy the problem. Warranty clauses and concepts dictate the remedy should bring the surface consistent with the original contract, within acceptable deviation and without glued seams.

The 2013-14 Grand Jury was told by the installers during its investigation that they would bring the depressions within acceptable deviation. Now, another year has gone by and the EDUHSD continues to not require a fix. The 2014-2015 Grand Jury fears the District has squandered the ability to ever get it fixed.

The risk of injuries resulting from large depressions on an otherwise level football field is obvious, and should not have been negatively argued by the Superintendent's office. A coach from Ponderosa told KCRA television last year that students using the field had tripped over the depressions. There is obvious liability for the district if a football player or other student is injured because of large depressions that are a hazard known to the district. The school district should do better to protect its ten million dollar investment and ensure that users of the field are not injured by that investment.

NO RESPONSE IS REQUIRED

This Report has been provided to the El Dorado Union High School District.

EL DORADO COUNTY GRAND JURY 2014-2015

EL DORADO COUNTY JAILS INSPECTIONS

Case GJ-14-02

INTRODUCTION

California Penal Code § 919(b) mandates “The grand jury shall inquire into the condition and management of the public prisons within the county.” There are three types of public prisons in El Dorado County: Adult jails, juvenile detention and state operated facilities. This report addresses the condition and management of the adult jails.

BACKGROUND

El Dorado County jails are located in Placerville and South Lake Tahoe, both operated by the El Dorado County Sheriff. They house county inmates and those resulting from the California Public Safety Realignment Act, (AB 109), enacted in April 2011. Additionally, inmates from other counties are housed under contract when space permits, bringing revenue to the County.

METHODOLOGY

Grand Jurors conducted on-site visits of the Placerville jail on September 24, 2014 and the South Lake Tahoe jail on October 8, 2014. Meetings with jail staff were also held during those visits.

DISCUSSION

At the time of Grand Jury visits, the South Lake Tahoe jail was slightly below its capacity of 158 with 143 inmates, while the Placerville facility had 260 inmates, well below its capacity of 311.

The South Lake Tahoe jail was built in 1973 and the Placerville jail in 1988. Both are clean and well maintained. In addition, the Grand Jury observed that they appear to be well managed and have good staff morale.

The Placerville jail building was designed to be expanded; a retrofit is in progress. The booking area is being revamped to increase its safety and efficiency. The intake area is being remodeled to be more user friendly and comply with Health Insurance Portability and Accountability Act (HIPAA) regulations regarding inmate confidentiality of medical personnel and records. Medical services are out-sourced to the California Forensic Medical Group. There is now a new dental treatment room on site.

The Placerville Jail kitchen was being retrofitted with new walk-in refrigerators/freezers. The kitchen is staffed by inmates who are required to submit an application to work there. Religious, diabetic, vegetarian and other special diets constitute 15% of meals served. While not a significant number of meals, this indicates the diversity required.

Several inmate programs are offered, including substance abuse, life skills, General Educational Development (GED) Test education and religious services. A culinary arts program is available that can result in state culinary certification.

Female staff retention and general staff turnover reported in the 2013-2014 Grand Jury Report are no longer an ongoing problem. Aggressive recruitment efforts have been effective in improving retention of female staff. Staff turnover has also been improved after the training manual was revamped.

The need continues for additional space where inmates and their attorneys can meet. There are currently two booths for that purpose, one upstairs and one downstairs. Additionally, a holding cell is also used when the necessary. There was some discussion about using electronic means for inmates and attorneys to communicate such as Skype, but it is not feasible at this time.

Staff at both jails believe there have been significant negative impacts from AB 109. The average age of the inmate population has increased, impacting acute and long-term medical care needs. The sophistication (i.e. incarcerated for more violent crimes) of inmates has grown and gang affiliation has increased, both creating more staff attention to cell assignment and behavior in the general population. Inmates with mental health issues, older and homeless inmates are affected by the increases of inmate population from AB 109.

Staff noted that outside vendors may not have always been paid in a timely manner causing, on one occasion, a food delivery that was almost canceled. They had no knowledge of the cause. The issue has been referred to a separate grand jury investigation.

Staff also feel that more security cameras and intercoms were needed.

Based on the inspections of both facilities, the Grand Jury believes that both county jails are well maintained and operated.

FINDINGS

1. Staff believe AB 109 inmates continue to negatively impact jail operations.
2. Staff believe Inmates with mental health issues, as well as older and homeless inmates are an ongoing problem.
3. Additional space is needed where inmates can meet with their attorneys.
4. Vendors may not have always been paid in a timely manner.
5. More security cameras and intercoms are needed.

NO RECOMMENDATIONS

RESPONSES

Responses to both findings and recommendations in this Report are required by law in accordance with California Penal Code §933 and §933.05. Address responses to:

The Honorable Suzanne N. Kingsbury
Presiding Judge of the El Dorado County Superior Court
1354 Johnson Blvd.
South Lake Tahoe, CA 96150

This Report has been provided to the El Dorado County Sheriff.

The Presiding Judge of the El Dorado County Superior Court requests that responses be sent electronically as a *Word* or *PDF* file to facilitate economical and timely distribution. Please email responses to the El Dorado County Grand Jury at: courtadmin@eldoradocourt.org

EL DORADO COUNTY GRAND JURY 2014-2015

EL DORADO HILLS CSD AND CC&R ENFORCEMENT

Case GJ-14-03

The El Dorado Hills Community Services District (CSD) receives a \$10 annual tax from each parcel in the district for Covenants, Conditions, and Restrictions (CC&R) enforcement. However, many parcels in the district are organized into discrete Home Owner Associations (HOAs) that enforce their own CC&R without assistance from the CSD. Some of those HOA homeowners complained they do not receive any specific service in return for that tax.

BACKGROUND

The El Dorado Hills Community Services District (CSD) has an elected board of directors to oversee CSD management and operations providing parks, recreation and limited Covenants, Conditions, and Restrictions (CC&R) enforcement.

CC&Rs are contractual limitations on a property owner's rights such as architectural design and ongoing maintenance. Those restrictions are placed on the property deed, recorded with the county, and made a condition of purchase by subsequent owners.

The CSD Board of Directors adopted a resolution on July 21, 1983, placing a voter initiative, "Covenants, Conditions and Restrictions Enforcement - Measure B," on the Nov. 8, 1983, General District Election ballot. Measure B authorized the CSD "...to adopt and levy a special tax, of up to \$10 per year, on each parcel of land within the District, to be used for any costs or expenses incurred by the District in carrying out said purposes ..." Measure B was passed by the voters. Both the CSD resolution and the original 1983 Measure B ballot description stated that the \$10 fee was for the specific purpose of enforcing CC&R compliance.

METHODOLOGY

- CSD management and a current board member were interviewed.
- Representatives of seven HOAs were interviewed.
- The Official Ballot from Nov. 8, 1983, general election was reviewed.
- A letter from the CSD Board President was reviewed.
- A list of current HOA addresses and contact information was reviewed.
- A list of HOAs that enforce their own CC&Rs and those serviced by the CSD was reviewed.

DISCUSSION

In a letter to the Grand Jury, CSD management stated that the \$10 levy “is a “Special Tax”...” and that “[T]here need not be a direct benefit tied to the property owner or taxpayer.” but that it “...can be used to pay for public services and/or facilities that provide general benefits.” They acknowledged that “[A] special parcel tax is a charge for *specific purposes* against a landowner...” [Emphasis added.] At the same time, they seemed to ignore the 1983 Board resolution and ballot measure which authorized the levy as a special tax for the *specific purpose* of enforcing CC&R for each tract within the district boundaries. The taxes collected for this *specific purpose* of CC&R enforcement have been and continue to be used for other purposes.

There are 27 HOAs within the El Dorado Hills CSD. Of those, 19 enforce their own CC&Rs. Documentation supplied by the CSD shows that the remaining eight rely on the CSD for CC&R enforcement.

Representatives of seven of the HOAs who enforce their own CC&Rs were selected for interview. None of those interviewed was aware of the tax. They enforce their own CC&Rs without receiving any compensation from the CSD for doing so. All stated they could use those funds for their own CC&R enforcement. There is no agreement or memorandum of understanding between the CSD and HOAs for CC&R enforcement; likewise, there is none for the CSD to compensate these HOAs from the tax funds it receives for services it does not provide.

The CSD encompasses more than 15,500 parcels. The 19 HOAs that enforce their own CC&R constitute almost 8,200 parcels — slightly more than half of the total. Each of those 8,200 parcels pays \$10 annually, yielding about \$82,000 in revenue to the CSD. Although it may be argued that the CSD does provide a variety of benefits to the region as a whole using those funds, the money is not being used for the purposes authorized by the voters when they adopted Measure B.

FINDINGS

1. A special per parcel tax was adopted in 1983 for the specific purpose of enforcing CC&R.
2. The special tax is no longer being used exclusively for CC&R enforcement.
3. The CSD receives tax funds from almost 8,200 parcels for CC&R enforcement they do not provide.
4. The parcels in HOAs that enforce CC&Rs are paying twice for CC&R enforcement.
5. Most CSD taxpayers are unaware of the special tax and its original purpose.

RECOMMENDATIONS

The CSD should:

1. Evaluate the appropriateness, inequities and continued need for the special tax.
2. Enter into a Memorandum of Understanding with HOAs enforcing CC&Rs to reimburse the cost of enforcement.
3. Establish a new voter referendum to modify or repeal the tax.

ATTACHMENTS

- Official Ballot from the Nov. 8, 1983, general election.
- Letter from CSD Board President.
- Map of the El Dorado Hills CSD.
- List, provided by the CSD, of the parcels in individual HOAs that do and do not enforce their own CC&Rs.

RESPONSE

Responses to both findings and recommendations in this Report are required by law in accordance with California Penal Code §933 and §933.05. Address responses to:

The Honorable Suzanne N. Kingsbury
Presiding Judge of the El Dorado County Superior Court
1354 Johnson Blvd.
South Lake Tahoe, CA 96150

This Report has been provided to the El Dorado Hills Community Services District.

The Presiding Judge of the El Dorado County Superior Court requests that responses be sent electronically as a *Word* or *PDF* file to facilitate economical and timely distribution.

Please email responses to the El Dorado County Grand Jury at:
courtadmin@eldoradocourt.org

SIDE 1

CARD A

SIDE 2



A

OFFICIAL BALLOT
GENERAL DISTRICT ELECTION

EL DORADO COUNTY NOVEMBER 8, 1983

This ballot stub shall be torn off by precinct board member and handed to the voter.

SCHOOL	
LOS RIOS COMMUNITY COLLEGE DISTRICT	
Governing Board Member Trustee Area No. 3	Vote for One
DAVID K. MARTY Certified Financial Planner	-
CHERIE L. RAFFETY Incumbent	+
	+
EL DORADO UNION HIGH SCHOOL DISTRICT	
Governing Board Member	Vote for no more than Two
JOY ANDREWS Housewife-Interested Parent	+
TOM ADAMS Involved Parent	+
DOLORES A. GARCIA Incumbent	+
NINA ANN HOWARD County Employee	+
	-
	+
BUCKEYE UNION SCHOOL DISTRICT	
Governing Board Member	Vote for no more than Two
PATRICIA KRIZ Current Board Member	+
JERRY FOWLER Investigator	+
MARY KAE FRATINI Elementary School Principal	+
	+
	+

09105

VOTE BOTH SIDES A

I HAVE VOTED-HAVE YOU?

MEASURES SUBMITTED TO VOTE OF VOTERS	
DISTRICT	
EL DORADO HILLS COMMUNITY SERVICES DISTRICT	
ACQUISITION AND DISTRIBUTION OF ELECTRICITY SERVICE- MEASURE A	
Shall the El Dorado Hills Community Services District adopt the following additional purpose and be authorized to exercise the following powers: to acquire, construct, own, operate, control or use, within or without or partly within and partly without the district, works for supplying its inhabitants with electricity, and to purchase and distribute such service from any other district, person or company (all as provided in Chapter 1149 of the Statutes of 1982, AB 3652 - Norman Waters)?	YES - NO +
COVENANTS, CONDITIONS, AND RESTRICTIONS ENFORCEMENT-MEASURE B	
Shall the El Dorado Hills Community Services District be authorized to enforce the covenants, conditions, and restrictions adopted for each tract within the boundaries of the District, and to assume the duties of the architectural control committee for each tract within the boundaries of the district (to the extent authorized by the covenants, conditions, and restrictions applicable to the tract), for the purpose of maintaining uniform standards of development within the District, as adopted in the covenants, conditions, and restrictions (all as provided in Chapter 1149 of the Statutes of 1982, AB 3652- Norman Waters); and shall the Board of Directors of the District be authorized to adopt and levy a special tax, of up to \$10 per year, on each parcel of land within the District, to be used for any costs or expenses incurred by the District in carrying out said purposes?	YES - NO +

09102

VOTE BOTH SIDES A

Sample Ballot

September 16, 2014

Mr. Jim Kern
2014/15 Grand Jury Foreperson
State of California
Grand Jury of El Dorado County
P.O. Box 472
Placerville, CA 95667



Dear Mr. Kern:

We are in receipt of the Grand Jury's letter, dated September 4, 2014, inquiring about the El Dorado Hills Community Services District's (EDHCSD's) annual ten-dollar per parcel special tax for covenants, conditions and restrictions (CC&Rs) enforcement activities and appreciate the opportunity to provide you with the history and justification for the EDHCSD's collection of the ten-dollar per parcel tax.

To gain a better understanding of our authority, it is important to first clarify that the ten-dollar per parcel is a "Special Tax" and not an "Assessment" as described in the Grand Jury's letter. This is an important clarification because assessments and special taxes are two distinctly different types of funding mechanisms.

A Special Tax is considered a type of tax—not a fee, charge or special assessment. There need not be a direct benefit tied to the property owner or taxpayer. A special parcel tax is a charge for specific purposes against a landowner, which can be used to pay for public services and/or facilities that provide general benefits. A 2/3rds majority of the qualified voters in the service area must approve special taxes.

A Benefit Assessment, like a Lighting and Landscape District, is based on the concept of assessing only those properties that benefit from improvements either directly or indirectly through increased property values. In order to levy a special assessment we need to generate a detailed professional engineer's report outlining the proposed area, proposed project costs, annual cost to each property, and the benefit formula used to determine each property's share of the cost. In order to approve an assessment district, only a majority of affected property owners must approve through an assessment balloting procedure. Once approved, assessments are placed on property tax bills each year.

The ten-dollar per parcel is a special tax that was approved by the voters in 1983 through the passage of Measure B (see enclosure). Attached to this measure was a special tax of up to \$10 per year per parcel, to be used for any expenses incurred by the CSD in carrying out that enforcement. Measure B passed pursuant to the statutory authority granted to the EDHCSD in former Government Code section 61601.10 (and continues to be authorized pursuant to Government Code section 61105). Additionally, the EDHCSD adopted resolution No. 83-7 (see enclosure) in support of the special tax.

Currently, the EDHCSD oversees and enforces the CC&Rs and architectural oversight control of approximately two-thirds of the parcels within our boundaries. The special taxes received from each parcel go directly to funding for those purposes.

If you have any questions or need additional information, please do not hesitate to contact me.

Sincerely,

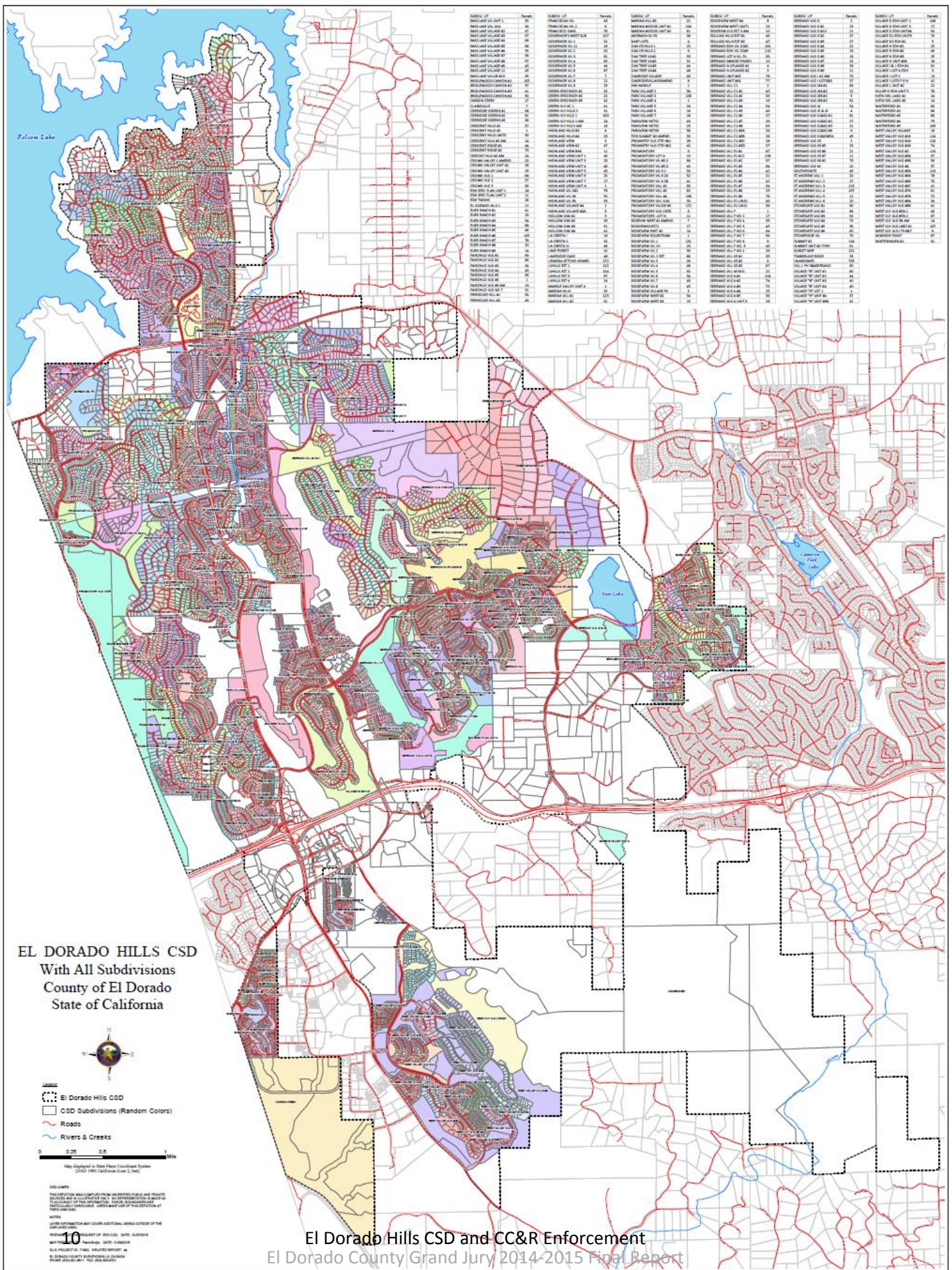
A handwritten signature in black ink that reads 'Brent Dennis'.

Brent Dennis, General Manager

Enclosures

Cc: Noelle Mattock, EDHCSD Board President

1021 Harvard Way • El Dorado Hills, CA 95762 • (916) 933-6624 • (916) 941-1627 fax • www.edhcsd.org



**EDH Communities with HOA's
CC&R & DRC Information**

Village	# of Lots	CC&R Enforcement			DRC Review		
		CC&R by HOA	CC&R by EDHCS	DRC by HOA	DRC by EDHCS	DRC by HOA	DRC by EDHCS
Blackstone	1445	X		X			
Bridlewood Canyon	345	X		X			
Francisco Oaks	76	X		X			
Four Seasons-Ever Ranch	517	X		X			
Green Springs Ranch	96	X		X			
Highland Hills Units 1 & 2	78		X				
Highland Hills Unit 3	4	Need Info	Need Info	Need Info			Need Info
Highland View Units 1,2,3a, 3-7	264	X		X			
Lakehills Estates	337	X		X			
Lakeridge Oaks	48	X		X			
Lessara	172	X		X			
Marina Hills	32	X		X			
Mormon Island	38		X				
Oak Creek Hills Unit 2	9		X				X
Park Village Unit 2	96		X				
Promontory	868	X		X			
Rolling Hills	93	X		X			
Serrano	3387	X		X			
Southpointe	45	X		X			
Sterlingshire (Highland Vill Unit 3)	83	X		X			
Summit	175	X		X			
Timberline Ridge	33		X				
Versante	100	X		X			
Villadoro	74	X		X			
Waterford @ Lake Forest	397	X		X			
Windsor Pointe	67	X		X			
Vista Del Lago	38	Need Info	Need Info	Need Info			Need Info

Total 8917

EL DORADO COUNTY GRAND JURY 2014-2015

PLACERVILLE OUTPATIENT MENTAL HEALTH FACILITY INSPECTION

Case GJ-14-04

INTRODUCTION

The El Dorado County Mental Health Department is a division of the County's Health and Human Services Agency. It operates a licensed residential Psychiatric Health Facility in Placerville and outpatient facilities in both South Lake Tahoe and Placerville. This report addresses the condition and management of the Outpatient Mental Health West Slope Facility in Placerville.

BACKGROUND

The El Dorado County West Slope outpatient mental health facility occupies several spacious office spaces in a newer building at 768 Pleasant Valley Road in Diamond Springs. The facility staff provides counseling and medication evaluation and treatment services to both adult and juvenile clients.

METHODOLOGY

Grand Jurors conducted an on-site inspection of the facility on October 15, 2014. Mental Health staff was available during the inspection and provided information regarding treatment and counseling services.

DISCUSSION

Mental health assessments, including drug and alcohol screening, are provided at this facility to determine outpatient needs for both children and adults. Assessments can also be made at the county jail or after inmates are transported to the hospital.

Outpatient mental health services are contracted to community agency providers including Summit View, Sierra Children and Family Services, New Morning, Rim Vista and Tahoe Youth and Family Services. A crisis intervention team deals with acute mental health incidents including alcohol abuse, suicide prevention, and hospitalization. Team members qualify after participating in required three day training.

The Wellness Center is open daily from 1-4 pm providing supervised activities and group sessions in a home living room setting with comfortable seating. Clients can use the reading library, watch television, play games and cook in the complete kitchen.

A 2013-2014 Grand Jury report recommended the covering of the exterior stairway to ameliorate safety concerns in inclement weather. There is now a new covering over the outside stairs. The same Grand Jury report recommended installation of outdoor direction signs. There are now recently placed signs to provide direction to parking and the various departments. There is ample Americans with Disabilities Act compliant parking for both staff and clients.

FINDINGS

1. The exterior stair way has been covered.
2. There are new signs showing parking and the locations of various departments.
3. There is ample ADA compliant parking.

NO RECOMMENDATIONS

RESPONSES

Responses to both findings and recommendations in this Report are required by law in accordance with California Penal Code §933 and §933.05. Address responses to:

The Honorable Suzanne N. Kingsbury
Presiding Judge of the El Dorado County Superior Court
1354 Johnson Blvd.
South Lake Tahoe, CA 96150

This Report has been provided to the El Dorado County Health and Human Services Agency for review and response, and to the El Dorado County Board of Supervisors.

The Presiding Judge of the El Dorado County Superior Court requests that responses be sent electronically as a *Word* or *PDF* file to facilitate economical and timely distribution.

Please email responses to the El Dorado County Grand Jury at:
courtadmin@eldoradocourt.org

EL DORADO COUNTY GRAND JURY 2014-2015

JUVENILE FACILITIES INSPECTIONS

Case GJ-14-05

California Penal Code § 919(b) mandates “The grand jury shall inquire into the condition and management of the public prisons within the county.” This report addresses the condition and management of the juvenile facilities in Placerville and South Lake Tahoe.

BACKGROUND

Both El Dorado County Juvenile facilities are operated by the El Dorado County Probation Department. The Placerville Juvenile Hall was built in 1971 and the South Lake Tahoe Juvenile Treatment and Detention Center in 2005. Both have the capacity to house forty wards segregated into discrete male and female areas.

METHODOLOGY

- The Grand Jury toured the Placerville facility on September 17, 2014.
- The Grand Jury toured the South Lake Tahoe facility on October 8, 2014.
- The Grand Jury questioned staff members at both facilities.

DISCUSSION

Staff officers conducted the tours for the Grand Jury. The staff is professional and concerned about the welfare of the wards.

Juvenile offenders (wards) admitted to the facilities are first taken to Marshall or Barton Hospital for a medical exam. New wards enter either facility at an intake area, then change from street clothes to facility clothing in a private bathroom followed by an initial interview. They are initially given grey T-shirts indicating they are newly admitted. Different colors are used to show the level of trust a ward has earned. For example, purple means they have a job in the facility and green denotes an honor status for good behavior.

Wards are classified by the level of danger they present to others and then assigned an individual room. The rooms have cots, a sink and a toilet. There is a small window with bars. At the time of the Grand Jury visit each room was assigned only one ward, although they can accommodate two when the hall population warrants. Wards can request to have a roommate.

Extensive mental health services are provided for anger management, aggression therapy, substance abuse counseling and other classes to help wards after release.

Ward schooling is mandated by state law, and classes are held Monday through Saturday from 8 a.m. to 2:45 p.m. Religious services are available. The kitchens are well equipped and the food provided appeared to be ample, consisting of a nutritious balance of protein, vegetables, fruits, dairy and grains. Special vegetarian, vegan, diabetic and low sodium diets are available.

There is a very strict code of conduct. Wards are required to walk with their hands behind their back, with their shirts tucked in and without talking. Wards are locked in their rooms when they are not attending school, exercising, in counseling or other activities. Room checks are conducted every 10 minutes. As wards progress in the program, they may earn special considerations including additional recreation time. There is a grievance form that wards can use to address complaints.

PLACERVILLE FACILITY

On the day of the tour, the ward population was below 50 percent of capacity.

A 2013-2014 Grand Jury Report (Case GJ-13-03) found that the facility does not have a sally port, a separate, secure and controlled entrance. The Grand Jury observed that same condition and was informed that, because of the current configuration of the building, the construction of a separate entrance is not feasible.

The staff expressed significant concern that there is no designated therapy space or program space that is necessary for individual sessions, small group sessions or isolation options for ward safety. Perhaps one or more ward rooms could be converted into small offices for those purposes. During the inspection, the Grand Jury observed a therapist using a quiet space in the open gymnasium for an individual counseling session. Although the facility is in need of remodeling to bring it up to date, it appears clean and well maintained. The south exercise area is in disrepair and no longer in use. Other outdoor areas provide sufficient exercise space.

The shower area is shared, having alternate scheduling for male and female use. It is slated to be remodeled into separate male and female facilities for privacy and safety.

SOUTH LAKE TAHOE FACILITY

On the day of the tour there were nine wards at the facility.

There are programs for general education, anger management, aggression therapy and substance abuse counseling. A newer program is a book club to encourage reading. There is a well-equipped library and two exercise yards with basketball hoops.

A 2013-2014 Grand Jury Report (Case GJ-13-03) found that maintaining adequate female staff had been mitigated with aggressive recruitment. Recruitment efforts continue and there are currently sufficient female staff.

FINDINGS

1. Staff is professional and appears concerned about the welfare of the wards.
2. A wide variety of mental health counseling is provided to wards.
3. Facilities for individual or small group counseling are not adequate in Placerville.
4. School curriculum is provided to all wards and attendance is mandatory.
5. The facility is well maintained.
6. The Placerville south exercise area is in disrepair and no longer in use. Other outdoor areas provide sufficient exercise space.
7. Staff provides a grievance form to address complaints.
8. At the present time the existing room capacity is adequate due to the low population of wards.

RECOMMENDATIONS

1. A study should be conducted to determine the need for a new Placerville facility or ways to improve the existing facility.
2. At a minimum, one or two ward rooms at the Placerville facility should be converted into small offices or conference rooms to ensure privacy when providing individual or small group counseling sessions.

RESPONSES

Responses to both findings and recommendations in this Report are required by law in accordance with California Penal Code §933 and §933.05. Address responses to:

The Honorable Suzanne N. Kingsbury
Presiding Judge of the El Dorado County Superior Court
1354 Johnson Blvd.
South Lake Tahoe, CA 96150

This Report has been provided to the El Dorado County Probation Department for review and response, and provided to the El Dorado County Board of Supervisors.

The Presiding Judge of the El Dorado County Superior Court requests that responses be sent electronically as a *Word* or *PDF* file to facilitate economical and timely distribution.

Please email responses to the El Dorado County Grand Jury at:
courtadmin@eldoradocourt.org.

EL DORADO COUNTY GRAND JURY 2014-2015

PASSING THE SMELL TEST

Case GJ-14-06

A citizen complained that Wilkinson Portables moved to an industrially zoned area bordered by three residential homes, then immediately began “flooding the surrounding residential homes with the sickening odor of raw sewage and strong chemicals.” The complaint further stated that although the complainant had complained to various county agencies, all failed to take required corrective action.

BACKGROUND

Wilkinson Portables is a sanitation and septic system business located in Kingsville, near Placerville. It supplies portable toilets to customers with delivery, pickup and cleaning. Portable toilets are cleaned at its facility on Venture Road.

The County General Plan and Zoning Ordinance delineates zones where various types of businesses can be located. Sections 130.34.020 and 130.34.030 describe when a special use permit may, or may not, be required for businesses in an industrial zone. Those uses include producing or emitting odor, gas fumes, dust, smoke, noise and more beyond the confines of the owner’s premises to adjacent properties. Various County Departments inspect and approve business license applications for specific types of businesses to ensure compliance with these, and other, zone restrictions and special uses.

METHODOLOGY

The Grand Jury reviewed the El Dorado County Zoning Ordinance:

- Chapter 130.34 Industrial Districts.
- § 130.34.020 - Uses permitted by right
- § 130.34.030 - Uses requiring special use permit.

The Grand Jury interviewed county staff from:

- Planning Department
- Surveyor
- Environmental Management
- Treasurer Tax Collector
- Code Enforcement
- Air Quality Management District

DISCUSSION

The Grand Jury visited the Wilkinson Portables facility in an industrial district on Venture Road to determine if they were, or were not, in compliance with the El Dorado County industrial district Zoning Ordinance, specifically Sections 130.34.020 and 130.34.030 governing special use permits.

Section 130.34.020 addresses uses by right, or uses that are allowed without a special use permit. Section 130.34.030 addresses uses requiring a special use permit, or uses that are allowed only after obtaining a special use permit from the Planning Commission. Both Sections address odor. A special use permit is required if odor is emitted beyond the confines of the property owner's premises and is not required if it does not.

Members of the Grand Jury did not detect any odor being emitted beyond the confines of Wilkinson's property when they visited the site.

The Grand Jury verified that Wilkinson Portables, Inc. has held a business license since 1978 and that its license was most recently renewed in March, 2015. Wilkinson Portables, Inc. was located on Roxana Street in Placerville until it moved to its present location. A special use permit was not required of Wilkinson at its new location.

The Complainant seems to allege that the county was remiss in allowing Wilkinson Portables to move its operation to its present location without requiring a special use permit. As noted above, a special use permit is required if the business is emitting an obnoxious odor beyond the confines of its premises. The complainant is forceful in asserting that Wilkinson was emitting such an odor.

The Grand Jury found the complainant had made numerous contacts with several El Dorado County departments. The Grand Jury also found that county staff worked diligently with the complainant and the business to resolve this issue. Each department recorded every discussion with the complainant and made email inquiries with other departments in an effort to work with the complainant and resolve the issues reported. The emails reviewed by the Grand Jury were consistent with the testimony given by witnesses representing the various El Dorado County departments.

However, the county's process of handling this and similar situations is complaint driven. Without a complaint, an existing business that has not been required to have a special use permit is deemed to be in continued compliance with Section 130.34.020. If a complaint is received, the county investigates to determine whether changed circumstances require a special use permit pursuant to Section 130.34.030.

County staff described their approach to resolving this and similar complaints. They stated they endeavor to work with businesses, especially in industrial zones, to accomplish voluntary compliance rather than simply requiring involuntary special use permits.

This complaint was eventually handled by the El Dorado County Air Quality Management District (AQMD). An AQMD inspector made two visits to the complainant property without smelling any odor. During a third visit on June 16, 2014 an odor was detected. It was described as having an intensity of 4 on a 1 to 10 scale and only lasting several

seconds. Subsequently, AQMD issued a Notice to Comply On June 19, 2014 directing Wilkinson to “Conduct the cleaning of portable toilets in such a way that odor is not present at the property line or beyond.” County staff made suggestions for Wilkinson to achieve compliance. On June 24, 2014, Wilkinson returned the Notice to Comply stating that odor emission had been corrected; they had installed air filtration devices on its cleaning equipment.

AQMD staff subsequently revisited the site several times without detecting any odor and reported that geography, wind patterns and the corrective action taken made odor emission unlikely. No further complaints have been received or reported from inspection by AQMD staff.

It should be noted that AQMD odor detection reported in this report was made with human noses, where the sensitivity and consistency can vary greatly among individuals. In this case, that was sufficient to determine a reliable result. AQMD is obtaining a field olfactometer, a portable odor detection and measurement device.

IRREGULARITIES

Several anomalies in the County Business License process surfaced during this investigation. They had no direct consequence to the result of this investigation and will not be included in this report. However, it is recommended that an investigation of Business License change of address procedures, and others, be initiated by the 2015-16 Grand Jury.

FINDINGS

1. County departments and agencies addressed this complaint properly with due diligence. Their efforts included field inspections, consulting with other departments and keeping detailed and accurate records with follow up.
2. The Air Quality Management District resolution was effective and reasonable.
3. Wilkinson Portables is licensed; its county business license is current.
4. Wilkinson Portables responded affirmatively to a Notice to Comply by stating it had eliminated odor leaving its property.
5. Wilkinson Portables is not currently emitting an odor beyond its premises and is therefore not required to have a special use permit.
6. The El Dorado County Zoning Ordinance imposes specific requirements for Special Use Permits.
7. Review of a business and its business practices can be initiated upon receipt of a complaint.

RECOMMENDATION TO THE 2015-16 GRAND JURY

Investigate business license procedures and practices, particularly business change of address and businesses without business licenses.

ATTACHMENTS

- El Dorado County Zoning Ordinance sections 130.34.020 and 130.34.030.
- El Dorado County Air Quality Management District *Notice to Comply* to Wilkinson Portables.
- Wilkinson Portables reply to *Notice to Comply*.

RESPONSES

Responses to both findings and recommendations in this Report are required by law in accordance with California Penal Code §933 and §933.05. Address responses to:

The Honorable Suzanne N. Kingsbury
Presiding Judge of the El Dorado County Superior Court
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courtadmin@eldoradocourt.org

Sec. 130.34.020. - Uses permitted by right.

The following uses are allowed by right without special use permit or variance:

- A. Any use except residential uses allowed by right or special use permit in C commercial district; provided, however, that all requirements provided in Sections 130.32.010 through 130.32.040 for the regulation of C commercial districts shall apply to any such commercial use in I industrial districts;
- B. Any industrial use other than automobile wrecking, junking or dismantling yards in which no odor, gas fumes, dust, smoke, noise, vibrations, glare, heat, electrical interference, radioactive or waste material is produced or emitted beyond the confines of the owner's premises to adjacent properties or into the air or watercourses, and which does not constitute a physical hazard to persons or property beyond the confines of the owner's premises by reason of fire, explosion or similar cause;
- C. Dwellings for the caretaker, watchman or persons primarily employed in the industrial use of the premises and their immediate family;
- D. Public utility distribution lines;
- E. Any structure or use incidental or accessory to any of the foregoing uses;
- F. Two signs not exceeding 50 square feet in total area of any one display surface, or one sign not exceeding 80 square feet in area advertising authorized activities on the premises.

(Prior Code, § 9414(a); Code 1997, § 17.34.020; Ord. No. 3419, § 16, 1984; Ord. No. 3606, § 46, 1986)

Sec. 130.34.030. - Uses requiring special use permit.

The following uses are allowed only after obtaining a special use permit therefor from the Planning Commission:

- A. Any use allowed by special use permit in A agricultural districts;
- B. Any industrial use in which odor, gas fumes, dust, smoke, noise, vibrations, glare, heat, electrical interference, radioactive or waste material is produced or emitted beyond the confines of the owner's premises to adjacent properties or into the air or watercourses or which constitutes a physical hazard to persons or property beyond the confines of the owner's premises by reason of fire, explosion or similar cause;
- C. Any industrial use which constitutes a physical hazard to persons or property beyond the confines of the owner's premises by reason of fire, explosion or similar cause;
- D. Automobile wrecking, junking or dismantling yards;
- E. Other sign sizes and applicable general provisions as itemized in Chapters 130.14, 130.16 and 130.18
- F. Airports, heliports and their accessory uses and structures.

(Prior Code, § 9414(b); Code 1997, § 17.34.030; Ord. No. 3606, § 47, 1986)

NOTICE TO COMPLY

No. 3209

Name: Wilkinson Portables
Mailing Address: PO Box 700 Placerville CA 95667
Location: 3005 Venture Rd
Telephone: 530-622-6169

YOU ARE HEREBY NOTIFIED TO CORRECT THE FOLLOWING MINOR VIOLATIONS:

Description of violation & action to correct:

RECEIVED

JUN 27 2014

AQMD

H&SC: 41700

District Rule: 205

Permit #:

Condition#:

Odor from cleaning portable toilets is leaving the property and causing a nuisance.

Conduct the cleaning of portable toilets in such a way that odor is not present at the property line or beyond.

The above violation(s) must be corrected no later than:

7/21/2014

Recipient's name: Debbie Wessels
(Print) Last Name First Name

Title: Office Manager

Recipient's Signature: Debbie Wessels

(Signing only indicates receipt of this Notice and is not an admission of guilt.)

Issued by: Carole Thomas

Date: 6/19/2014

THIS SECTION SHALL BE COMPLETED BY RECIPIENT:

Instructions: You are required to complete this section, sign below, and return the pink copy of this Notice to Comply within five (5) working days of achieving compliance. Also include a written statement describing when and how compliance was achieved. Failure to respond, failure to correct listed violations or a false statement that compliance has been achieved is a violation and may be subject to further legal action pursuant to the California Health and Safety Code, Section 42400 et seq.

Your facility may be subject to re-inspection at any time. If you disagree with one or more of the alleged violations cited in this Notice, you may submit written notice of appeal to the District within five working days of issuance of this Notice.

All deficiencies listed above were corrected as of: 6-24-14 (date)

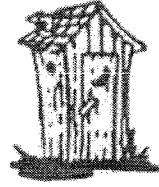
I, the undersigned, hereby certify that the violation(s) identified above have been corrected on the date indicated.

Responsible Official: WILKINSON FRED
(Print) Last Name First Name

Title: DOWNER

Signature: [Signature]

Date: 6-24-14



Wilkinson Portables, Inc.

P.O. Box 706
Placerville, CA 95667
530-622-6169

To: El Dorado County Air Quality,

In regards to the notice to comply # 3239 for Wilkinson Portables, Inc. The odor is generated from vacuum trucks while removing the air out of waste tank to create a vacuum that air is discharged into atmosphere, so to help with the odor that this makes we have added a 55 gallon chamber on the vacuum tank which is partially filled with odor control scent to mask the vacuum tank smell. To my knowledge there is nothing on the market that addresses this situation, I have owned this company for 40 years, and it is nearly impossible to completely control the odor. We are trying our best to comply, but containing where the wind blows is something we cannot control, and there is no other way that I know of on how to contain the odor, let's not forget we keep this county clean from human waste without waste haulers there would be a health and safety problem, and my neighbors act as if we are criminals, but we are trying to address the problem to best of our ability.

Thank You

Sincerely
Fred Wilkinson
530-409-6494

RECEIVED

JUN 27 2014

AQMD

EL DORADO COUNTY GRAND JURY 2014-2015

BOARD OF SUPERVISORS NEGLECTS HUMAN RESOURCES

Case GJ-14-07

In the course of a number of investigations the Grand Jury encountered numerous allegations that employees have been harassed, subjected to threats of violence and retaliated against by elected officials of El Dorado County.

These employees were asked if they had taken their concerns to the Human Resources (HR) Department. In each instance employees responded that they did not trust the HR Department to maintain confidentiality, that the HR Department was motivated by politics and was incompetent.

Those allegations and the employee comments suggest that county officials lack knowledge of, and respect for, California employment law.

In addition, the Grand Jury repeatedly heard allegations that qualified applicants are reluctant to apply for positions in El Dorado County. The county has a reputation for tolerating harassment and mistreatment of employees.

The Grand Jury investigated to determine what the problems were, if any, with the management of human resources in El Dorado County.

BACKGROUND

Concern about human resources management in El Dorado County is not new. The 2006-2007 Grand Jury issued a report in February 2007 addressing the same issues we are addressing again today.

The 2006-2007 Grand Jury report revealed that the HR Department was undervalued by the Board of Supervisors and was dysfunctional. This was supported by the following specific findings:

- Some county departments did not utilize or engage the Human Resources Department when conducting personnel related activities creating the potential for increased liability in the event of mishandled personnel related issues.
- There had been excessive turnover in the position of the Director of Human Resources since 2003; with eight HR directors in a three and a half year period.
- Inadequate staff and funding of the HR Department resulted in insufficient training and recruiting, impacting the HR Department's ability to provide comprehensive and timely services to other County departments.
- The El Dorado County Personnel Management Book had not been updated.

The Board of Supervisors responded to the Grand Jury Report by substantially agreeing with those findings and agreeing to take the recommended actions. However, as this report will demonstrate, the problems identified in 2007 have not been resolved, despite the passage of eight years.

METHODOLOGY

- The Grand Jury interviewed elected and appointed officials, represented and unrepresented employees including the former Chief Administrative Officer and Interim Chief Administrative Officer, union representatives and former employees.
- The Grand Jury reviewed the 2006-2007 Grand Jury report, GJ-06-022; various personnel policies including the Policy Prohibiting Discrimination, Harassment and Retaliation and Reporting and Complaint Procedure; the El Dorado County Climate Assessment and Climate Change Action Plan; Complaints of Unlawful Discrimination and/or Harassment filed by county employees; contracts for consultant and legal services; and Employee Manuals for Los Angeles and Sacramento Counties.

DISCUSSION

The Department of Human Resources continues to be unstable. Since January 2009 the position of director has been held by four persons. During the two year period from August 2011 to September 2013 the position was held by a Retired Annuitant who was legally restricted to 960 hours per year approximately 50 percent of fulltime. The current Director of Human Resources has simultaneously served as Acting or Interim Chief Administrative Officer since November 2014.

The previous Chief Administrative Officer (CAO) was forced to resign in November 2014. The Board of Supervisors essentially fired her without a plan to replace her. The Director of Human Resources was appointed first as Acting Chief Administrative Officer and then on Feb. 3, 2015 was appointed Interim Chief Administrative Officer for a one year term. She had been Director of Human Resources since September 2013. Department heads reported she had begun to initiate positive change for the county. However, they are concerned that as Interim CAO she will not be able to focus on Human Resources and necessary changes will not be made.

A fully functioning HR Department might have been able to withstand the temporary loss of a director. However, El Dorado County's HR Department was not fully functioning. Instead it still needed the full attention of a competent and experienced director. The County had not corrected the problems identified in 2007. Although the HR Director had begun to initiate necessary changes during the fourteen months she held the job before being appointed to also serve as Acting CAO, she had not corrected all of the many problems facing the Department and the many ways the county fails to follow best practices. Human Resource policies are nonexistent or out of date, employee classifications are suspect, significant work is being contracted out to private contractors and no effort has yet been initiated to satisfy various requirements of state and federal employment law.

Failure to strengthen the Human Resources Department has led to personnel issues being inadequately and improperly addressed by individual managers or supervisors who do not understand their obligations under California employment law.

El Dorado County has a reputation for poor employer-employee practices. It does not attract the most qualified applicants for employment.

FINDINGS

1. El Dorado County does not follow generally recognized best practices for Human Resources.
2. El Dorado County does not have an Employee Policy Manual.
3. The HR Department has no mandated training for employees appointed to supervisory positions.
4. The County is not in compliance with requirements that employees be trained in employment rules and practices. Department directors report that new employees are not given adequate training on county policies but instead are merely given a stack of policies and required to sign an acknowledgement of receipt of those policies.
5. No effort has been made to comply with AB 2053 requirements. That effort is on hold while a new staff member is trained. In the meantime, staff and supervisors are not complying with it and other statutes mandating specific training. However, the legal requirements continue. They are not on hold.
6. Department directors report using the Human Resources Department staff as little as possible, both when recruiting staff and when dealing with employee discipline or complaints. Instead, they rely on their own expertise or that of County Counsel.
7. Failure to strengthen the Human Resources department has resulted in personnel issues being handled inappropriately by managers and supervisors who are not fully informed of their obligations under California employment law.
8. Members of the Board of Supervisors fail to comply with the legal requirement to notify the HR Department when they become aware of alleged unlawful activity against one of their employees.
9. Employees fear that a complaint submitted to the HR Department will not be kept confidential and they may be subject to retaliation. The HR Director acknowledged that this a reasonable fear, based upon past behavior.
10. Inexperience causes the HR department to willingly defer handling of HR issues to County Counsel. This results in HR issues being handled from a defense oriented posture rather than in a proactive solution-seeking management effort. The Grand Jury observed that complaints filed with HR were investigated solely from the point of view of whether unlawful discrimination occurred while ignoring poor management practices.
11. Investigations of discrimination or harassment complaints frequently reveal poor management practices or other employee misbehavior, but investigative reports are not shared with department directors. Managers are not informed of these issues when they are brought to light in the course of an investigation and, therefore, are unable to take remedial action.

12. Because County Counsel is acting as de facto HR Director, legal work that could be handled in house is contracted out. Complaints of discrimination or harassment are often submitted to private law firms for investigation at significant cost to the county. There is no policy setting forth criteria or procedures for when an investigation will be handled by county staff or contracted out. While it is reasonable that the investigation of certain sensitive complaints, such as those against the CAO or the HR Department itself, be contracted out, it is unreasonably expensive to contract out the investigation of most complaints. These should be handled by HR staff.
13. The County spends significant sums of money on outside consultants and attorneys for HR related issues.
14. The County has spent significant sums of money on private consultants identifying personnel issues but has taken only the initial steps towards resolving the issues identified.
15. Human Resources and Risk Management were separated to allow the HR Director to develop her skills in human resources management. The two functions are closely integrated and their separation is inefficient.
16. The County does not have an organization chart accurately reflecting County organization.

CONCLUSIONS

El Dorado County's HR Department continues to suffer from rapid and excessive turnover of the Human Resources Director and fails to follow best practices for human resources management. This has made the county unable to recruit and retain the best qualified staff. The County is exposed to significant risk of liability for failure to comply with federal and state employment law requirements.

RECOMMENDATIONS

1. The Board of Supervisors should renew its commitment to comply with the recommendations made by the 2006-07 Grand Jury.
2. The Board of Supervisors should commit to full compliance with all state and federal employment statutes.
3. The Board of Supervisors should aggressively seek a new and qualified Chief Administrative Officer.
4. The Board of Supervisors should appoint a qualified manager of Human Resources.
5. The Human Resources function should be centralized under a manager reporting to the Chief Administrative Officer.
6. The Human Resources manager should be responsible for the combined Human Resources and Risk Management functions.

The Grand Jury will forward this report to the federal Equal Employment Opportunity Commission, the State Department of Fair Employment and Housing and the Bureau of State Audits.

RESPONSES

Responses to both findings and recommendations in this Report are required by law in accordance with California Penal Code §933 and §933.05. Address responses to:

The Honorable Suzanne N. Kingsbury
Presiding Judge of the El Dorado County Superior Court
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**EL DORADO COUNTY GRAND JURY
2014-2015**

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EL DORADO COUNTY GRAND JURY 2014-2015

A SCHOOL BELL RINGS OFF-KEY

Case GJ-14-08

Citizen Complaints along with a dismissive response to last year's Grand Jury report about the Ponderosa High School football field, caused the Grand Jury to be concerned about the decision making practices of the El Dorado Union High School District Board of Trustees.

BACKGROUND

The El Dorado Union High School District (EDUHSD) is relatively large geographically, encompassing about 1,260 square miles on the West Slope of the Sierra Nevada in El Dorado County, between the South Fork of the American River and the Cosumnes River. Despite its geographic size, it serves fewer than 7,000 students with four high schools and six alternative schools or alternative school programs for students with special needs. The traditional high schools — El Dorado High School, Union Mine High School, Ponderosa High School and Oak Ridge High School — have four-year comprehensive academic curricula enhanced by what the district calls “an extensive advanced placement program.” College Board scores exceed both California and U.S. averages as recently as 2011. The district also offers specialty programs such as culinary arts.

The district is governed by a five member elected Board of Trustees. The current president is Kevin Brown, was first elected in 2010. The previous president, Timothy Cary, is the longest serving member of the board, having been appointed to the board in 2001. Mr. Cary is an attorney, licensed to practice law in the State of California, whose practice specializes in the representation of public entities and specifically, school districts.

METHODOLOGY

- The Grand Jury interviewed the complaining witnesses and members of the El Dorado High School Union School District board of trustees, plus elected and appointed officials from other governmental bodies.
- The Grand Jury contacted the California Fair Political Practices Commission for its opinion on certain matters related to the investigation leading to this report.

DISCUSSION

IS IT LEGAL ADVICE OR THE OPINION OF ONE BOARD MEMBER?

Numerous witnesses complained to the Grand Jury that Mr. Cary has a conflict of interest. While acting as member of the El Dorado Union High School District board of trustees he has simultaneously acted as unofficial legal counsel to the district. They stated that Mr. Cary argues that the other board members should follow his advice, citing his expertise as an experienced education law attorney. They asserted that his opinions are too often offered under the guise of legal counsel.

Decisions of the Board of Trustees are made by majority vote of the members. A minimum of three votes are required for a proposal to become a decision of the Board. The vote of any one board member has no more weight than the vote of any another board member, and each member must take responsibility for his or her own vote.

There is no question that having a board member acting as both legal counsel to the board and as a member of the board is a dangerous practice. The most obvious risk is that both the attorney and other board members may fail to distinguish if the attorney member's views are legal advice or statements of his personal policy perspective. Mr. Cary may fail to disclose alternative legal arguments, leaving the impression that there is no legal ambiguity when such ambiguity does exist. He may fail to disclose that his views are his personal opinions and not legal advice. Indeed, he may fail to make that distinction for himself. Other board members may certainly be easily confused about the source of his opinions. It is natural and appropriate for board members to want their actions to be consistent with law and for them to be concerned with the legal sustainability of their decisions. This may lead them to defer to Mr. Cary when his opinions merely reflect his own policy perspective rather than true legal viability.

PONDEROSA HIGH SCHOOL FOOTBALL FIELD

A 2013-14 Grand Jury report, Case GJ-13-05, described deficiencies in the Ponderosa High School new football field. It's recommendations to fix the field were dismissed in the district's response. The 2014-15 Grand Jury issued a follow up report, Case GJ-14-01, questioning the board's assertion that the problem was not significant and a fix unwarranted.

Mr. Cary advised the Board that it should ignore the Grand Jury's report to avoid exposing the district to litigation. Mr. Cary's duty as a member of the Board of Trustees should have been to the students of the district, but he assumed the role of legal counsel telling the other board members they should ignore the report, risking injury to students. In this action Mr. Cary clearly confused his roles.

CONFLICT OF INTEREST

It is good business practice for a public entity to turn to its legal counsel for advice when a member of the governing body appears to have a conflict of interest. When the question of conflict is raised regarding the board member that is also acting as legal counsel, to whom is the question addressed? Numerous witnesses raised questions about whether Mr. Cary has conflicts of interest.

Mr. Cary cites his service as a member of this and other school boards in support of his qualifications as an education law attorney. He cites that service as “academic/professional achievement.” In a proposal submitted to the Twin Rivers School District to become that district’s general counsel, Cary cited the El Dorado Union High School District in a listing of references and clients. He also listed EDUHSD Superintendents Christopher Hoffman and Sherri Smith as references, both of whom had, in effect, worked for him by virtue of his membership on the Board of Trustees.

BROWN ACT VIOLATIONS

When he was president of the district’s board of trustees, Cary exercised strict control over the agenda for board meetings. He imposed a rule requiring three members of the board to agree that an item should be on the board’s agenda before it could be placed on the agenda. That made it virtually impossible for a fellow board member or parent to place an issue on the board agenda for discussion.

Education Code § 35145.5 requires school districts to allow members of the public to place an item on a board agenda. The practice of requiring three members to agree before an item is placed on the agenda is in violation of Education Code § 35145.5.

Government Code § 54952.2 prohibits what is commonly referred to as a serial meeting, that is “using a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body.” The California Attorney General advises that “... a serial meeting is a series of communications, each of which involves less than a quorum of the legislative body, but which taken as a whole involves a majority of the body’s members.” The requirement that three board members must agree to placing an item on the board’s agenda required conduct of a serial meeting in violation of the Brown Act.

FINDINGS

1. The El Dorado Union High School District has, for a number of years, operated outside the clear intent of the Ralph M. Brown Act.
2. Timothy Cary, a long-time member of the EDUHSD board of trustees, has wielded too much influence over the board and is primarily responsible for its deviation from strict adherence to the Ralph M. Brown Act.
3. Mr. Cary, an experienced school law attorney, has confused his participation on the EDUHSD board of trustees with his professional career, to the detriment of the district.

RECOMMENDATIONS

1. The El Dorado Union High School District Board of Trustees should contract for training its members in the requirements of the Ralph M. Brown Act. That training should be conducted by an attorney other than Mr. Cary and not an employee of the EDUHSD and should be held at an open meeting of the Board of Trustees with all members of the Board and appropriate staff in attendance.
2. The EDUHSD Board of Trustees should formally adopt procedures for the conduct of their meetings immediately. Those procedures must conform to the requirements of the Ralph M. Brown Act. They should be adopted at an open meeting of the Board, after both notice to the public and an opportunity for the members of the public to comment on the proposed procedures prior to their adoption.
3. Mr. Cary should separate his professional role as an education law attorney from his role as a member of the EDUHSD Board of Trustees.
4. Each member of the EDUHSD Board of Trustees should recognize his or her own responsibility for the decisions and actions of the Board. No one member is entitled to deference not given to other members.

RESPONSES

Responses to both findings and recommendations in this Report are required by law in accordance with California Penal Code §933 and §933.05. Address responses to:

The Honorable Suzanne N. Kingsbury
Presiding Judge of the El Dorado County Superior Court
1354 Johnson Blvd.
South Lake Tahoe, CA 96150

This Report has been provided to the El Dorado Union High School District Board of Trustees.

The Presiding Judge of the El Dorado County Superior Court requests that responses be sent electronically as a *Word* or *PDF* file to facilitate economical and timely distribution.

Please email responses to the El Dorado County Grand Jury at:
courtadmin@eldoradocourt.org

EL DORADO COUNTY GRAND JURY 2014-2015

SARATOGA WAY: ROAD TO NOWHERE?

Case GJ-14-09

The Saratoga Way Extension Project came to the attention of the Grand Jury amid controversy. It would purportedly relieve traffic on US 50, primarily between El Dorado Hills and Folsom if completed.

Preliminary investigation determined there was, in reality, very little reason to further investigate the road project, *per se*, and there was little substantive evidence to be found related to the physical changes the road project would entail. This report is limited to what the investigation did find - the project's current status and why it has not yet been completed.

BACKGROUND

Saratoga Way travels a short distance generally westward from El Dorado Hills Boulevard, closely paralleling the north edge of Highway 50 before coming to a dead end about 2,500 feet from the El Dorado County-Sacramento County line. The Saratoga Way Extension Project would extend it the remaining one-half mile to connect with Iron Point Road in Folsom at the county line.

The Saratoga Way Extension Project became a priority in the El Dorado County Capital Improvement Program in about 2004. It is divided into two phases: the first phase would acquire land for right-of-way and build the needed one-half mile of two-lane roadway to Folsom. The second phase would build out the roadway to a four-lane divided arterial. Both phases depended upon prior completion of the Saratoga Way Realignment Project, which would realigned the west end of existing Saratoga Way to increase efficiency and accommodate traffic on El Dorado Hills Boulevard.

The realignment project became the subject of litigation brought by Citizens Against Roadway Encroachment, which resulted in a writ of mandate in 2002 ordering mitigation of noise impact primarily affecting the El Dorado Hills Townhouses to the north of Saratoga Way. The county complied with the writ by constructing a sound wall and installing double-glazed upper-floor windows where needed and the realignment project was completed in about 2005.

The extension phase one project initially was scheduled to begin construction in fiscal year 2007. The 2007 Capital Improvement Program anticipated that the Environmental Impact Report would be completed in the summer of 2007, and construction was scheduled to begin as soon as funding became available, which was anticipated to be in fiscal year 2010. Total phase one project costs was estimated at slightly more than \$10.5 million, including about \$4.5 million for right-of-way acquisition.

The project was designated to be 100 percent funded from Traffic Impact Mitigation fees. However, at that time, mitigation fee revenue was dropping dramatically with the decline

of new housing construction to nearly a standstill. High foreclosure rates drove down property values, seriously impacting property tax revenues to public agencies. Consequent unemployment and business stress further reduced sales tax and fuel tax revenues.

The 2009 Capital Improvement Program showed impacts to both phases of the Saratoga Way Extension Project. It increased first phase costs to about \$15 million and rescheduled completion of planning and environmental review to fiscal 2010. Design was planned to resume in fiscal 2013, and all other work was moved out to later years.

METHODOLOGY

The following persons were interviewed:

1. Employees of the county Department of Transportation whose responsibilities in 2010 included the Saratoga Way Extension project
2. County Supervisors who were involved with the key decisions in 2010 for the Saratoga Way Extension project and oversight of County fiscal issues

The following documents were reviewed in their relevant sections of contents:

1. Audio/video recordings of the 6/29/2010 and 7/26/2010 Board of Supervisors meetings
2. Board packets and minutes of the 6/28/2010, 6/29/2010, 7/20/2010 and 7/26/2010 Board of Supervisors meetings.
3. County Department of Transportation Capital Improvement Program documents for years 2004 through 2014.

DISCUSSION

The Board of Supervisors certified the first phase of the project's Environmental Impact Report at its meeting on June 29, 2010, along with the related findings of fact, adopting the report's mitigation monitoring plan and approving the project to go forward. A credible threat of litigation was growing and in addition to opponents' comments on the public record, the Board of Supervisors meeting minutes for four meetings in June 2010 and July 2010 reported that closed sessions included: "Conference with Legal Counsel - **Significant Exposure to Litigation** pursuant to Government Code Section 54956.9(b): Title: Issues relating to Saratoga Road Connection." No action was reported from any of them.

Apprehension of litigation led the board to decertify the Saratoga Way Extension Project Environmental Impact Report on July 26, 2010, effectively putting the project on hold for an indefinite time. The decertification eliminated the risk of a lawsuit over the report. Multiple witnesses described the cause as simply *no money*. The funding was not available to defend a lawsuit, acquire right-of-way and build the project.

The Saratoga Way Extension project remains on hold at the time of this report; the second quarter of 2015.

SARATOGA WAY EXTENSION LOCATION

Figure 1
Saratoga Way Extension
Project Vicinity



RESPONSES

Responses are not required

This Report has been provided to the El Dorado County Board of Supervisors.

**EL DORADO COUNTY GRAND JURY
2014-2015**

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EL DORADO COUNTY GRAND JURY 2014-2015

THE PUBLIC DEFENDER IS DOING WELL UNDER THE CIRCUMSTANCES

Case GJ-14-10

The El Dorado County District Attorney asked the Grand Jury to investigate changing the institution by which the County provides indigent criminal defense. The district attorney's office cited the possibility that the county could save money by this change.

BACKGROUND

El Dorado County has a government run public defender's office to represent indigent defendants. In addition, there is an indigent defense panel to handle work overload and cases having conflict with office staff. The Public Defender has offices in Placerville and South Lake Tahoe. Total staff for the department is 14 attorneys, two investigators, and five office staff.

The district attorney's opponent in court while prosecuting the criminal law frequently is the public defender. Because of this natural competition, his request to explore changing the institution of the public defender appears somewhat suspect. There have been previous unsuccessful efforts to change El Dorado County away from the public defender system.

The alternative to the public defender system often is referred to as *contract defenders*, is used by several counties in California. El Dorado County's population is 29th largest in California and it's 2014-2015 budget for the public defender is about \$3.5 million. Yolo County also has a public defender system. It is California's 28th largest county, having a population approximately 20,000 greater than El Dorado County, with a 2014-2015 budget of about \$5.5 million.

The Grand Jury found several counties, only slightly larger in population, that have contract defenders. Based on this year's budget for contract defenders, Santa Cruz County spends about \$9 million, San Luis Obispo County spends about \$5 million, and Butte County spends about \$3 million. There is no norm that like-sized California counties save money using the contract defender system.

In addition to cost factors, various studies and testimony to the Grand Jury from those with experience working in many criminal justice jurisdictions, show that defendants often are represented more effectively by a government run public defender's office.

Government contracts generally pay contracted defender attorney firms either a set amount either per year or per standard case. However, contract defenders usually have a private clientele as well which often pays for representation by the hour. The contract structure creates an economic incentive to process an indigent case using as few hours as possible, leading to defendants being urged to *plead out* rather than go to trial. The concern is that such outcomes would have grave constitutional implications.

METHODOLOGY

Given the speculative savings and possibility of encouraging less than adequate indigent defense by a change to a contract defense system, the Grand Jury undertook a comprehensive investigation of the work of our public defender's office. We believed that if the Public Defender is, in fact, delivering adequate criminal defense, then that would certainly outweigh any financial argument to change the system.

We found that there is no statistic by which criminal defense representation can be determined having been done adequately or well. Instead, the reputation among those who work in the criminal justice system is the only way to assess the effectiveness of any given office or practitioner of criminal defense.

The Grand Jury interviewed numerous participants within the criminal justice system, including prosecutors, criminal defense lawyers both inside and outside the public defender's office, and judges in El Dorado County.

DISCUSSION

The many professionals interviewed said the public defender's office is doing a good job of defending indigent criminal defendants. All those asked said the office has a group of excellent attorneys. No one even suggested that a change in the system of delivering criminal defense services is needed because of problems with the current office.

However, there is discord within the current office. Approximately one-half of the attorneys have applications out for other employment. If half the attorney staff were to leave, it would create a representation crisis for this county's indigent defendants, at least in the short term.

The Board of Supervisors hired a new chief Public Defender, Teri Monterosso, in the latter half of 2013, after the retirement of her predecessor. At that time, the Chief Assistant Public Defender was a seasoned and well regarded trial lawyer with years of public defender service. He was a male near retirement age.

The Board of Supervisors' process for filling the Public Defender position was unique. It completely bypassed the Human Resources Department, contributing to a Grand Jury investigation that the Board of Supervisors does not respect their practices. See Grand Jury Report *Board of Supervisors Neglects Human Resources*, Case GJ-14-07.

A three person interview panel was asked to return the eight highest evaluated public defender applicants to the Board. The Board picked three finalists from those eight without any further input from the panel and without any formal input from within the county's criminal law community. The three finalists picked were women. Ms. Monterosso had most recently been a member of the county counsel's office with prior experience in the public defender's office both here and in other counties. However, she did not possess significant actual felony trial experience. The Chief Assistant, although

one of the eight brought to the board, did not receive an interview from the board for the public defender job.

Teri Monterosso has begun her tenure as Public Defender in an almost no-win position. Many of the public defender office attorneys felt that hiring Ms. Monterosso symbolized disrespect for the office and the Chief Assistant. Some outright hostility was shown by the Chief Assistant and other attorneys. Most have applied for other jobs, citing her lack of significant trial experience and her managerial style and decisions.

However, Ms. Monterosso has persevered well during her two and one half years. She has gained the trust of at least half of the office, kept her office within its budget each year, and maintained the office's excellent reputation for criminal defense representation in the county.

FINDINGS

1. The public defender's office is doing a good job of representing indigent criminal defendants.
2. Approximately one-half of the attorneys have applications out for other employment.
3. Public Defender Teri Monterosso has maintained the office's excellent representation for criminal defendants in the county.

RECOMMENDATIONS

1. The current public defender system should be retained.
2. The current Public Defender, Terri Monterosso, should be retained by the Board of Supervisors, but her continued appointment should be reviewed in two years to see if she continues to hold the office together while maintaining its effectiveness delivering the county's indigent criminal defense.
3. Whenever a new public defender is needed, the Board of Supervisors should employ a formal system incorporating the views of the very well regarded judges and lawyers involved in the criminal justice system of El Dorado County. The Board should then task this blue ribbon committee or committees with picking only finalists for the position who are highly qualified to effectively lead the office to at least adequate, if not excellent, defense of indigent criminal defendants. Thus the Board will not be forced to make decisions in an area where it cannot possibly have any actual knowledge let alone expertise. At the very least, the Board should get the approval of the county's criminal law attorneys and judges that the proposed candidate is qualified, if not highly qualified to be the Chief Public Defender.

RESPONSES

Responses to both findings and recommendations in this Report are required by law in accordance with California Penal Code §933 and §933.05. Address responses to:

The Honorable Suzanne N. Kingsbury
Presiding Judge of the El Dorado County Superior Court
1354 Johnson Blvd.
South Lake Tahoe, CA 96150

This Report has been provided to the El Dorado County Public Defender and El Dorado County Board of Supervisors.

The Presiding Judge of the El Dorado County Superior Court requests that responses be sent electronically as a *Word* or *PDF* file to facilitate economical and timely distribution.

Please email responses to the El Dorado County Grand Jury at:
courtadmin@eldoradocourt.org

EL DORADO COUNTY GRAND JURY 2014-2015

GROWLERSBURG CONSERVATION CAMP INSPECTION

Case GJ-14-11

California Penal Code § 919(b) mandates that “The grand jury shall inquire into the condition and management of the public prisons within the county.” There are three types of public prisons in El Dorado County: Adult jails, juvenile detention facilities and state-operated facilities. This report addresses the condition and management of the state-operated Growlersburg Conservation Camp.

BACKGROUND

Growlersburg Conservation Camp, located on 80 acres approximately 1½ miles north of Georgetown, is operated jointly by the California Department of Corrections and Rehabilitation and the California Department of Forestry and Fire Protection (CAL FIRE). Originally built in 1967 it initially housed 80 inmates. The camp dormitory building was increased in size nearly 40 percent in 1980 to house 120 inmates. Currently, Growlersburg can accommodate 132 inmates. The all-male facility is one of 44 conservation camps in California.

METHODOLOGY

- The Grand Jury conducted an onsite inspection of Growlersburg on Nov. 5, 2014.
- The Grand Jury questioned the Growlersburg staff.

DISCUSSION

To be eligible to serve a portion of his sentence at Growlersburg, an inmate cannot have a record of violent crimes, sex offenses, or drug related convictions. Average inmate stay at the camp is between 2 and 4 years. The primary mission of the camp is to provide inmates for wildfire fighting throughout California and to provide mobile kitchens and meals for both inmate and non-inmate fire personnel. There are no fences or guard towers at Growlersburg.

Growlersburg inmates work in assignments devoted exclusively to serving the community and local, state and federal agencies in wildland fire suppression as well as responding to emergencies such as floods and earthquakes and to search and rescue operations. They provide labor for the construction of shaded wildland fire safety fuel breaks, hiking and biking trails, maintenance of community parks, schools and local fire district and CAL FIRE facilities. They provide the landscaping, cleaning and grooming of Marshall Gold Discovery State Historic Park Museum in Coloma and assist the University of California in vegetation management research projects.

Growlersburg provides inmate programs intended to emphasize positive work ethics and the development of desirable employment skills.

There is a small lumber mill on site that produces the materials for various woodworking projects. In addition to a cabinet shop, two mobile dimension sawmills produce stock to build picnic tables that are sold to several public agencies. Growlersburg inmates build large conference tables used at many state and local government facilities, including the El Dorado County Grand Jury room in Placerville. The Grand Jury acknowledges the craftsmanship required to make their conference table. It is well made from solid wood and is appropriate for its purpose and for the space it occupies. It shows little wear.

The inmates also provide mechanical skills to maintain the facility's vehicles.

The camp buildings and grounds are very well maintained by the inmates. The barracks building is scheduled for remodeling and updating. The visiting grand jurors found the dining area was clean and pleasant and were served the same lunch as the inmates; it was tasty and plentiful.

The staff was informative and appeared to have a good rapport with the inmates. They are both very proud of the facility.

RESPONSE

No response is required.

This Report has been provided to the California Department of Corrections and Rehabilitation and the California Department of Forestry and Fire Protection.

EL DORADO COUNTY GRAND JURY 2014-2015

PUTTING POLITICAL GAIN ABOVE WHAT'S RIGHT FOR THE COUNTY

Case GJ-14-12

The Grand Jury heard the same allegations repeated from credible witnesses in a number of different complaints:

- The Auditor/Controller Joe Harn creates problems, blames others for those problems and then leaks information about the problem and a scapegoat to the press.
- The Auditor/Controller Joe Harn refuses to cooperate with the Chief Administrative Officer or staff to fix problems.
- The Auditor/Controller Joe Harn is a bully and targets individuals or departments for harassment.

The Grand Jury found all of these allegations to be substantiated.

THE AUDITOR/CONTROLLER FAILED TO SUBMIT A COMPLETE AND CORRECT COST ALLOCATION PLAN TO THE STATE OF CALIFORNIA RESULTING IN A LOSS OF MORE THAN \$1 MILLION IN FEDERAL REIMBURSEMENT FOR FISCAL YEAR 2013-14 AND ADDITIONAL LOSSES IN SUCCEEDING YEARS

The Auditor/Controller is responsible for preparing and submitting the County's Cost Allocation Plan in accordance with the current federal Office of Management and Budget Circular A-87. The Cost Allocation Plan determines the amount of money the County will receive from the State for administering federal programs. The county's plan is subject to review and approval by the California State Controller who may conduct a field review to verify that the data incorporated in the county cost plan is supported. The State Controller communicates with the El Dorado County Auditor/Controller and not the Chief Administrative Officer (CAO). The Auditor/Controller is the county official responsible for the Cost Allocation Plan.

The California State Controller did conduct a field review of El Dorado County's Cost Allocation Plan for fiscal year 2013-14 and found that the Information Technologies Department functional costs could not be substantiated and required a revised Cost Allocation Plan. The State Controller found that Information Technologies staff did not understand the purpose of the Countywide Cost Allocation Plan and recommended that the Information Technologies Department Management should work with the Auditor/Controller to develop a corrected methodology.

Corrected Information Technologies Department costs were not submitted to the state. On October 3, 2014, the Auditor/Controller signed a *Negotiation Agreement, Countywide Cost Allocation Plan* resulting in a loss to the county of approximately \$1.5 million in fiscal year 2014-15 and additional losses of more than \$1 million in each of two subsequent fiscal years.

The Grand Jury spoke to the Auditor/Controller, former and current Chief Administrative Officer as well as staff from both of their offices, staff from the Information Technologies Department and staff from the Health and Human Services Agency. The Auditor/Controller testified that he knew the state would disallow the Information Technologies costs, saying that he repeatedly warned the CAO, and blamed the CAO and Information Technologies staff for not taking care of the problem. He asserted that the Information Technologies staff was incompetent, the Assistant CAO was incompetent and the CAO was incompetent. The Information Technologies Department staff and the Chief Administrative Officer and her staff admitted they had made a mistake in the original submittal. They said they tried to work with the Auditor/Controller to correct those mistakes, but the Auditor/Controller and his staff refused to communicate with Information Technologies department staff or to provide the information they needed to resolve the issue.

The Grand Jury found that the Auditor/Controller was focused on blaming the CAO, Assistant CAO and Information Technologies staff rather than on working with them to remedy deficiencies in the Cost Allocation Plan.

The Grand Jury found that the Auditor/Controller's refusal to communicate and work with the CAO and Information Technologies staff is directly responsible for loss of funds to the county.

The Grand Jury found that the Auditor/Controller is ultimately responsible for the Cost Allocation Plan, that the Auditor/Controller had full knowledge that the state would disallow reimbursement if the Cost Allocation Plan was not corrected and that the Auditor/Controller had full knowledge of the impact this loss of reimbursement would have on the county's fiscal situation. As soon as the State Controller raised the specter of this loss of reimbursement, the Auditor/Controller should have convened a work group of appropriate staff to resolve the issue.

THE AUDITOR/CONTROLLER IS MORE FOCUSED ON PLACING BLAME ON OTHERS FOR PROBLEMS THAN ON WORKING WITH THEM TO RESOLVE PROBLEMS

The Auditor/Controller's willingness to allow the county to lose substantial revenue rather than work with county staff to submit a correct and complete Cost Allocation Plan is but one example of a pattern of behavior the Grand Jury repeatedly observed. The Auditor/Controller will not work with staff for whom he has little, or no, respect.

Over and over again the Grand Jury observed situations in which the Auditor/Controller identified problems – some major, some minor – and focused his energy on casting blame for those problems while refusing to work with others to find solutions to the problems he had identified.

THE AUDITOR/CONTROLLER DELAYS OR REFUSES PAYMENTS FOR POLITICAL OR PERSONAL REASONS

Over and over again the Grand Jury heard testimony from credible witnesses that the Auditor/Controller refuses, for political or personal reasons, to pay invoices submitted by specific vendors or for work done for specific departments. The Auditor/Controller causes invoices to sit on his desk for months, taking no action because he has issues with the staff, the project or the vendor. In many cases no communication at all is given to the submitting department. In other cases the invoice is returned to the department with a note so abbreviated that it is meaningless.

Even staff loyal to the Auditor/Controller acknowledged that claims sit on his desk for months for reasons that include politics and personal alliances.

THE BOARD OF SUPERVISORS HAS NOT ENSURED THE TRANSPARENCY AND INDEPENDENCE OF THE OUTSIDE AUDIT OF THE COUNTY'S FINANCIAL STATEMENTS

California Government Code §25250 requires "At least biennially the board of supervisors shall examine and audit, or cause to be audited, the financial accounts and records of all officers having responsibility for the care, management, collection, or disbursement of money belonging to the county or money received or disbursed by them under authority of law." The Board may "...employ the services of an independent certified public accountant or licensed public accountant..."

The Board of Supervisors Policy Number B-9 requires that "Representatives of the County Grand Jury shall be given an opportunity to participate each time the Board of Supervisors selects an outside auditor to perform the annual or biennial audit..."

The Government Financial Officers Association recommends as a best practice the establishment of an Audit Committee as a means of providing independent review and oversight of the county's financial reporting processes, internal controls and independent auditors.

It has been the practice in El Dorado County for the Auditor/Controller to suggest the outside auditor to perform this audit, to submit a contract for that audit to the Board of Supervisors for approval, and for the Board to approve the contract without discussion on its consent agenda. The Board of Supervisors has not involved its Chief Administrative Officer or the Grand Jury in the selection of the outside auditor. Nor has the Board of Supervisors created or utilized an Audit Committee.

THE AUDITOR/CONTROLLER REFUSED TO RELEASE AN AUDIT OF THE PUBLIC GUARDIAN WHEN THE FINDINGS DID NOT SUPPORT HIS CRITICISM OF THAT OFFICE

The duties of the Controller include performing audits of county departments and functions. The Auditor/Controller through one of his staff performed an audit of the Public Guardian's office. That audit would have been useful to the Public Guardian for the effective management of the office and would have been important information for the public. However, the audit was never released. Credible witnesses testified that the Auditor/Controller did not release the audit because it did not corroborate his allegations of malfeasance by the Public Guardian.

AUDITOR FAILS TO COMPLY WITH REPORTING REQUIREMENTS

El Dorado County Ordinance Code section 3.16.130 requires the County Auditor to prepare a list of “... claims approved by him or her each calendar week, and present it to the Board of Supervisors at its next regular meeting, for allowance by the Board.” Ordinance Code section 3.16.140 requires “Each month, the County Auditor shall transmit to the Board of Supervisors a report of all claims rejected by him or her filed during the preceding calendar month...” The report is required to include a listing of each claim rejected, the date the claim was filed with the Auditor, the name of the claimant, the amount of the claim and the reason for rejection.

The Auditor does not comply with either of these ordinances. Violation of a county ordinance is a misdemeanor.

The Auditor acknowledges that he does not comply with these requirements. He told the Grand Jury that the requirements were out of date, that the California Government Code sections on which they were based have been repealed. He further stated that he has directed the Chief Administrative Officer to have the ordinances repealed.

It is not within the Auditor’s prerogative to decide with which provisions of the county Ordinance Code he will or will not comply, nor is it within his authority to direct the Chief Administrative Officer to have specific provisions repealed. These ordinances remain on the books.

The Grand Jury finds that the ordinances serve a useful purpose. Compliance would allow the Auditor to defend himself against charges that he has unreasonably delayed or withheld payment. Compliance would allow the Board to know where County money is being spent.

The Grand Jury notes that four of the five members of the Board of Supervisors told the Grand Jury they do not trust the Auditor/Controller’s statements about the budget. This is an opportunity for the Board to take meaningful steps to ensure their trustworthiness.

THE AUDITOR/CONTROLLER FAILS TO ADHERE TO BASIC PRINCIPLES OF HUMAN RESOURCES MANAGEMENT

The Auditor/Controller engages in behavior inappropriate for a public employee supervisor:

- One of the Auditor/Controller's employees is assigned to prepare the Countywide Cost Allocation Plan. The employee is widely reputed to be extremely difficult to work with and to be un-communicative in dealings with other county employees. It was also reported that the employee's behavior recently has become progressively less acceptable. Knowing this about his employee, and knowing that the county risked loss of significant federal reimbursement if the employee did not work with other county staff to prepare the Cost Allocation Plan, the Auditor/Controller took no action to address the employee's behavior and deteriorating performance.
- One of the Auditor/Controller's employees, after some delay, filed a complaint for harassment with the county. Credible witnesses reported that this employee excused the delay in filing this complaint by saying that the Auditor/Controller himself insisted that the complaint not be filed until after the election.
- The Auditor/Controller personally interfered with the Human Resources Department's appropriate and necessary efforts to address the behavior of one of his employees who may have presented a risk of workplace violence.
- The Auditor/Controller physically interposed himself in an attempt to prevent the Grand Jury from interviewing one of his employees, suggesting that questions the Grand Jury wished to ask the employee should be turned over to him and that he would get the answers.

THE AUDITOR/CONTROLLER IS GUILTY OF BULLYING OTHERS

The Grand Jury heard credible testimony that the Auditor/Controller is guilty of disrespectful and harassing behavior toward others. One member of the Board of Supervisors told us, "Everybody knows Joe Harn is a bully. They have known it for twenty years." Staff generally supportive of the Auditor/Controller told us that he has made inappropriate comments.

As a result of the Auditor/Controller's behavior, he received *executive coaching* regarding his relationships with others. That *executive coaching* was paid for by the County.

Complaints about inappropriate, disrespectful and intimidating behavior were received from employees of both the county and other agencies.

THE GRAND JURY DOES NOT IDENTIFY THE NAMES OF THE SPECIFIC WITNESSES WHO MADE THESE STATEMENTS BECAUSE SO MANY EXPRESSED FEAR OF REPRISAL. INDEED, THE GRAND JURY INQUIRED ABOUT THE SERVICES OF AN OUTSIDE AUDIT FIRM. THEY WERE NOT INTERESTED, FEARING REPRISAL BY THE AUDITOR/CONTROLLER.

FINDINGS

1. The Auditor/Controller is ultimately responsible for the Cost Allocation Plan. The Auditor/Controller had full knowledge that the state would disallow reimbursement if the Cost Allocation Plan were not corrected, and he had full knowledge of the impact that this loss of reimbursement would have on the county's fiscal situation. As soon as the State Controller raised the specter of this loss of reimbursement, the Auditor/Controller should have convened a work group of appropriate staff to resolve this issue.
2. The Auditor/Controller willfully refused to prepare a complete Cost Allocation Plan. In doing so he failed to protect the fiscal integrity of the County.
3. The Auditor/Controller delays or refuses to make payments for reasons of personal and political motivation.
4. The Board of Supervisors has not ensured the independence of the outside audit of the county's financial statements.
5. The Auditor/Controller willfully fails to comply with Ordinance Code sections 3.16.130 and 3.16.140.
6. The Auditor/Controller allows personal relationships to interfere with his management of his staff.
7. The Auditor/Controller is guilty of harassment and disrespectful conduct toward employees of both the county and other entities.

RECOMMENDATIONS

1. The Board of Supervisors should establish an Audit Committee as recommended by the Government Financial Officers Association.
2. The duties of the Audit Committee should include proposing the outside auditor and coordinating the outside audit.
3. The Board of Supervisors should give the Grand Jury the opportunity to participate with the Audit Committee in the selection of the outside auditor, as required by existing policy B-9.
4. The Board of Supervisors should require the Auditor/Controller to comply with all of its duly adopted ordinances.
5. The District Attorney should investigate the allegations and findings in this report to determine whether the Auditor/Controller should be removed from office and should consider impaneling a criminal grand jury for that purpose.

RESPONSES

Responses to both findings and recommendations in this Report are required by law in accordance with California Penal Code §933 and §933.05. Address responses to:

The Honorable Suzanne N. Kingsbury
Presiding Judge of the El Dorado County Superior Court
1354 Johnson Blvd.
South Lake Tahoe, CA 96150

This Report has been provided to the El Dorado County District Attorney for review, to the El Dorado County Auditor/Controller for response and to the El Dorado County Board of Supervisors for response.

The Presiding Judge of the El Dorado County Superior Court requests that responses be sent electronically as a *Word* or *PDF* file to facilitate economical and timely distribution.

Please email responses to the El Dorado County Grand Jury at:
courtadmin@eldoradocourt.org

**EL DORADO COUNTY GRAND JURY
2014-2015**

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EL DORADO COUNTY GRAND JURY 2014-2015

SIGN OF THE TIMES

Case GJ-14-13

District One Supervisor Ron Mikulaco lacks comprehensive awareness of his position as a county supervisor and fails to follow basic and generally accepted principles of good governance. Equally alarming, he is abrasive, combative and insulting to others, and refuses to follow the protocols and processes expected of any elected official, especially an El Dorado County Supervisor.

Complaints and testimony about his lack of appreciation for behavioral norms in and out of county workplaces came from a wide range of county employees, including supervisors, managers and directors as well as individuals spanning a diverse range of agencies and private organizations.

BACKGROUND

Before he was elected, Mikulaco was not known for his background and qualifications, but best known for standing on El Dorado Hills Boulevard with a sign urging drivers to vote for him. At first, that Depression-era sandwich board tactic seemed ineffective to many. Yet, Mikulaco was elected in 2012.

Employees complaining about Mikulaco were asked if they had taken their concerns to the appropriate agency, the El Dorado County Human Resources Department. While some had, others testified that they believe the Human Resources department is ineffective and that their complaints would not remain confidential, which led to a collective fear of retribution and reprisal by Mikulaco. At the same time, Mikulaco, having no such fears, filed grievances with Human Resources about various county employees.

Those concerns led the Grand Jury to initiate a separate investigation of Human Resources, resulting in 2014-2015 Grand Jury Report, *Board of Supervisors Neglects Human Resources*, case GJ-14-07.

METHODOLOGY

The Grand Jury interviewed many individuals.

IMPORTANT NOTE

ALL TESTIMONY AND EVIDENCE GIVEN TO THE GRAND JURY IS CONFIDENTIAL BY LAW, AND IT IS THE GRAND JURY'S RESPONSIBILITY TO KEEP IT THAT WAY. CALIFORNIA PENAL CODE §929 PROVIDES "... THE NAME OF ANY PERSON, OR FACTS THAT LEAD TO THE IDENTITY OF ANY PERSON WHO PROVIDED INFORMATION TO THE GRAND JURY, SHALL NOT BE RELEASED."

THE GRAND JURY WILL NOT ENUMERATE IN ANY MANNER THE INDIVIDUALS THAT MAY HAVE COMPLAINED OR TESTIFIED. THE SPECTER OF RETRIBUTION RELATED TO THIS REPORT IS TOO GREAT. SUPERVISOR MIKULACO IS AT THE VERY TOP OF THE COUNTY HIERARCHY.

The Grand Jury reviewed documents:

- Formal Human Resources Department complaints.
- Cross complaints by Supervisor Mikulaco upon individuals with whom he has taken issue.
- Expenditures for *executive training* to mentor Mikulaco.

DISCUSSION

Mikulaco apparently does not comprehend his position as a county supervisor, nor does he recognize his proper role as a member of the Board of Supervisors. He perceives that elected officials make decisions in a vacuum, and doesn't seem to understand that staff also make decisions in order to bring helpful information to the board members so they might make informed decisions. His narrow perception does not seem to recognize that other supervisors appreciate having good information, nor does he seem to realize that they find it valuable to have many viable options to consider.

As an example, at a Board of Supervisors meeting on May 5, 2015, during a discussion involving Traffic Impact Mitigation fees, Mikulaco admonished staff for noting that there were funding options the Board might consider that Mikulaco had not previously asked to be addressed, apparently without realizing the benefit of having many viable options. He also lamented that supporting documentation, made available before the board meeting presentation, had 60 pages of attachments, about which he seemed to complain that it had been a waste of his time to actually read them.

Mikulaco consistently exhibits behavior that is disrespectful to county citizens and county employees alike. His behavior appears rooted in male chauvinism, and often is portrayed as bullying and ill-tempered contempt. Several committees, and a number of county and community agencies, have asked that he not have contact with them because of it. Testimony was heard that he has attempted to pressure a community agency into providing campaign contributions.

The County has spent at least several thousand dollars on previously undisclosed *executive coaching* for Mikulaco in an unsuccessful effort to cure him of such behavior. The training was not appropriate for a new member of the governing board of a local agency. It did not address the board's authority and responsibilities, but was aimed specifically at his behavior, because there was some fear that it might lead to liability for the county. On several occasions, other supervisors and County Counsel also have tried – without success – to admonish Mikulaco on proper behavior. Despite those attempted interventions, Mikulaco has repeatedly harassed, belittled and even terrorized many female employees, according to testimony. He exhibits confusing mood swings, has demanded that subordinates be fired without any valid reason, and has been observed hovering outside office doors, apparently eavesdropping.

Mikulaco is the only supervisor, other than the supervisor from District Five, to have a satellite office. District Five's distance and weather disparities justify the need for a local office in South Lake Tahoe. There is no acceptable and reasonable explanation for it to exist for District One, located in El Dorado Hills. Yet, the county entered into an agreement with Mansour Properties for \$19,200 per year plus utilities of roughly \$2,400 per year for Mikulaco's district office. There are additional costs for pro-rated landlord expenses, office furniture and supplies to run the office. Just as peculiar is an El Dorado Hills street sign directing the way to Mikulaco's satellite office. The sign cost the county \$1,700, yet there is no record of how it got there! In addition, Mikulaco has two executive assistants, whereas the standard staff allocation for a county supervisor is only one.

The expenditures for Mikulaco's superfluous office seem downright extravagant when one considers that there were office spaces available in El Dorado Hills that would have cost the county \$1 per year, or that the genuinely essential satellite office for District Five's supervisor in South Lake Tahoe is in a County owned office building. It becomes nothing short of insulting to taxpayers when the District One satellite office is only scheduled to open to the public two days a week, and it has been reported that it is seldom visited. The Grand Jury wonders what possible explanation might justify the nonessential spending of county funds, especially considering the county's budget issues and the current economic climate.

For unknown reasons the other four El Dorado County Supervisors do not recognize Mikulaco's aberrant behavior in any official manner. Instead, they give the appearance of tolerating that behavior and his toxic treatment of others, seemingly without acknowledgment. They turn a blind eye to his antics despite the fact that he has been asked by several committees and county agencies to refrain from having contact with them because of his behavior.

FINDINGS

1. The head of the Human Resources Department agreed with those filing Grand Jury complaints; a complaint would be made public and fear of reprisal was warranted.
2. The county is indeed paying thousands of dollars to an independent company for *executive coaching* in an attempt to modify Supervisor Mikulaco's behavior.
3. The County did sign an agreement with Mansour Properties for the sum of \$19,200 a year plus utilities of roughly \$2400 a year. This does not include the cost of pro-rated landlord expenses, office furniture or supplies to operate this facility.
4. There is a street sign that cost the county \$1,700 to manufacture and install on a public thoroughfare with no record showing how the sign got there.
5. Because of Mikulaco's actions creating a hostile environment, he can no longer serve on various boards, adding to the workload of the other four supervisors.
6. There is a general policy allowing a \$250,000 discretionary budget for each supervisor. It is ordinarily used to cover office supplies and one executive assistant. Other supervisors expressed their concern that Supervisor Mikulaco is ignoring this rule and is spending county funds unnecessarily during hard economic times.
7. Mikulaco himself has filed Human Resources complaints of harassment specifically against other Supervisor's assistants and against agency heads in an effort to impede the county Human Resources staff's efforts to address any complaint involving him.
8. The satellite office is only scheduled to be open for business two days a week and it has been reported that it is seldom visited.
9. Mikulaco informed the Grand Jury that because his campaign for re-election is so important he may forego his *pro forma* turn to chair the Board of Supervisors next year.

RECOMMENDATIONS

1. The Grand Jury believes that the county should avail itself of the early termination clause in the Mansour Property and terminate the District One satellite office.
2. If the District One Supervisor deems it necessary to have a satellite office he should pay for it out of his own pocket. The Grand Jury is concerned that Mikulaco's office could set a precedent for other supervisors to want satellite offices, which would result in more unnecessary expenditures.
3. Mikulaco should reimburse the county for his *executive coaching*.
4. The county needs to have a strong Human Resources department.
5. Mikulaco does not properly perform all the required duties of a Supervisor. We suggest that the Board of Supervisors consider censuring Supervisor Mikulaco because of his unacceptable behavior.

RESPONSES

Responses to both findings and recommendations in this Report are required by law in accordance with California Penal Code §933 and §933.05. Address responses to:

The Honorable Suzanne N. Kingsbury
Presiding Judge of the El Dorado County Superior Court
1354 Johnson Blvd.
South Lake Tahoe, CA 96150

This Report has been provided to the El Dorado County Board of Supervisors.

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EL DORADO COUNTY GRAND JURY 2014-2015

LAST YEAR'S DYSFUNCTION AT THE SOUTH LAKE TAHOE PROBATION OFFICE HAS DISSIPATED

Case GJ-14-14

The 2013-14 Grand Jury published report GJ-13-14, *South Lake Tahoe Probation Office*, critical of management practices in that office. This year's Grand Jury undertook a follow-up to that report to find if things had changed.

BACKGROUND

The probation department is an important county agency charged with enforcing court orders for those convicted of crimes and those released pending criminal charges within the county. Additionally, probation can make efforts towards rehabilitating those on probation.

Last year's Grand Jury reported that the work place environment for the probation officers was toxic. Officers were being micromanaged, a *clique* system of disparate groups had formed wherein out of favor *clique* members were unfairly disciplined at times. Those things lead to poor morale and perhaps reduced productiveness at the South Lake Tahoe Probation Office.

METHODOLOGY

- The Grand Jury interviewed a large number of probation personnel about the South Lake Tahoe office.
- Chief Probation Officer Brian Richart, hired in the middle of last year's Grand Jury investigation, was interviewed at the end of 2014 and then again four months later in 2015. We discussed changes he had instituted and the results that related to the workplace environment at the South Lake Tahoe office, both currently and within the recent past.
- Probation Department personnel documents were reviewed.

DISCUSSION

The Grand Jury again found each individual employee intelligent, well spoken, and apparently hard working. They have college degrees and many years of probation experience. New probation chief Brian Richart has come to understand, appreciate, and effectively deal with the workplace dysfunction previously felt by the South Lake Tahoe staff, albeit slower than hoped.

Richart undertook a workplace assessment that found much the same climate as described by last year's Grand Jury Report. Many actions were suggested by the contracted assessment group and a plan of action was formulated and implemented.

The changes instituted by Richart are impressive. One of last year's Grand Jury findings was that disfavor went to officers who, instead of staying in the office, performed field visits with probationers to ensure they were in compliance with court orders. It appears that is no longer an issue and all officers understand that field visits are preferred by management. There has been an increase in higher level training programs for both officers and supervisors.

Even the most negatively impacted officers acknowledged that positive changes have come about in the South Lake Tahoe Probation Office, although they report that some problems linger with reduced impact. Each employee appreciated the additional training opportunities and the effort for more open communications between officers and supervisors. The result described by employees and some managers is better morale among all employees.

FINDINGS

1. A workplace assessment, found much the same climate as described by last year's Grand Jury report and many actions were suggested by the contracted assessment group. A plan of action was formulated and implemented by the new administration.
2. Additional training opportunities and more open communications between officers and supervisors have resulted in better morale among all employees.
3. All officers understand that field visits are preferred by management.
4. Chief Probation Officer Richart has dealt effectively with the workplace dysfunction previously felt by the South Lake Tahoe staff, but slower than hoped.

RECOMMENDATIONS

The Grand Jury recommends that all concerned with the South Lake Tahoe division of the El Dorado County Probation Department continue working on the positive changes already instituted while working on additional improvements. We hope that this office will be considered by all employees to be a truly exemplary place to work, as will anyone looking at it.

RESPONSES

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EL DORADO COUNTY GRAND JURY 2014-2015

THE EL DORADO COUNTY CHARTER: TIME TO ADMIT & CORRECT A MISTAKE

Case GJ-14-15

The 2013-14 Grand Jury issued a report, *The El Dorado County Charter: A Prescription for Dysfunction, GJ-13-20*, recommending specific changes to the El Dorado County Charter. The Grand Jury found that the structure of government prescribed by the charter discouraged cooperation among county officials and contributed to chaos, confusion and poor morale among employees, all to the detriment of efficient and effective county government.

The 2008-09 Grand Jury reached similar conclusions. That report concluded that the charter contributed to the county operating with an obsolete government philosophy, preventing innovation in county department operations.

After conducting our investigations this year, interviewing many witnesses and reviewing hundreds of pages of documents, we concur with the 2008-09 and 2013-14 reports. Both are attached to this report.

The 2009-10 Charter Review Committee reviewed the 2008-09 Grand Jury report. After proper consideration, including its own examination of the proposal and alternatives, it recommended to the Board of Supervisors that the Charter be repealed.

With this report three separate El Dorado County Grand Juries and a Charter Review Committee have recommended repeal or substantial amendment of the charter. The 2008-09, 2013-14, 2014-2015 Grand Juries each reached their recommendation based on their own observations and study of El Dorado County government.

HISTORY OF THE CHARTER

The California Constitution authorizes – but does not require – a county to adopt a charter by majority vote of its electors. A county without a charter is a general law county. The number and duties of its elected officials are governed by state law. A charter county can alter that structure in limited ways. Fourteen of California’s 58 counties are charter counties.

El Dorado County operated as a general law county for 144 years until it adopted a charter in 1994. Advocates for the charter argued that the charter largely codified existing El Dorado County government structure and that the charter preserved local control while giving residents a direct say in how government operates. Their immediate motivation appears to have been to prevent the governor from making an appointment to fill a vacancy on the Board of Supervisors. Although a charter does allow some local control, it also prevents the county from easily utilizing the flexibility allowed by state law unless specifically authorized by a charter amendment approved by the voters.

The El Dorado County Charter provides for a five member Board of Supervisors, the three elected officials required by the state constitution and four additional elected officials, the Surveyor, Auditor/Controller, Recorder/Clerk, and Treasurer/Tax Collector. The charter provides term limits for members of the Board of Supervisors but not for other elected officials. The Charter requires the Board of Supervisors to hire a Chief Administrative Officer that is the chief executive officer of the County, who serves at the pleasure of the Board. However, seemingly conflicting provisions of the charter assign to the Board of Supervisors itself, responsibilities customarily assigned to a chief executive.

CHARTER REVIEW COMMITTEE OF 2014 FAILED IN ITS DUTY TO MEANINGFULLY REVIEW THE CHARTER

The El Dorado County Charter includes a provision (§ 701) requiring that the Board of Supervisors appoint a charter review committee every five years to review the charter and make recommendations for amendments or revisions.

The Board of Supervisors appointed a new charter review committee in spring 2014. It met six times between June 16th and September 2014. The Foreman of the 2013-14 Grand Jury transmitted its charter report to the Charter Review Committee and addressed the Committee in an open Committee meeting, drawing attention to the Grand Jury's report and asking that it be considered. Disappointingly, the Charter Review Committee gave the Grand Jury's report no consideration. Instead, the report was *received and filed*.

The Chairman of the Charter Review Committee testified to the Grand Jury that it was his opinion that the committee did not have the authority to consider the grand jury's report unless directed to do so by the Board of Supervisors. This is erroneous. The Charter Review Committee's authority comes from the Charter itself, not from an action of the Board of Supervisors. The Charter requires the Committee to review the Charter and make recommendations for amendment and repeal. The Chairman's refusal to consider any review or recommendation that he was not directed to take by the Board of Supervisors was an abdication of the committee's legal responsibility.

The Board of Supervisors should immediately convene a special charter review committee to perform the work not done by the 2014 Charter Review Committee. This committee and any future charter review committees should be created with recognition of the importance of their work. The committee should be composed of citizens with experience in the complexities of large organization management, whether public, private or volunteer. They should be given sufficient time to perform a thorough review of the charter, to thoroughly consider whether it should be revised to better serve the citizens of El Dorado County, and to allow substantive involvement of the interested public.

THE ABSENCE OF A ROBUST LOCAL MEDIA MARKET MEANS VOTERS IN EL DORADO COUNTY
LACK RELIABLE INFORMATION ABOUT COUNTY GOVERNMENT

The Board of Supervisors and the Charter Review Committee have been unwilling to consider the need for repeal or amendment of the charter. Yet, we can only hope that the repetition of grand jury reports on this issue will somehow catch the attention of voters. Unfortunately, we know from our own experience that it is very difficult for citizens in El Dorado County to obtain credible information needed to cast an informed vote.

The citizens of El Dorado County don't have ready access to media sources offering clear, reliable information about our county government. We have no broadcast television or radio stations on the West Slope, where the majority of the county population lives. There are two local access television channels only available to Comcast cable customers. Most regional media is located in Sacramento or Reno-Carson City, Nevada, offering little more than occasional stories about El Dorado politics, officeholders, or candidates. The principal local newspaper, the Mountain Democrat, is published but three times a week, has a circulation of only 10,300, and appears to obtain its information from warring elected officials or from the ever active gossip mill.

The Grand Jury has direct experience with the Mountain Democrat's failure to report factually about local government. That newspaper published a series of articles and opinion pieces attacking the 2013-14 Grand Jury report about the county charter. In one editorial, the Mountain Democrat stated as *fact* that the report was written by the Chief Administrative Officer:

This detailed rewriting of the El Dorado County Charter is not the work of this Grand Jury... This rewriting is so detailed it would not have been done by any grand jury present or past. It is clearly the work of the current chief administrative officer. Its aim is clear – to neuter the Board of Supervisors and arrogate all power to herself.¹

Members of the Grand Jury know from their own personal experience that the entire report was written by members of the Grand Jury and no part of the report was influenced by any other person. The Mountain Democrat attacked the Grand Jury report with untrue, unsourced and unverified statements and did much to ensure the Grand Jury report was not given credible consideration.

¹ Mountain Democrat, June 27, 2014, page A4, *Neutering the Board*, Opinion By Mountain Democrat

THE 2014-15 GRAND JURY'S INVESTIGATIONS LEAD IT TO CONCLUDE THAT THE FAILINGS OF THE CHARTER IDENTIFIED BY THE 2008-09 AND 2013-14 GRAND JURY REPORTS WERE VALID

During the course of our year of service, we interviewed numerous witnesses, including members of the Board of Supervisors, elected officials, county employees, employees of other local governmental agencies and members of the public, over many hours week after week. We reviewed hundreds of pages of documents. We observed meetings of the Board of Supervisors as well as meetings of other local governmental agencies. As the year progressed we observed significant dysfunction in El Dorado County government and concluded that the deficiencies in the Charter identified by the 2008-09 and 2013-14 Grand Juries were correct.

THE CHARTER AFFORDS STATUS TO ELECTED OFFICIALS HIGHER THAN THAT GIVEN TO THE MEMBERS OF THE BOARD OF SUPERVISORS, WHICH HINDERS THE BOARD OF SUPERVISORS' ABILITY TO PERFORM ITS DUTIES

The Board is charged by law with being the policy making body for the County. However, elected officials do not believe they take direction from the Board of Supervisors and may be motivated by their own political interests and biases. Their longevity in office and their higher salaries provide them immunity from Board direction.

Members of the Board of Supervisors are subject to term limits. The other elected officials are not. This allows elected officials to accumulate power over many terms in office.

Members of the Board of Supervisors are paid as part time employees while other elected officials receive full salaries.

ELECTED OFFICIALS REFUSE TO COOPERATE WITH THE BOARD OF SUPERVISORS AND THE COUNTY'S CHIEF ADMINISTRATIVE OFFICER

The Charter provides for a Chief Administrative Officer who acts as chief executive officer for the Board of Supervisors while serving at the pleasure of the Board. The Chief Administrative Officer is responsible to implement and execute the policies established by the Board.

The Auditor/Controller, Recorder/Clerk, Surveyor and Treasurer/Tax Collector are elected and do not report to the Board of Supervisors. They may refuse to cooperate with the Chief Administrative Officer when it isn't in their political interests or to their liking to do so. A power struggle between the Chief Administrative Officer and one or more elected officials may ensue in which case effective governance is lost.

THE CHIEF ADMINISTRATIVE OFFICER WAS TERMINATED WITHOUT A PLAN TO REPLACE HER

In November 2014 the county's Chief Administrative Officer, Terri Daly, resigned under pressure. (See Grand Jury Report Case GJ-14-07). Because she had been the county's fifth Chief Administrative Officer in less than ten years the Grand Jury wanted to understand what went wrong. What we discovered is that the Chief Administrative Officer was not ousted for any failure of good behavior but as a result of a power struggle among elected officials. And, as each of those officials was focused on maintaining or strengthening his or her personal power, the good of the county was sacrificed.

No effort was made to plan for a smooth transition; no plan was made to replace the Chief Administrative Officer. She was peremptorily dismissed to get her out of the picture. As of this writing, more than seven months after the Chief Administrative Officer's departure, an interim and underqualified Chief Administrative Officer is in place and a search has not been initiated for a permanent replacement. Had the Chief Administrative Officer been forced to resign for malfeasance her peremptory dismissal may well have been justified. But under that circumstance an immediate search should have been initiated to find a qualified replacement. Instead, county government has been left to flounder. The Grand Jury initiated an inquiry into why this happened. We concluded that the Board of Supervisors terminated the Chief Administrative Officer at the behest of the Auditor/Controller. Any other reasons given for her dismissal were obfuscations of this reality. Daly's contract was bought out at significant cost to the county.

FIGHTING BETWEEN THE CHIEF ADMINISTRATIVE OFFICER AND THE AUDITOR/CONTROLLER LED TO LOSS OF \$1.5 MILLION IN FEDERAL REIMBURSEMENTS THIS YEAR WITH ADDITIONAL LOSSES ANTICIPATED IN EACH SUCCEEDING YEAR

The Auditor/Controller is known to target individual officials and employees whom he believes should be terminated. He is known to hound those individuals and their supervisors until they are either terminated or resign. The Auditor/Controller was engaged in this pattern of conduct with an employee of the Information Technologies Department. He repeatedly complained to the Chief Administrative Officer, the District Attorney and others about her.

El Dorado County, like every other county in the state, must submit a countywide Cost Allocation Plan required by federal Office of Management and Budget Circular A-87 in order to receive federal funds for operating certain federal programs. Pursuant to California law, the Auditor/Controller is the official responsible for submitting El Dorado County's Cost Allocation Plan. Knowing that his failure to submit a complete Cost Allocation Plan would result in loss of federal funds for the county, the Auditor/Controller allowed his animosity toward an Information Technologies employee whom he had identified for attack to interfere with his obligation to the County's fiscal health. Apparently, it was more important to the Auditor/Controller to cast blame on the Chief Administrative Officer and Information Technologies personnel than it was to perform his obligation to submit a complete countywide Cost Allocation Plan to the State. This resulted in a loss to the County of approximately \$1.5 million in fiscal year 2014-15 and \$1 million in each of the next two fiscal years.

BOARD OF SUPERVISORS CANNOT FORCE AN ELECTED DEPARTMENT HEAD TO ADOPT GOOD BUSINESS PRACTICES

Grand Jury Report, Case GJ-14-07, found that the Board of Supervisors has not met its responsibilities for managing county human resources. That report found significant failures to comply with federal and state law and best practices for human resources management. The report was initiated after the Grand Jury heard complaints from a number of employees about the behavior of elected officials. When we asked members of the Board of Supervisors about these issues the only response we received was that they have no power to compel good behavior in an elected department head. In other words, they blamed the charter for giving these elected officials autonomy. The failure to manage human resources effectively is, at least in part, a function of the charter's separation of powers between elected department heads and the Board of Supervisors.

ELECTED OFFICIALS MAY FOR POLITICAL PURPOSES RESIST BOARD OF SUPERVISORS' EFFORTS TO IMPLEMENT GOOD BUSINESS PRACTICES

The Board of Supervisors entered into a contract with Tyler Technologies for the purchase, modification and implementation of a single, automated, Enterprise Resource Planning system to replace several components of the county's batch oriented systems. The systems being replaced can require duplicative work where items may *disappear* if not re-entered into a subsequent point in the system flow. Implementation of the Enterprise Resource Planning system intends to bring transparency to county finances including the Auditor/Controller, Treasurer, Tax Collector and others. These financial officers may, therefore, be motivated to resist and delay implementation of the new system.

Recognizing that the county suffered from issues related to low employee morale, the Board of Supervisors entered into a contract for organization and management consulting services, including a workplace assessment survey at a cost to the county of almost \$100,000. Certain elected officials feared the results of that effort, and successfully sought to have it quashed. Employee expectations were raised and then defeated.

THE CHARTER LIMITS THE FLEXIBILITY OF THE BOARD OF SUPERVISORS TO IMPLEMENT CHANGES TO THE COUNTY ORGANIZATION APPROPRIATE FOR CHANGING TIMES

California Government Code § 26980 allows the county, with the approval of the voters, to consolidate the offices of auditor, controller, tax collector, treasurer into a chief financial officer: the director of finance. Since 2005 at least thirteen counties have taken steps toward consolidating these offices; they report increased efficiency, better inter-departmental communication, improved employee performance and consequent reduction in cost. The Charter removes the possibility of consolidating these offices or attempting any other organizational innovation from the Board's consideration without first amending the charter.

SOME MEMBERS OF THE BOARD OF SUPERVISORS FAIL TO UNDERSTAND THEIR ROLE

The Board of Supervisors is the governing body of the county. Like the board of a corporation, the role of the Board of Supervisors is that of policy maker for the county. The Board should have a vision for the future of the County and guide the County toward the realization of that vision. The Board is required to hire a Chief Administrative Officer who serves at the Board's pleasure and is responsible for implementing the Board's vision with the help of her senior staff.

Unfortunately, some members of the Board of Supervisors have no prior experience in any organization functioning under the direction of a board, whether corporate, public or volunteer, and have no understanding of how a board functions in any such organization. Some members of the Board of Supervisors seem to believe it is their role to direct individual staff members and to be involved in the day-to-day function of county government.

Members of the Grand Jury were appalled to hear a member of the Board of Supervisors chastise an employee for raising an issue for the Board's consideration without direction from the Board to do so. The Board member's complaint reflects a very troubling failure to understand the role of the Board, the role of staff or the complexities of the issues affecting the county.

The California State Association of Counties offers excellent training for members of boards of supervisors. Training is available for new supervisors to help them understand their roles and responsibilities, legal obligations, and how to work effectively with each other and with staff. Additional training is available on a broad range of topics to assist members of county boards of supervisors confronting the challenges of their office. El Dorado County supervisors have not taken advantage of this training.

FINDINGS

1. The Board of Supervisors is required to convene a Charter Review Committee within five years of the last charter review.
2. The 2014 Charter Review Committee was required to “...make recommendations for amendments to or revisions of the charter to the Board.” The Charter Review Committee was not limited to reviewing amendments suggested to it by the Board of Supervisors.
3. The 2014 Charter Review Committee had the responsibility to conduct a comprehensive review of the charter and should have given meaningful consideration to the two Grand Jury reports recommending changes to the county charter.
4. The 2014 Charter Review Committee failed to consider recommendations made by either the 2013-14 Grand Jury or the 2008-09 Grand Jury and it made no findings regarding those recommendations.
5. The Charter Review Committee met only six times. The first meeting was devoted to organization and introduction. This is insufficient time for a substantive review of the county charter, insufficient time to allow members of the public to propose amendments for the committee’s consideration and insufficient time for the public to have meaningful input.
6. The charter creates an imbalance between the power exercised by the Board of Supervisors and the elected department heads, rendering the Board of Supervisors unable to govern the county.
7. The Charter imposes responsibilities on the Chief Administrative Officer as the chief executive officer of the County but does not give this official the authority necessary to perform those responsibilities.
8. The above deficiencies in the Charter have promulgated dysfunction in county government so that the county cannot attract the best candidates for either elected or appointed positions.
9. Some members of the Board of Supervisors do not appreciate the importance of the expertise offered by their professional staff and do not understand the role staff can and should play in implementing policies established the Board for effective functioning of county government.
10. Members of the Board of Supervisors are in need of training to help them be effective.
11. Members of the Board of Supervisors have not availed themselves of training offered by the California State Association of Counties.

RECOMMENDATIONS

1. The El Dorado County Charter should be repealed and county government structured as a general law county pursuant to the California Government Code.

In the alternative the El Dorado County Charter should be amended to:

- Repeal term limits for members of the Board of Supervisors.
 - Redefine the authority of the Chief Administrative Officer as set forth in the 2013-14 Grand Jury report.
2. The Board of Supervisors should immediately convene a special charter review committee to perform the work not done by the 2014 Charter Review Committee. This committee and any future charter review committees should be created with recognition of the importance of their work. The committee should be composed of citizens with experience in the complexities of large organization management, whether public, private or volunteer. They should be given sufficient time to perform a thorough review of the charter, to thoroughly consider whether it should be revised to better serve the citizens of El Dorado County, and to allow substantive involvement of the interested public.
 3. Members of the Board of Supervisors should define the direction for the county and should adopt appropriate policies to implement that direction and direct the Chief Administrative Officer to implement those policies.
 4. Members of the Board of Supervisors should work through the Chief Administrative Officer and should not be involved in the day to day administration of county governance.
 5. The Board of Supervisors should establish procedures for bringing issues before the board and for interdepartmental relationships. They should then follow those duly adopted procedures and require all county officers, elected and appointed, to follow them as well.
 6. Each member of the Board of Supervisors should enroll in and complete the *New Supervisors Institute (Course No. 110)* offered by the California State Association of Counties.²
 7. Members of the Board of Supervisors should enroll in additional courses offered by the California State Association of Counties.²

ATTACHMENTS

- 2008-09 Grand Jury Report, Case GJ-08-005, *El Dorado County Charter Review*
- 2013-14 Grand Jury Report, Case GJ-13-20, *The El Dorado County Charter: A Prescription for Dysfunction*

² <http://www.counties.org/course-description/csac-institute-course-descriptions>

RESPONSES

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EL DORADO COUNTY GRAND JURY 2008-2009

El Dorado County Charter Review

Case No. GJ-08-005

REASON FOR REPORT

The Board of Supervisors is required by the El Dorado County Charter to form a "Charter Review Commission" at least every five years. A 2009 Charter Commission was called into session in March 2009. The commission consists of one member and one alternate from each supervisory district. The purpose of the Charter Commission is to recommend potential amendments or revocations of charter provisions to the Board of Supervisors. If the Board of Supervisors approves the Charter Commission recommendations, the recommended amendments must be placed on the ballot seeking voter approval. The approval process for any changes to the Charter rests solely with the Board of Supervisors.

Over the past several years, while studying a number of issues relating to the structure and operation of county government, the Grand Jury has determined that substantial changes in county operations are needed. Those changes include financial philosophy, management structure and long term planning. In addition, this Grand Jury concluded that the purpose of County Charter government should be reviewed. This Charter Review Report is written to provide assistance and input to the Charter Review Commission and the Board of Supervisors.

BACKGROUND

The California Constitution allows for two types of counties: General Law Counties and Charter Counties, both of which are technically legal subdivisions of the State. General Law counties are organized and governed according to State Law. Charter Law counties are similarly organized and governed. However, charter counties have a limited degree of "home rule" authority that may provide some additional flexibility or potential power.

El Dorado County 2008-09 Grand Jury Report GJ-08-005 El Dorado County Charter Review

The Charter form of government has been in effect in California since the early 1900's. In 1911 California voters enacted non-partisan local elections and home rule charter authority for cities and counties. The voters enacted these amendments to the California Constitution for cities and counties when the State of California Legislature was unable to address local concerns effectively. In the early 1900's, in an era that lacked modern democratic innovations like public records acts, open meetings, notification requirements, and strict public contracting laws, the major goal was to achieve the reduction of corruption in professional public service. The California Constitution, Article XI, Sections 3(a), 3(b) and 3(c) allows the electors of a county, by majority vote pursuant to general law to adopt, amend, review or repeal a charter (Election Code §9100-9126).

In his study, "The limited and Contrary Usage of County Charter Reform: Two California Cases", Alvin D. Sokolow (a public policy specialist at the University of California-Davis) concluded that charters have had little influence on local governments. The premise of a charter is also questionable since general law applies to almost 95% of functions in county government. In fact, California constitution law, government codes and general law supersede local ordinances or rules in most cases. University of Arizona professors Dawn Cowan and Tamis Salant stated in their article "The Prospects for County Charter Form in California" that charters do not provide much opportunity for expanded fiscal and functional powers. Another noted quote from the California State Association of Counties states "a charter does not give county officials extra authority over local government, revenue raising abilities, budgetary decisions and intergovernmental relations."

METHODOLOGY

The State of California has fifty-eight counties of which fourteen counties are Charter Counties. The remaining forty-four counties are General Law Counties. The 2008-2009 Grand Jury gathered information and studied from ten charter counties in the State, namely: Alameda, Butte, Fresno, Orange, Placer, Sacramento, San Bernardino, San Mateo, Santa Clara and Tehama.

Charters not studied by the Grand Jury were Los Angeles, San Diego and San Francisco Counties. These counties, considering population size and diversity, do not compare well with El Dorado County.

FINDING 1

The Grand Jury has come to the conclusion that the County has been operating for several years with an "obsolete government philosophy". Investigations by the Grand Jury found few, if any, progressive innovations in county departmental operations. Previous Grand Juries have focused on personnel turnover, deficient operations in many departments, and too much supervisory control by the Board of Supervisors over day-to-day operational issues in county government.

In its recap of Grand Jury reports over the last five plus years, the same question arose time after time: "why is there no improvement in El Dorado County operations?" During its interviews with elected officials, department heads, county counsel, management and a large number of county employees, the same theme seemed to come

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In the event that the El Dorado County Charter is not revoked, then the following analysis and recommendations for amending the Charter follows:

Article II – Board of Supervisors

Section 203: Filling of Vacancies

Section 203 states: “Whenever a vacancy occurs in the office of supervisor, the unexpired term shall be filled by election. If the vacancy occurs more than 90 days but less than 120 days before a scheduled primary, general, or special election, involving the district in which the vacancy has occurred, then the election to fill the vacancy shall be consolidated within the scheduled election. If the vacancy occurs more than 120 or less than 90 days before scheduled primary, general, or special election involving the district in which the vacancy has occurred, then the vacancy shall be filled at a special election, called by the Board of Supervisors to take place not less than 90 nor more than 120 days after the vacancy occurs. The special election shall be conducted in accord with the provisions of general state law regarding special elections. The candidate with the highest number of votes shall be elected to fill the unexpired term.”

Government Code §25060: Filling of Vacancies

It states: “Whenever a vacancy occurs in any board of supervisors, the Governor shall fill the vacancy. The appointee shall hold office until the election and qualification of his successor.”

Charter section 203 remains one of the key differences between the County’s Charter and general law. It requires a special election to fill an unexpected vacancy and that individual holds the office until the next election for that seat.

In the past the Board of Supervisors has not called a special election within the required time frame, leaving a four person Board of Supervisors. This makes it difficult to reach a majority decision, and leaves the district in which the vacancy occurs without representation. Special county elections are costly, estimated costs between \$35,000 to \$45,000.

The Charter direction to hold a special election to fill a vacancy on the Board of Supervisors has not always been followed in El Dorado County. In early 2006 a supervisor seemingly abdicated his office but made no formal declaration of resignation. In July 2006 the Board of Supervisors made an unprecedented move and declared the office vacant under Government Code 1770(g). In order to fill the vacant office, the Board should have called a special election. However, 2006 was an election year and there were already candidates vying to win the seat in the General Election scheduled for November. A costly special election would have resulted in the winner filling the supervisory seat for a few months before the winner of the November election was sworn into office. Consequently, the Board of Supervisors opted to disregard the Charter requirement and did not call a special election. Although the Charter does allow a significant deviation from the General Law in this regard, it is not clear that the special election requirement has turned out to be a benefit above General Law.

into focus. Change was slow and too little. Progress was always just around the corner. Why the large number of turnover amongst department heads? Why such little change and progress over many years when problems had been identified, but left uncorrected?

The Grand Jury took a close look at the Charter and determined that this document in the past fifteen years stood in the way of progress and failed in its mission to guide the county to better and more efficient government. It has, in effect, become the county’s “Achilles heel”. The Grand Jury surmised that the Charter impedes progress and in fact contributes little to the promises that were made to the voters when enacted in 1994.

The cumbersome and costly compliance with Charter enforcement runs into hundreds of thousands of dollars annually. The enactment and delays encountered because of the County Charter has significantly contributed to a large increase in the cost of county government. The commissions, boards and charter procedures costs runs into the hundreds of thousands of dollars. Collectively these costs amount to an estimated \$1,000,000 per year. The uncontrolled costs of the Charter are a clear waste of taxpayer money.

If the Charter were in fact a significant policy document that meaningfully guided El Dorado County’s course, the hidden cost of the Charter would be a reasonable tradeoff. However, the Charter typically addresses insignificant issues or makes insignificant clarifications. The El Dorado County Charter contains approximately seventeen references and/or deferrals to General Law. In fact, a line-by-line comparison of the El Dorado County Charter and the enormous body of state law governing counties reveals only minor differences between the Charter and General Law.

Moreover, of the nineteen amendments that have occurred since the adoption of the Charter, ten of those have been simply adoptions of references to general law and became inoperative due to changes in state law and outdated timeframes, or corrected outdated wording and references. Many of the more “substantive” amendments such as term limits for supervisors, or Sheriff salaries, could be addressed outside of the Charter through general law if voters so choose. It is very questionable whether such a large amount of time and resources should be devoted to something that provides such little tangible benefit. The Charter has not delivered on its promise to enhance local control or make the county government more efficient. On the contrary, it appears to be a cumbersome self-sustaining administrative document that only adds unnecessary bureaucratic requirements to county government. Weighing the benefits against the burdens, it appears that the El Dorado County Charter is more burdensome than it is beneficial.

RECOMMENDATION 1

The Grand Jury recommends to the Charter Commission and the Board of Supervisors that the revocation of the Charter be placed on the ballot for a decision by the voters at the next election.

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Government Code §25000 (b)

It states: "Notwithstanding any other provision of law, the board of supervisors of any general law or charter county may adopt or the residents of the county may propose, by initiative, a proposal to limit or repeal a limit on the number of terms a member of the board of supervisors may serve on the Board of Supervisors. Any proposal to limit the number of terms a member of the board of supervisors may serve on the board of supervisors shall apply prospectively only and not become operative unless it is submitted to the electors of the county at a regularly scheduled election and a majority of the votes cast on the question favor the adoption of the proposal."

RECOMMENDATION

The Grand Jury recommends that the Charter be revoked. However, this section of the Charter needs to be amended if the Charter is not revoked in its entirety.

Term limits create an experience drain and allow for lack of continuity of County governance. None of the above listed government codes affects other elected El Dorado County officials. No elected officials in El Dorado County, besides the County Supervisors whom are elected, have term limits. The Grand Jury recommends that the County abide by Government Code §25000 (a)(b) and eliminate term limits for County Supervisors.

Article III – Chief Administrative Officer

Section 301: Chief Administrative Officer

Section 301 states: "The Chief Administrative Officer (CAO) is the Chief Executive Officer (CEO) of the County". Other pertinent sections in the Charter in reference to the CAO's position are Sections 302, Appointment and Removal; Section 303, Compensation; Section 304, Duties.

Section 304: Duties

Section 304 states: "The Chief Administrative Officer shall be responsible to the Board Of Supervisors for the proper and efficient administration of such of the affairs of the county as are or hereafter may be placed in the charge of the Chief Administrative Officer, pursuant to the provisions of the Charter, or of any ordinance, resolution or order of the Board of Supervisors. In addition to other powers and duties herein provided, the Chief Administrative Officer shall have the duty and power to:

- a) Coordinate the work of all offices and departments, both elective and appointive, and devise a way and means to achieve efficiency and economy in all county operations.
- b) Formulate and present to the Board plans to implement policies and accomplish goals established by the Board.

RECOMMENDATION

The Grand Jury recommends that the Charter be revoked. However, this portion of the Charter needs to be amended if the Charter is not revoked in its entirety.

To alleviate the cost and time lag of replacing a Board Member the Grand Jury recommends the following language: Whenever a vacancy occurs in the office of Supervisor, the unexpired term shall be filled by the remaining Supervisors within thirty-days. If the Supervisors do not select a replacement, the Governor shall make an appointment after the vacancy occurs per Government Code §25060.

Article 11 – Board of Supervisors

Section 202: Term of Offices

Section 202 states: "The term of office of supervisor is four years. Board members shall be limited to two consecutive terms. No person elected supervisor may serve as such for more than two successive four-year terms. Any person elected to the office of supervisor to complete in excess of two years of a four-year term shall be deemed, for the purpose of this section, to have served one full term upon the expiration of that term. No person having served two successive four year terms may serve as a supervisor until at least four years after the expiration of the second successive term in office. Any supervisor who resigns with less than two full years remaining until the expiration of the term shall be deemed, for the purpose of this section, to have served a full four year term. The above shall not disqualify any person from running for election to the Board of Supervisors for any term or terms that are not successive. The term of office commences at noon on the first Monday after the January 1st succeeding their election.

The supervisor for each of the First, Second and Third districts shall be elected in 1996. The supervisor for each of the Fourth and Fifth districts shall be elected in 1994."

Government Code §25000 (a)

It states: "Each county shall have a board of supervisors consisting of five members. Not more than three members shall be elected at the same general election. If the terms of office of more than three members of the board expire at the same time, at the first regular meeting after January 1st following their election the members so elected shall so classify themselves by lot that three members shall serve for four years and two for two years. Thereafter the term of each member shall be four years."

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The Board of Supervisors is elected by district. Other elected officials are elected in county wide elections. Evidence provided to the Grand Jury indicated that this has created political difficulties for the Board of Supervisors' ability to bring changes and control the county's management structure. It has decreased efficiency and raised the cost of operating in the county. Elected officials are not evaluated. There is no check and balance system to evaluate them, except by the voters.

This inequity in the election process, per the County Charter, raises questions for effective county government. There is, according to testimony, a serious movement by those elected department officials to block any change to the present election structure in the county. To balance the effectiveness of elected officials with no term limits vs. those elected officials with term and district boundary limits, serious questions are raised regarding the overall effectiveness of the current charter provisions.

RECOMMENDATION

The Grand Jury recommends that the Charter be revoked. However, this section needs to be amended if the Charter is not revoked in its entirety.

To eliminate inequities, and generate cost savings, the Grand Jury recommends that the following action be enacted under the authority of Government Codes §24300 and §24300.5. Create a position of Financial Officer, to serve as Financial Officer of County government reporting to the CEO's office. The position would also supervise the following appointed positions of Treasurer and Tax Collector. The positions of Surveyor, Public Administrator, Recorder, County Clerk and Coroner should be changed to appointed positions and report to the CEO's office or another administrative county entity. The function of Auditor/Controller should remain an elected position and supervise all financial transactions and financial compliance in the county.

Under this recommendation the following positions will continue to be elected: Board of Supervisors, Sheriff, Assessor, District Attorney and Auditor/Controller.

Article IV – Department Heads, Boards and Commissions

Section 404: Appointed Department Heads

Section 404 states: "The position of department head shall be designated by ordinance. Department heads serve at the pleasure of the appointing authority, the Board of Supervisors. Department heads shall have and may delegate the power to appoint, supervise, suspend and remove all persons employed in their departments subject to the provisions of Article V of this charter."

The CAO has assigned responsibilities by the Charter which include Para. C - Budgets, Para. D - Administration of the budget, Para. E - Provides analysis of county programs, Para. F - Implement accountability systems for county money and property, Para. G - Work with other government agencies such as federal, state, regional and local, Para. H - On an annual basis reviews and appraises performances of appointment department heads except county counsel, and Para. I - Coordinate publication of the County long-range fiscal plan and the annual statement of goals."

Based on interviews and information received from department heads, elected county officials and county employees, the Grand Jury found that the office of the CAO is perceived as an administrative function only. Interviews with former and current supervisors indicate strong support that the CAO function needs to be upgraded in stature. Under the Charter, this requires approval from the voters.

RECOMMENDATION

The Grand Jury recommends that the Charter be revoked. However, this section of the Charter needs to be amended if the Charter is not revoked in its entirety.

The Grand Jury recommends upgrading the status and responsibilities of this function to CEO. The position should be given the authority and responsibility it is designed to perform. The duties of the CAO have not kept up with the growth and change in government in El Dorado County. The Board of Supervisors should be a policy decision-making body. The CEO office should be responsible for the day-to-day management of the county. The Grand Jury recommends that the CEO serve at the will of the supervisors. Except for the purpose of obtaining information, the members of the Board of Supervisors shall deal solely and directly through the CEO's office with all county departments.

Article IV – Department Heads, Boards and Commissions

Section 402: Elected Department Heads

Section 402 states: "The following departments heads shall be elected: (a) Assessor, (b) Auditor/controller, (c) District Attorney, (d) Recorder/Clerk, (e) Sheriff/Coroner/Public Administrator, (f) Surveyor, (g) Treasurer/Tax Collector. The term of office of all elected officers is four years. However, there are no term limits for these elected department officers."

Under authority of Penal Code §928, the Grand Jury may recommend and initiate the following: "Every Grand Jury may investigate and report upon the needs of all county officers in the county, including the abolition or creation of offices and the equipment for, or the method or system of performing the duties of several offices. Such investigation and report shall be conducted selectively each year. The Grand Jury shall cause a copy of such report to be transmitted to each member of the Board of Supervisors of the County."

California Constitution, Article XI §1 (b) provides for county powers to elect as a minimum: (a) Assessor, (b) District Attorney, and (c) Sheriff. All other elected officers are listed in the Charter or in government code §24000.

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Consequently, each year salaries (and all subsequent benefit costs) must be adjusted according to the Charter. As one Sacramento area television station reported, "neither the county supervisors nor any administrator can stop (the pay hikes), even in these tough economic times".

The County can only plan to fund the automatic salary increases within its annual budget. The County budgets \$500,000 each year to account for the increase. The Charter dictates that the raises become effective on the first of January each year. The actual amount of the increase varies from year to year. In December 2008 the estimated annual cost to provide the automatic increase was \$589,000 for the raise that took effect January 1, 2009.

RECOMMENDATION

The Grand Jury recommends that the Charter be revoked. However, this section needs to be amended if the Charter is not revoked in its entirety.

This is a very costly and unpredictable section in the Charter from the taxpayer point of view. It would be unconscionable if this section in the Charter remains in effect. Eliminating this provision of the Charter will return financial accountability for Sheriff Department salaries back under County control and not under other jurisdictions.

Article VI – Finance

Section 602: Contract Administration

Section 602 states: "The Board of Supervisors shall not authorize the payment of money or other compensation for the performance of any service or function by a private entity except pursuant to a written contract meeting all legal requirements for county contracts as established by the Board of Supervisors. Each contract shall identify the county officer or employees with responsibility for administering the contract".

Section 602 of the Charter has significantly increased costs to the County. The contract administration process creates several inefficiencies. The major problem with this section is the requirement to have a "written contract meeting all legal requirements for county contracts as established by the Board of Supervisors" for "any service or function". Since the definition of "service or function" is not specific in the Charter, any activity that could be construed as a service or function requires a full written contract. The Charter provides no flexibility. For example, if a department receives a state grant to provide educational items and the vendor charges an artwork fee to inscribe the items with the county logo, instead of a simple purchase order, a full written contract is required.

Other simple purchases that could trigger the written contract requirement include minor rental fees for tanks used to store purchased oxygen gas. Although the County could simply issue a purchase order for the oxygen itself, the tank rental fee is a "service" which requires a written contract. Simple equipment repair jobs also require full contracts instead of purchase orders. In addition, under state law a written contract meeting legal requirement is one that is signed by both parties. This can add lengthy delays in executing contracts because vendors often do not understand why the County insists on a full

RECOMMENDATION

The recommendation is to upgrade the CAO's position to CEO. The appointed department heads should serve at the pleasure of the CEO and not report to the Board of Supervisors. The CEO should have the authority to hire, discipline, adjust salaries, and terminate those department heads according to County human resource policies and in accordance with the needs of the County.

Article V – Sheriff's Salary Limitation

Section 504: Sheriff's Salary Limitation

Section 504 states: "The Sheriff's Salary initiative, commonly known as Measure A, and passed by the voters at a general election on November 7, 1972, is hereby repealed.

The Board of Supervisors shall, at least annually determine the existing average salaries for the South Lake Tahoe Police Department, Amador County Sheriff's Department and the California Highway Patrol for each class of position employed by said agencies. Effective on the first day of January of each year after this charter provision first becomes effective, the Board of Supervisors shall adjust and determine that the average salary for each class of position as set forth herein be at least equal to the average of the salaries for the comparable positions in the South Lake Tahoe Police Department, Amador County Sheriff's Department and the California Highway Patrol.

As used herein, the term 'comparable class of position' shall mean a group of positions substantially similar with respect to qualifications or duties or responsibilities using the following positions as guidelines: Undersheriff, Captain, Lieutenant, Sergeant, Deputy Sheriff, and Clerk.

The provisions of this section shall prevail over any otherwise conflicting provisions of the Charter or general law which may relate to salaries of county officers or employees who are not elected by popular vote."

Under the present structure there is no fiscal accountability. It abdicates the control and responsibility of elected El Dorado County Supervisors to negotiate and effectively control expenditures and budgets of the Sheriff's Department employees. This year, as other employees were being terminated due to the County's budget shortfall, the raises in the Sheriff's Department drew much attention from area media. Just weeks after the County eliminated ninety positions across multiple departments; many Sheriff's Department employees were granted raises. This Charter provision has enshrined automatic spending over which the Board of Supervisors has no control. Section 504 of the Charter indexes El Dorado County Sheriff employee salaries to the average of the salaries for comparable positions in the South Lake Tahoe Police Department, Amador County Sheriff's Department and the California Highway Patrol. This section actually repealed a 1972 Measure known then as Sheriff Salary Initiative, and was adopted into the Charter.

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could and should be made more effective and cost efficient. This Grand Jury respects the difficulties faced by the Charter Review Commission and its tasks.

For the past fifteen years the County has operated under a Charter form of government and it has not improved County governing functions. If the Charter is revoked, the next fifteen years should lead El Dorado County to a better and more effective County government under General Law.

RESPONSES

None required

contract or the corporate officer signature required on some contracts which are difficult to acquire. In some cases vendors simply refuse to sign the contracts.

Another hurdle is the requirement for each contract to "identify the county officer or employee with responsibility for administering the contract." The Charter does not provide a definition of "administering the contract" so this requirement is interpreted differently among departments. For example, some departments always specify the department head as the contract administrator while others denote specific employees. Consequently, if something does go wrong with the contract this Charter section does little to increase accountability because it is not clear who is actually responsible for the contract.

County department's management, County Counsel officers and county departments' staffs spend huge amounts of time and subsequently county funds on executing Charter required written contracts. It is questionable whether this section in the Charter is required for simple purchases that have minimal risks.

RECOMMENDATION

The Grand Jury recommends that the Charter be revoked. However, this section should be amended in the event the Charter is not revoked it is entirety.

This section of the Charter does not make fiscal sense. Although the intent may be sound, the procedures and execution per the Charter has not worked as intended and is costing the taxpayers hundreds of thousands of dollars each year in cumbersome bureaucratic paperwork. This makes the County very inefficient in purchasing and executing contracts. The reputation of the County with outside vendors is one of inefficiency and very difficult to deal with. There is no reason to keep this section in the Charter and it should be revoked.

Conclusion: The 2008-2009 Grand Jury states the following:

During its investigation the 2008-2009 Grand Jury discovered that the El Dorado County Charter is one of the least read documents in the County and in County Government. The Grand Jury interviewed many directors, supervisors and county employees. Many had not read nor had any idea what was in the Charter. Interviews and discussions with employees made it clear that the Charter is not effective. Because of the Charter provisions, change is difficult to achieve. The Charter is typically reviewed or changed every five years.

It is the Grand Jury's opinion that the Charter has not been effective for the past fifteen years. The Charter Commission should seriously investigate the Charter shortcomings and make its recommendations strongly but fairly to the Board of Supervisors.

There are articles in the Charter that are not enforced or that have created difficulties. The Charter is, and has been, an ineffective instrument for County Government. The Charter Commission has a serious mission to recommend changes that could have a profound effect in county government structure and operations. Government in El Dorado County

EL DORADO COUNTY GRAND JURY 2013-2014

THE EL DORADO COUNTY CHARTER: A PRESCRIPTION FOR DYSFUNCTION

Case Number GJ-13-20

REASON FOR REPORT

Early in its term, the Grand Jury began to see a thread of dysfunction running through El Dorado County government. The Grand Jury heard repeated testimony of three practices, which would seriously jeopardize efficiency in any organization and are especially troublesome in an organization with the complexity, varied duties and size of El Dorado County government:

1. Elected officials can refuse to cooperate with both the Board of Supervisors and the County's Chief Administrative Officer.
2. Department heads both elected and appointed, went around the CAO directly to the Board of Supervisors in support of their own positions to the detriment of the County as a whole.
3. Individual members of the Board of Supervisors interfered in the day to day administration of the County.

These practices cost the County significant dollar amounts in ongoing inefficiency as well as in failed programs and purchases. The Grand Jury soon realized that these failures stem not just from the individuals who hold these positions but are supported and encouraged by the County Charter.

The Board of Supervisors is the governing body for the county, is responsible for defining the vision for the county and implementing that vision through the budget, ordinances and policies. However, provisions of the County Charter allow other elected officials to distract the Board's attention while obstructing their efforts.

These observations lead the Grand Jury to conclude:

- The proliferation of elected officials in El Dorado County compromises the performance of the CAO and the Board of Supervisors. *The Charter should be amended to provide for the election of only those officials whose election is mandated by the California Constitution, the Sheriff, District Attorney and Assessor; and*
- Confusion between the roles of the Board of Supervisors and the CAO has hindered the ability of the Board of Supervisors to create and implement its vision for the future of El Dorado County. *The Charter should be amended to clearly provide (1) that the Board of Supervisors is the governing board of the County responsible for all policy decisions, and (2) the CAO serves at the Board's pleasure and is responsible for implementing the Board's policies.*

These observations and recommendations are fully set out in this report.

El Dorado County 2013-14 Grand Jury Report GJ-13-20 The El Dorado County Charter: A Prescription for Dysfunction

ACTIONS

- The Grand Jury began its term by meeting with each member of the Board of Supervisors, a former member of the Board of Supervisors, the Chief Administrative Officer and each of the elected department heads individually in informal sessions during which the official was asked to share his or her insight into the challenges facing El Dorado County. Most of these officials were forthcoming and shared valuable insights gained from years of experience in the county.
- At the same time, the Grand Jury reviewed a large number of complaints from citizens and citizen advocacy groups alleging numerous shortcomings and failures by county officials. Numerous officials, staff and county citizens were also interviewed.
- The Grand Jury reviewed the El Dorado County Charter.
- The Grand Jury reviewed previous year's Grand Jury reports concerning the same or related topics and findings.
- The Grand Jury researched organizational practices in other California counties and interviewed a representative sampling of county administrators.
- The Grand Jury reviewed the findings of an outside management consulting firm retained by the County to survey and examine El Dorado County overall workplace and culture.

THE EL DORADO COUNTY CHARTER

The California Constitution authorizes but does not require a county to adopt a charter by majority vote of its electors. The Constitution requires that a charter provide for a governing body of 5 or more members, an elected sheriff, an elected district attorney and an elected assessor as well as other officers who may be either elected or appointed.

El Dorado County adopted a Charter in 1994. That Charter provides for a 5 member Board of Supervisors and the three elected officials required by the state Constitution. However, the El Dorado County Charter requires that four additional officials be elected: the Auditor/Controller, Recorder/Clerk, Surveyor and Treasurer/Tax Collector.

The Charter provides term limits for members of the Board of Supervisors but no term limits for the other elected officials. A member of the Board of Supervisors is termed out after eight years while the current Treasurer/Tax Collector has served since 1985 and the Auditor/Controller and Recorder have each served for almost twenty years. Finally, although not a provision of the Charter, the members of the Board of Supervisors are paid as less-than-full time employees with salaries less than half that of some other elected officials.

The Charter requires the Board of Supervisors to hire a Chief Administrative Officer, who serves at the Board's pleasure, to be the Chief Executive Officer for the County. However, the Charter includes conflicting provisions which seem to assign responsibilities necessary to an effective CEO to the Board itself.

ELECTED OFFICIALS CAN REFUSE TO COOPERATE WITH BOTH THE BOARD OF SUPERVISORS AND THE COUNTY'S CHIEF ADMINISTRATIVE OFFICER

The proliferation of elected officials in El Dorado County pose a particular problem for the Board of Supervisors and the County.

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The El Dorado County Charter: A Prescription for Dysfunction

DEPARTMENT HEADS, BOTH ELECTED AND APPOINTED, WENT AROUND THE CAO DIRECTLY TO THE BOARD OF SUPERVISORS IN SUPPORT OF THEIR OWN POSITIONS TO THE DETRIMENT OF THE COUNTY AS A WHOLE.

The Annual Budget adopted each year by the Board of Supervisors is the most important policy decision they will make that year. How will the County spend its money? Which programs will be given priority over what other programs? Where will additional dollars be spent? Where will staff and services be added? Where will these be reduced? The Budget reflects the Board's vision more than any other document.

The Chief Administrative Officer's responsibility for implementing the policies and accomplishing the goals established by the Board include responsibility to recommend and administer the budget. To do this, she must make difficult recommendations balancing one public need against another. Her ability to serve the Board by implementing its decisions is undermined when individual Board members allow themselves to be lobbied for additional staff and budget. But it is not only the CAO's work that is undermined, the work of the Board is undermined as well. When a department head, elected or appointed, tells the Board it should ignore the Budget and augment that department's programs, the Board is being told that its policies are meaningless and its role as policy maker is meaningless.

When Board members believe their role as policy maker is meaningless because policies can be changed on whim or not followed at all they may step out of their role of policy maker and step into the role properly assigned to the CAO.

INSTEAD OF ACTING AS A POLICY MAKING BODY, INDIVIDUAL MEMBERS OF THE BOARD OF SUPERVISORS INTERFERED IN THE DAY TO DAY ADMINISTRATION OF THE COUNTY

The Board of Supervisors is the governing body of the county. Like the board of a corporation, the role of the Board of Supervisors is that of policy maker for the county. The Board should have a vision for the future of the County and guide the County toward realization of that vision. The Board is required to hire a Chief Administrative Officer who serves at the Board's pleasure and is responsible for implementing the Board's vision with the help of her senior staff.

This management structure is adhered to by most large organizations, both corporate and public. It is reflected in the Charter which requires that direction, recommendation and instructions to employees, department heads and officers be by formal board action. The CAO is then responsible to insure that those formal actions are implemented by staff.

The County is responsible for a multitude of functions ranging from zoning and development to providing foster care for children to public health and safety and myriad more. It has a budget of almost \$400 million and employs 1,850 people. In an organization of any size, but especially in an organization of this size and complexity, failure to have clearly defined roles and responsibilities hinders communication and efficiency. Board members cannot know the needs of the day to day operations of County administration. Any direction they give to staff is given without knowledge of the full impact of that direction. Staff are confused about the role of their immediate supervisor and department head. They do not know to whom to go with their own questions. Confusion reigns and morale suffers. Unfortunately some Board members do not understand this simple management principle and believe it is acceptable for them to give direction and criticism directly to staff.

Elected officials may feel no allegiance to the policies set by the Board. Their longevity in office and higher salaries may remove any motivation to cooperate with the Board. Indeed, it has been alleged that the Auditor/Controller has deliberately obstructed Board initiatives in order to cast himself as the white knight crusading against the failures by others.

These elected officials assert they are elected by and their only duty is to the electors. Certainly every elected official has an obligation to serve the electorate. However, the electorate has no valid basis for evaluating the performance of officials performing the specialized and sometimes esoteric duties of these offices. How is the electorate to know whether the Controller is rooting out fraud when he holds up a claim from a vendor or whether he is deliberately trying to discredit the department for whom the vendor worked. An elected official may seek publicity for himself by challenging a decision made by the Board or CAO presenting himself as acting to protect the best interests of the county when in fact his interest is his reelection.

Recently the imbalance and potential for abuse of power by elected officials has been brought to the public's attention following the County's Workplace Climate Assessment Survey and ensuing significant criticism of the Auditor/Controller. Whether or not the criticisms directed at the Auditor/Controller are true, they demonstrate clearly the potential for abuse that arises from the structural imbalance between the Board of Supervisors, Chief Administrative Officer and elected officials.

Although the Grand Jury did not investigate the allegations made against the Auditor/Controller following the County's Workplace Climate Assessment, the Grand Jury did receive substantial testimony from a number of witnesses in several different investigations reporting similar experiences: that the Auditor/Controller refuses to cooperate with the CAO in implementing the Board of Supervisors' initiatives; that he refuses to engage in constructive problem solving; and that his behavior results in minor issues or questions escalating into serious disputes. Specific allegations made were that the Auditor/Controller will not address problems by telephone, forbids his employees to speak to both staff and department heads, refuses to respond at all to any communication from certain employees and officials, that he is defamatory, disrespectful and disparaging.

RECOMMENDATIONS

1. The Charter should be amended to provide for the election of only those officials mandated by the California Constitution.
2. The Charter should be amended to clearly define and eliminate any ambiguity in the delineation of functions between the Board of Supervisors and the Chief Administrative Officer. The Board of Supervisors is the governing board of the County with responsibility for all policy decisions including adopting the budget for the County. The Chief Administrative Officer serves at the pleasure of the Board and is responsible for implementing the Board's policies. All county employees should be hired by and report to the CAO.

ATTACHMENT

Draft of the recommended changes to the Charter

RESPONSES

Responses to both findings and recommendations in this Report are required by law in accordance with California Penal Code §933 and §933.05. Address responses to:
 The Honorable Suzanne N. Kingsbury, presiding judge of the El Dorado County Superior Court, 1354 Johnson Blvd., South Lake Tahoe, CA 96150.
 This Report has been provided to the Board of Supervisors.
 The Presiding Judge of the El Dorado County Superior Court additionally requests that the responses be sent electronically as a "Word" file or "PDF" file to facilitate the economical and timely distribution of such responses. Please email responses to the El Dorado County Grand Jury at: courtadmin@eldoradocourt.org

Instances reported to the Grand Jury include a former supervisor sitting with a clerical employee and directing the paper flow on her desk, a department head refusing to reveal a professional staff analysis to the Board apparently for fear the Board would not like the analysis, a supervisor telling a constituent he would "give a kick in the ass" to an employee about whom the constituent was complaining.

In El Dorado County this had led to a general belief among staff that they must be sensitive to the unspoken, unwritten and uncodified "will of the Board." They are afraid if they do not follow that unspoken will they will suffer consequences. They are afraid to follow the direction of the Board as reflected in its duly adopted ordinances and policies if they believe it is inconsistent with that enigmatic will. They are reluctant to take any responsibility, delay work within their areas of expertise rather than move forward and fail to share their professional analysis with the Board for fear of running afoul of some shrouded Board will. The Grand Jury repeatedly heard concern that on any given Tuesday department heads could be fired without notice.

The Board's interference with day to day administration hinders the CAO's ability to recruit and retain the highly qualified staff necessary to implement the Board's vision for the County and renders the Board unable to accomplish its critical goals.

Ambiguity in the Charter which defines the CAO as the Chief Executive Officer for the County but includes among the Board's duties those appropriately belonging to the CEO. The Charter should be amended to clearly define an effective management structure.

FINDINGS

1. The Board of Supervisors is the policy making body for El Dorado County.
2. The proliferation of elected officials in El Dorado County compromises the performance of both the CAO and the Board of Supervisors itself resulting in ongoing inefficiency, loss of employee morale and failed programs and purchases.
3. When individual members of the Board of Supervisors focus on the day-to-day administration of County functions they are unable to focus on necessary long range planning.
4. Failure of the members of the Board of Supervisors to focus on their responsibility for the County's vision and major policies brings disrespect for those policies and confusion for the staff and public.
5. Involvement by individual members of the Board of Supervisors in the day-to-day administration of County functions results in chaos, confusion, and poor morale among employees.
6. When non-elected department heads believe they report to the members of the Board of Supervisors and not to the Chief Administrative Officer, the ability of the CAO to perform the duties assigned to her is compromised and inefficiency is multiplied.

**The 2013/14 Grand Jury recommends the
El Dorado County Charter be amended as follows:**

Section 204 should be amended to read:

204. Duties.

Except as provided for in subsection (c) herein below, the Board of Supervisors shall have all the powers and shall perform all the duties vested in it by the Constitution, general law, and this charter.

- a. The Board shall:
 - (1) Adopt a statement of the goals of the county reflecting the quality and direction of the activities of county government for the enhancement of human and physical resources of the county. At least annually, prior to the end of the first quarter of the calendar year, the Board shall review the adopted goals and modify them as necessary.
 - (2) Appoint or remove the Chief Administrative Officer. At least once each year, the Board shall review and evaluate the Chief Administrative Officer's performance. ~~The Board shall (1) review, and (2) accept, reject or modify all performance evaluations performed by the Chief Administrative Officer pursuant to section 304(b) of this charter.~~
 - (3) Appoint or remove members of boards and commissions. Except as otherwise provided for herein, or by superseding federal or state law, the members of all county boards and commissions shall serve at the pleasure of the Board of Supervisors. ~~Except as otherwise provided for herein, non-elected department heads shall serve at the pleasure of the Board of Supervisors. Appoint, suspend, or remove all department heads except those for whose election or appointment this charter makes other provision. Appointments shall be made on the basis of executive and administrative qualifications as determined by screening and selection procedures comparable to those used for classified management personnel.~~
 - (4) Adopt the annual budget.
 - (5) Provide for the number, powers and duties of all appointed officers and employees.
 - (6) Establish by ordinance or resolution the compensation of other officers and employees.
 - (7) Provide for publication of the powers, duties, procedures and rules of operation of all county offices and departments and for public access to such publications.
 - (8) Take such measures as may be necessary to implement this charter.
 - (9) Adopt a uniform format that, as a minimum, shall provide for responses to findings and recommendations of reports of the Grand Jury pursuant to Section 933 et seq. of the Penal Code.
 - (10) Adopt a policy as to financial participation paid by the county for its officers and employees in noncounty organizations, and require public disclosure of the cost to the county of such participation.
 - (11) At least once each year, the Board shall review and evaluate the County Counsel's performance.
 - (12) The Board of Supervisors shall adopt a policy and procedures for wide distribution of the Grand Jury Final Report and the Board of Supervisors Response to the Final Report
- (b) The Board may:
 - (1) ~~Create, abolish, consolidate, segregate, assign or transfer the powers and duties of any appointive office, department, division, board or commission to the extent not in conflict with this charter.~~

- (2) Consolidate, segregate, assign or transfer the powers and duties of any elective office or division thereof to the extent authorized by general law and not in conflict with this charter.
- (3) Appoint, suspend and remove a Clerk of the Board of Supervisors.
- (4) Require periodic or special report of expenditures and costs of operation, examine all records and accounts and inquire into the conduct of any office, commission, department or other entity to which the county contributes funds.
- (5) ~~Require the attendance of any officer or employee of the county at~~ Direct the Chief Administrative Officer to attend or assign specific staff to attend any meeting of the Board for the purpose of information, advice and assistance.
- (6) Enter into contracts for the performance of work when the Board of Supervisors, or other awarding authority designated in accordance with statutory authority, finds that independent contractors can more economically and feasibly perform work than County employees, or that specialty skills are not expressly identified in County classifications, or that the ongoing aggregate of work to be performed is not sufficient to warrant addition of permanent staff.

Notwithstanding the provisions of this section, the County may enter into any contract or agreement in cases of emergency, or with or among any other governmental entities or agencies; or contracts which, by legislative authority, mandate the service be performed by independent contractors; or contracts necessary to protect against conflicts of interest or ensure independent, unbiased findings.

The Board of Supervisors shall adopt an ordinance specifying criteria for entering into such contracts, and specify when competitive bidding procedures for the award of such contracts shall be required.

c. Increases to current benefit assessments on real property, or the imposition of any benefit assessment not previously imposed on real property shall not be effective unless and until approved by a majority of the voters voting in the geographic area in which the assessment will be imposed. A continuation of a previous benefit assessment in the same or lower amount is not covered by this section. This requirement does not apply to special taxes, any assessments imposed by a special district, or any assessments required to pay bonded indebtedness. The voting requirements shall only apply to County benefit assessments on real property, and shall not apply to taxes imposed by any special district. The requirements of this section shall not apply to any increase to any current benefit assessment, nor to the imposition of any new benefit assessment, which is subject to the property owner balloting and majority protest procedures established by Section 4 of Article XIII D of the California Constitution.

The Board, commencing with the fiscal year 1996-1997, shall annually budget and allocate from the County General Fund for the operation of the County library system, an amount equal to 80% of annually collected assessments for those zones receiving a majority voter approval on November 7, 1995. Such amounts shall be in addition to the debt service incurred for the Cameron Park Branch Library.

This provision shall be effective only for a period of ten (10) years and shall thereafter be repealed without further amendment of this Charter.

**Section 211 should be amended to read:
211. Communications with Employees**

Board of Supervisors' directions, recommendations or instructions to boards, commissions, department heads, or officers elected officials shall be by formal Board action. This section does not limit an individual Supervisor's right to obtain information or request advice or assistance in accordance with normal operating policies.

g. ~~Treasurer/Tax Collector~~
The term of office of all elected officers is four years. The elected officers shall serve until their successors are qualified unless sooner removed as provided by this charter.

**Section 404 is amended to read:
404. Appointed Department Heads.**

The position of department head shall be designated by ~~ordinance~~ the Chief Administrative Officer. Department heads serve at the pleasure of ~~their appointing authority, the Board of Supervisors~~ the Chief Administrative Officer. Department heads shall have and may delegate the power to appoint, supervise, suspend and remove all persons employed in their departments subject to the provisions of Article V of this charter.

**Section 304 should be amended to read:
304. Duties**

The Chief Administrative Officer shall be responsible to the Board of Supervisors for the proper and efficient administration of such of the affairs of the county as ~~are or hereafter may be placed in the charge of the Chief Administrative Officer or under the jurisdiction or control of the Chief Administrative Officer~~, pursuant to the provisions of this Charter, or of any ordinance, resolution or order of the Board of Supervisors. In addition to other powers and duties herein provided, the Chief Administrative Officer shall have the duty and power to:

- a. ~~Coordinate~~Direct the work of all offices and departments, both elective and appointive, and devise ways and means to achieve efficiency and economy in all county operations.
- b. Formulate and present to the Board plans to implement policies and accomplish goals established by the Board.
- c. Recommend an annual budget after reviewing requests of all departments and agencies for which the Board is responsible or which request county funds.
- d. Have responsibility for the administration of the budget after its adoption by the Board.
- e. Provide for in-depth analysis and review of all county programs on a regular basis in such a manner that the Board may make policy decisions.
- f. Provide and implement systems of adequate checks and controls to safeguard county money and property.
- g. Work with all other government entities, federal, state, regional and local, in the best interest of the entire county.
- h. On at least an annual basis, review and appraise the performance of all appointed department heads, except County Counsel, and submit the appraisal to the Board of Supervisors.
- i. Coordinate the review and publication of a county long-range fiscal plan and the annual statement of goals as adopted by the Board of Supervisors.

**Section 401 should be amended to read:
401. Powers and Duties**

The Chief Administrative Officer shall appoint, suspend, or remove all department heads except those for whose election or appointment this charter makes other provision. Appointments shall be made on the basis of executive and administrative qualifications as determined by screening and selection procedures comparable to those used for classified management personnel.

Department heads, boards and commissions shall have all the powers and shall perform all the duties vested in them by this charter, by ordinance, and by general law when not in conflict with this charter or with ordinances adopted pursuant to this charter. All elected department heads and officers of the county ~~both elected and appointed~~, shall cooperate with the Chief Administrative Officer so that the Chief Administrative Officer may achieve complete coordination of all county activities.

**Section 402 shall be amended to read:
402. Elected Department Heads.**

The following department heads shall be elected:

- a. Assessor
- b. Auditor/Controller
- c. District Attorney
- d. Recorder/Clerk
- e. Sheriff/Coroner/Public Administrator
- f. Surveyor



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