

EL DORADO COUNTY  
GRAND JURY 2015-2016

---



---

**FINAL REPORT**

---

JUNE 2016



# EL DORADO COUNTY GRAND JURY 2015 - 2016

## FINAL REPORT JUNE 2016

HON. DYLAN SULLIVAN, SUPERVISING JUDGE

### JURORS

KEN CATER, FOREMAN  
RENEE FINELLI  
MICHAEL MCGEE  
ROGER PICKLER  
JULIE RYAN  
RICHARD WHITE

RICHARD COFFIN  
JOYCE HARRIS  
MARY ANNE MINNICK  
MICHAEL POWELL  
JANET GALLAWAY SAWYER  
GATHA WILLYARD

HAL ERPENBECK  
PETER MARTY  
THOM ORTH  
DEBBIE RICE  
TOM SIMPSON  
LAURA WINSTON



BACK ROW: MICHAEL MCGEE, RICHARD COFFIN, MICHAEL POWELL, THOM ORTH, KEN CATER, PETER MARTY  
FRONT ROW: LAURA WINSTON, ROGER PICKLER, JANET GALLAWAY SAWYER, MARY ANNE MINNICK, DEBBIE RICE,  
JULIE RYAN, GATHA WILLYARD, JOYCE HARRIS, TOM SIMPSON, RENEE FINELLI  
NOT PICTURED: HAL ERPENBECK, RICHARD WHITE



# EL DORADO COUNTY GRAND JURY 2015-2016 FINAL REPORTS

## TABLE OF CONTENTS

### PREFACE

Foreman's letter to Hon. Suzanne N. Kingsbury  
Letter from Hon. Dylan Sullivan  
Notice to Respondents

### FINAL REPORTS

CASE NO.	TITLE	PAGE
GJ-15-01	Dysfunction In The Mosquito Fire Protection District .....	1
GJ-15-02	Dial-A-Ride .....	6
GJ-15-03	Landscape and Lighting Assessment Districts in El Dorado Hills .....	9
GJ-15-04	21 <sup>st</sup> Century County Charter .....	19
GJ-15-05	Fenix, Icarus Naught .....	28
GJ-15-06	West Slope Animal Shelter: BEST IN SHOW .....	39
GJ-15-07	Americans with Disabilities Act – County Compliance .....	44
GJ-15-08	Sheriff's Headquarters: How Old Is Too Old .....	50
GJ-15-09	Proposed Public Safety Headquarters.....	53
GJ-15-10	Juvenile Detention Facilities Inspection.....	57
GJ-15-11	El Dorado County Jails Inspections .....	63
GJ-15-12	County Superintendent of Schools: An Elective Office, But Why?.....	68

**GRAND JURY**  
**El Dorado County**

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

**2015-2016**



Honorable Suzanne N. Kingsbury, Presiding Judge  
Superior Court of California, County of El Dorado

Dear Judge Kingsbury:

On behalf of the 2015-16 Grand Jury and in compliance with Penal Code Section 933, it is my honor and privilege to present our final report to you, the El Dorado County Board of Supervisors, and the citizens of our county.

This grand jury was sworn in by the Honorable Dylan Sullivan, our assigned supervising judge, for our one-year term beginning July 1, 2015. As nineteen citizens coming together, we brought our own individual experiences and knowledge. We shared the common objectives of ensuring designated public entities within the county are administered lawfully and efficiently, that public funds are being expended appropriately and, reporting on the conditions and management of local detention facilities. We reviewed and considered various citizen complaints within our jurisdiction while other investigations were initiated by the grand jury itself. Those resulting investigations make up our end-of-term final report.

Throughout our term, grand jury members met and interviewed numerous elected officials, county administrators and staff, and those employed within schools and special districts. The vast majority of the witnesses were responsive and knowledgeable in answering our questions and providing requested information. I would like to thank all of those contacted and interviewed for their time, cooperation, and candor that allowed us to work efficiently and largely unimpeded.

I want to express our appreciation to the Honorable Dylan Sullivan, her steady guidance, availability and support was invaluable. I would also like to acknowledge our legal counsel, Deputy County Counsel, Paula Frantz, for her contributions and skilled assistance. Paula's expertise was particularly beneficial and allowed us to complete well-written and objective reports.

This final report represents the combined efforts of 19 dedicated grand jury members who spent countless hours conducting relevant interviews as well as evaluating and documenting their findings. I am proud of every one of them, their spirit of volunteerism, and the work they put forth.

It has been an honor and a privilege to serve as foreman of the 2015-16 Grand Jury. Thank you, Judge Sullivan for appointing me as foreperson and entrusting me to assist my colleagues in navigating the complexities of local government. It has been personally fulfilling to shoulder such an important responsibility. Moreover, it provided me with the opportunity to further my long-standing interest and commitment to the governance of El Dorado County.

Respectfully,

Kenneth E. Cater, Foreperson





**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF EL DORADO  
2985 Fair Lane Ct., Bldg C  
Placerville, California 95667**

June 10, 2016

As Supervising Judge of the 2015/2016 Grand Jury, and on behalf of the Superior Court of California, El Dorado County, I want to thank you for your hard work, commitment, and dedication to making this year's Grand Jury successful. During your tenure, you have performed your duties with distinction. Your commitment to examine aspects of county government and investigate special districts and projects contributes to a better government overall for the citizens of El Dorado County. Your diligence in pursuing your investigations and your ability to remain objective in determining your recommendations is commendable.

One of the primary functions of the Grand Jury is to assist our county government in operating more efficiently. I am very impressed with the reports you produced. They are objective, without hyperbole, and directed at honest evaluation with an eye towards improvement. This is exactly what we desire from our Grand Jury. While it can be easy to get caught up in complaints themselves, this Grand Jury moved past any inclinations to do so as evidenced by the well balanced reports you produced.

Finally, special honors must be given to your foreperson, Ken Cater. His leadership abilities undoubtedly contributed to the success of this year's Grand Jury. His management and organizational skills not only assisted in making this year's Grand Jury productive, but also in improving the Grand Jury process for years to come. I cannot thank Mr. Cater enough for taking on this difficult task and performing so admirably.

The Court commends each of you. You served your fellow El Dorado County citizens well. I congratulate you on your 2015/2016 Grand Jury service.

With Warm Regards,

Dylan Sullivan  
Judge of the Superior Court  
Supervising Judge for the 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](mailto: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 El Dorado County Grand Jury reports to:  
[courtadmin@eldoradocourt.org](mailto:courtadmin@eldoradocourt.org)

# EL DORADO COUNTY 2015-2016 GRAND JURY

## *MOSQUITO FIRE PROTECTION DISTRICT DYSFUNCTION*

Case 15-01 • April 14, 2016

### **BACKGROUND**

El Dorado County's Mosquito Fire Protection District (MFPD) and more than 380 other fire protection districts in California draw their statutory authority from fire protection district law – California Health & Safety Code §13800.

Every fire protection district is governed by a board of directors. The Mosquito Fire Protection District's five-member elected board of directors is independent of any county supervision and has no state oversight. MFPD employs administrative staff and firefighters as availability and funding allow. Administrative staff consists of the fire chief and one clerical staff; some limited administrative functions are also provided by the board of directors.

The Mosquito Fire Protection District is primarily a district of volunteers. Firefighting and medical response roles are fulfilled by the chief, full-time and seasonal staff that may be employed from time to time, and volunteers. The majority of firefighters, emergency medical technicians, and first responders are volunteers. The number of volunteers varies, mostly due to availability and willingness of community members to undertake that role.

#### **Special Note**

The grand jury investigation did not examine the Mosquito Fire Protection District performance during routine or emergency response to fire or medical situations.

According to statute, district boards must meet at least once every three months. The MFPD Board has met mostly on a regular monthly schedule for a number of years. A three-member majority of the district board constitutes a quorum for the transaction of business. A recorded majority vote is required for each board action and meetings are subject to the provisions of the Ralph M. Brown Act.

Small fire protection districts, as well as many counties and county districts, were adversely affected by the 2007–2009 recession. A precipitous drop in real property assessed valuation and an increased number of foreclosures impacted county real estate tax collections, while Proposition 13 continued to cap the tax rate, limiting the district's ability to meet increasing costs. Those effects continue to the present day.

In 2014, and again in 2015, the El Dorado County Board of Supervisors authorized supplemental *patch* funding to several small fire protection districts, including MFPD. To qualify for the funding, fire protection districts were required to pursue annexation or consolidation of services with other fire protection districts. They were also required to report how the funds were used within the district.



The MFPD was one of nine fire protection districts that the 2007–2008 El Dorado County Grand Jury recommended "*should make a good faith effort to reach consolidation agreements*" with other fire protection districts. Consolidation efforts by MFPD have been met with little success. They are too small in every respect, including available revenue, to be an attractive partner.

## METHODOLOGY

- Reviewed fire protection district statutes
- Reviewed MFPD board agendas and minutes
- Reviewed MFPD policies and procedures
- Interviewed current and past employees of the MFPD
- Interviewed current and past volunteers of the MFPD
- Interviewed current and past MFPD board of directors
- Interviewed citizens served by the MFPD
- Reviewed past grand jury reports and many other documents
- Consulted with El Dorado County Elections officials
- Consulted with fire protection district experts

## DISCUSSION

Incumbents were not challenged in the biennial elections from 2004 to 2010. Because candidates ran unopposed they did not appear on the election ballot. While not improper or illegal, it suggests a lack of community participation. The first non-incumbent in a decade was elected in 2012.

The general election of November 4, 2014 elected three new members to the MFPD Board of Directors. The first meeting of that newly elected board was in December of 2014.

As stated in the background section, all small fire protection districts were affected by the 2007-2009 recession. The Mosquito Fire Protection District's ability to raise funds has been particularly impacted. During its formation in 1977, a crucial method to obtain revenue was omitted; no mechanism was included to provide automatic adjustments to parcel assessments based upon inflationary pressures. The property tax assessment for the MFPD has been \$204 per parcel per year whether or not it is developed; this assessment can be increased only by a vote of the district electorate.

The MFPD operated on a more or less even keel under the direction of longtime Fire Chief Leo Chaloux until his retirement in 2006, followed by Chief Davis for another six years. Then, a series of temporary chiefs were unable to maintain a steady presence. Coupled with an inexperienced board, an ensuing upheaval triggered a split of the board and community into several factions precipitating a hostile relationship. This hostility became detrimental to the stability of the district and adversely affected the number of community members willing to step forward and volunteer.

During much of 2014 and into 2015, the MFPD was actively looking for a permanent fire chief. They were ultimately successful in their search; a new fire chief was sworn in during a board meeting on June 20, 2015. Later that day, during a closed session, three of five members of the board, a majority, voted to decrease an employee's rate of pay that had previously been increased when the employee *filled in* performing some of the functions normally provided by the fire chief.

Still later that same day, a board member who had been absent during the earlier board meeting and upon learning about the pay reduction, circulated several e-mails among board members, suggesting the need for an *emergency* or *special* board meeting. The grand jury discovered that by June 22, two board members had resigned, with one citing improper behavior by several directors including Brown Act violations. The issue of the employee's rate of pay became more contentious – two of the three board members who had voted for the decrease were no longer on the board.

During a review of board meeting minutes, the grand jury noted that the August 13, 2015 minutes indicated two new directors were present. There was no mention in any minutes of two directors having resigned, postings of openings on the board, nor the selection of two new board members. Investigation found the vacancies were filled appropriately even though no minutes were published reflecting this until it was brought to MFPD's attention by the grand jury. It was also noted during the review of minutes that actions taken by the board referenced agenda items by number. However, no agenda was posted on the web site making it virtually impossible to discern what action had actually been taken.

Since August of 2015, there have been several reports of *name calling* and the use of inappropriately crude and vulgar language at board meetings by directors directed at other directors.

In September of 2015, a board member resigned and then rescinded that resignation. In October 2015, yet another board member resigned and also recanted.

As the grand jury investigated in the fall of 2015, it became abundantly clear that the district was in a state of dysfunction – on the verge of being unable to govern effectively.

The grand jury also noted that board meeting minutes had not been posted to the district website for meetings since September 26, 2015. This has only recently been rectified.

The grand jury discovered that the continual turnover of personnel included a component whereby family members were in potentially conflicted positions. For example, a board member's spouse was also a district employee. Those conflicts were initially troubling, but experts informed the grand jury that it was very common in a fire district like Mosquito, and was almost a necessity in a small community district of mostly volunteers.

The grand jury learned from skilled county professionals that this dysfunction may be attributable to board members entering into governmental board service without foreknowledge of and experience with governance. By its very nature governance is not naturally possessed. Rather, it is assimilated knowledge of law and procedure – skills usually acquired over time through training and experience.

In January of 2016 while the grand jury investigation was ongoing, the board president resigned as president while remaining on the board. The vice president *assumed* the role and duties of president while district policies or bylaws had no explicit directions as to what should occur should the president resign.

On February 18, 2016 one board member resigned via e-mail. At a special meeting later that same day, three more board members tried to resign en masse. However, that would have left the board without a quorum. Instead, they resigned one at a time and the remaining board members appointed replacement board members while maintaining a quorum. However, this process failed to comply with the timing and noticing provisions contained in Government Code § 1770 - 1780 which govern filling vacancies.

After the meeting, the sole remaining elected board member informed the El Dorado County Board of Supervisors that the MFPD board lacked a quorum. The board of supervisors posted vacancies for applicants and appointed two members to the MFPD Board on March 15, 2016. The MFPD Board now has a quorum enabling them to conduct business and ultimately fill the two remaining vacancies in accordance with Government Code § 1770 - 1780.

## FINDINGS

- F1. The MFPD Board of Directors was inexperienced and dysfunctional.
- F2. There have been numerous Brown Act violations by the board. There is a propensity of calls for *emergency* board meetings when no true emergency exists. The Board goes into closed session inappropriately to discuss salaries
- F3. Board minutes had not been posted to the district web site in a timely manner.
- F4. Turmoil and turnover in the chief's position since 2012 has led to board members directing day-to-day administration and operations.
- F5. The current part time fire chief lives approximately 2.5 hours from the district.

## **RECOMMENDATIONS**

- R1. Newly appointed board members should successfully complete the Fair Political Practice Commission AB1234 Local Ethics Training.
- R2. The MFPD Board of Directors should reach out to the county board of supervisors, California Special Districts Association, or others in county government for additional training and coaching on the Brown Act and effective governance.
- R3. Agendas and minutes should both be posted on the MFPD website in a timely manner. Minutes should not refer only to an agenda item unless the agenda is also available.
- R4. The MFPD administration and Board need to be more active in seeking annexation or consolidation of services with other fire protection districts. Alternatively, they need to secure additional funds by creating a ballot measure to increase parcel assessments.
- R5. The board members should support the fire chief taking control of the day-to-day administration and operations.
- R6. The fire chief should likely reside closer to, if not actually in, the district to effectively maintain control.
- R7. The bylaws and/or policies should be amended to provide a process to select officers, such as the president, if the office becomes vacant.

## **REQUEST FOR RESPONSES**

Responses to both findings and recommendations in this report are required by law in accordance with California Penal Code §933 and §933.05 from the Mosquito Fire Protection District Board of Directors before July 20, 2016.

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

The Presiding Judge of the El Dorado County Superior Court additionally requests that the responses be sent electronically as a *Word* 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](mailto:courtadmin@eldoradocourt.org).

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

# EL DORADO COUNTY 2015-2016 GRAND JURY

## *DIAL-A-RIDE*

Case 15-02 • May 12, 2016

Many county residents, especially those unable to drive themselves, rely upon Dial-A-Ride for transportation to and from work, medical appointments, shopping, recreational pursuits and other activities. It improves riders' independence, self-sufficiency and quality of life.

### **BACKGROUND**

Dial-A-Ride is provided by the El Dorado County Transit Authority (El Dorado Transit), a Joint Powers Authority of El Dorado County and the City of Placerville. Its board of directors is made up of three members from the El Dorado County Board of Supervisors and two from the Placerville City Council. An Executive Director executes board policies and directs the day-to-day operations.

El Dorado Transit has existed in El Dorado County since 1975; Dial-A-Ride since 1993. El Dorado Transit operates from an administrative and operations base in Diamond Springs. It serves a portion of El Dorado County west of the Sierra Crest, called the Western Slope, a mix of rural, agricultural and suburban areas. Placerville is the only incorporated city in the service area and El Dorado Hills is the largest unincorporated community.

### **METHODOLOGY**

- Interviewed El Dorado Transit and Dial a Ride management, supervisors and staff.
- Reviewed Dial-A-Ride documents.

### **DISCUSSION**

Dial-A-Ride is a seven days a week, curb-to-curb, demand response service designed for seniors and disabled residents, but offers limited availability to the general public. Curb-to-curb means a Dial-A-Ride van or bus will pick up in front of a designated location at a pre-scheduled time and take the rider to their preselected destination. Oftentimes, riders share with other passengers to ensure the greatest number of passengers are served. The service is not available in all areas of the western slope. In some areas, service is only made available when a sufficient number of riders request the service.

Dial-A-Ride operates seven days a week, excluding holidays. Pickup times are between 7:30 AM and 5:00 PM on weekdays and 8:00 AM to 5:00 PM on Saturdays and Sundays.



Reservations are required and accepted Monday through Friday between 9:00 A.M. and 3:00 P.M. by calling El Dorado Transit up to three weekdays in advance of the desired ride date. Reservations are booked on a first-come, first-served basis with seniors and persons with disabilities having priority. Reservations are tentative until Dial-A-Ride calls the prospective rider back with a confirmation. A novice first time rider, unaware of the callback policy, may erroneously believe that they have successfully booked a ride with the first call.

Typically, demand exceeds system capacity.<sup>1</sup> Would-be riders are often unable to make reservations when resources are already fully booked. When Dial-A-Ride is unable to fulfill a reservation request, staff will work with a prospective rider, making suggestions to change the date and/or time to accommodate the rider's schedule. As a result, the system does its best to meet the majority of rider service requests.

Riders need to call 24 hours in advance to cancel their scheduled ride. If not present for pickup at a non-cancelled reservation, riders are declared a *no-show*. Three no-shows in a thirty-day period will suspend a rider from using the service for fourteen days. Six no-shows in a ninety-day period will cause a thirty-day suspension. The overwhelming demand for Dial-A-Ride necessitates the suspensions, which are imposed after written notice. Drivers do their best to locate passengers in an apparent no-show situation; however, they may have to abandon a no-show to complete schedules and satisfy commitments. Riders may believe that they have been forgotten by Dial-A-Ride when they have failed to meet the driver at an agreed upon time.

Last year's budget for Dial-A-Ride was \$1.2 million. It is heavily subsidized with fares providing only about five percent of the service cost.<sup>2</sup> The Transportation Development Act of 1971 provides two funding sources: The Local Transportation Fund is financed from one-quarter percent of the statewide general sales tax and the State Transit Assistance Fund that is derived from the statewide sales tax on diesel fuel.

Dial-A-Ride fares range from \$2.00 to \$7.00 per one-way trip, determined by a zone system. Seniors, 60+ years old, persons with disabilities, and Medicare cardholders pay a reduced fare. Anyone desiring to use Dial-A-Ride's system is asked to complete an application and obtain an El Dorado Transit Photo ID. Verification of residency is required to use Dial-A-Ride and verification of age or disability is required for reduced fares.

The Dial-A-Ride fleet includes seven mini-vans that can carry up to five passengers each. Riders with special needs equipment (e.g. wheelchairs) will reduce the vehicle's passenger capacity. Larger vehicles are available when necessary. Several fleet vehicles are kept in reserve for unexpected situations such as breakdowns or accidents allowing Dial-A-Ride to satisfy scheduled commitments. All Dial-A-Ride vehicles have video surveillance, with appropriate signage, and 2-way radios.

---

<sup>1</sup> Dial-A-Ride made 24,466 one-way passenger trips in fiscal 2014-2015.

<sup>2</sup> Passenger fares during fiscal 2014-2015 were \$66,019.00.

El Dorado Transit offers other transportation services not included in this report such as the El Dorado Hills Taxi Voucher Demonstration Project, SAC-MED, Grizzly Flat Flex and ADA Paratransit. Information about those services can be found on the El Dorado Transit web site at <http://www.eldoradotransit.com>.

## **COMMENDATION**

The grand jury commends El Dorado Transit and Dial-A-Ride for providing the best possible service with the limited resources available.

## **FINDINGS**

F1. Dial-A-Ride resources are not adequate to fulfill reservation requests.

## **RECOMMENDATIONS**

R1. Explore alternate funding sources, to include grants, augment operations and address future demands.

## **REQUEST FOR RESPONSES**

Responses to both findings and recommendations in this report are required by law in accordance with California Penal Code §933 and §933.05 from El Dorado Transit Board of Directors before August 17, 2016.

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

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

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

# EL DORADO COUNTY 2015-2016 GRAND JURY

## *LANDSCAPING AND LIGHTING ASSESSMENT DISTRICTS IN EL DORADO HILLS*

Case 15-03 • June 2, 2016

### **SUMMARY**

Landscaping and Lighting Assessment District (LLAD) assessments upon constituent property owners within the El Dorado Hills (EDH) Community Services District (CSD) were investigated. Our investigation revealed that the assessments, collected for the CSD on the county property tax bills, may not be accurately assessed and accounted for.

- Assessments increase and decrease without clearly identifiable reasons.
- Although supposedly based upon actual costs, about half of the LLAD's fiscal year (FY) 2015-16 assessments have been set at exactly fifty percent of the previous year.
- Some LLADs have very large fund balances relative to budgeted expected costs.
- CSD overhead is applied to LLAD budgets without any clear methodology.

### **BACKGROUND**

An LLAD is a local special district created and governed pursuant to §22500 et seq. of the California Streets and Highway Code, also known as the Landscaping and Lighting Act of 1972. It provides funding for maintenance and improvement of landscaping and lighting facilities within the district's boundaries through assessment of its constituent property owners. The assessment is not an ad valorem tax<sup>1</sup>; it is a benefit assessment. Individual parcels within any given LLAD can be assessed a different amount based on the benefit that parcel receives from the improvements and services provided.

Each LLAD's assessment is meant to cover the costs of installing and maintaining public facilities and improvements within that LLAD. The assessment covers sidewalks, parking lots, turf and play areas, landscaping, ground cover, shrubs and trees, irrigation systems, drainage systems, street and accent lighting, fencing, entry signs, materials, supplies, utilities and equipment, including labor.

From an accounting standpoint, an LLAD's relationship to the CSD is analogous to that of a company's division having an independent revenue stream, direct expenses, and allocated overhead.

---

<sup>1</sup> Ad Valorem (Latin meaning "according to value") tax is based on property value (like property taxes or vehicle licensing taxes).

More than twenty-five LLADs exist within the El Dorado Hills CSD. Most often, an LLAD is created within a CSD by a developer planning to build a subdivision of homes. At that time, while owning 100 percent of the parcels, the developer and the CSD will agree on a formation document that creates and governs that particular LLAD. Formation documents for LLADs in the EDH CSD vary from one LLAD to another. The formation document specifies the parcels to be in the LLAD, the total number of parcels, any areas or parcels to be ceded to the CSD, and the developer's responsibilities for initially installing lighting, landscaping, fencing, and other improvements. The same formation document may specify an initial parcel assessment amount, when the assessment will start, a maximum assessment amount, and a yearly inflationary factor that may be applied. The deliverance of a specific improvement or the commencement of collecting assessments may be linked to certain milestones in the build-out of the subdivision.

A purchaser of a parcel within an LLAD must be informed of the existence of the LLAD and the provisions of the governing documents at the time of purchase. A vote by the parcel owners within the LLAD is required to modify the provisions of the governing document. A subdivision may be part of both an LLAD and a Homeowners' Association.

## **METHODOLOGY**

- Interviewed employees of the EDH CSD and other CSDs
- Reviewed EDH CSD Budgets
- Reviewed EDH CSD Comprehensive Annual Reports
- Reviewed EDH CSD LLAD Engineer's Reports
- Reviewed similar reports from other CSDs

## **ASSESSMENTS INCREASE AND DECREASE WITHOUT CLEARLY IDENTIFIABLE REASON**

Approximately one-half of the active LLADs had their FY 2015-16 assessment reduced to exactly fifty percent of previous year levels. There was no explanation given for this substantial reduction.

The Promontory LLAD was one of the LLADs that had its assessment reduced by 50% in FY 2015-16. However, in the FY 2014-15 budget, the Promontory LLAD was one of "...six landscape and lighting districts that continue to struggle financially due to incorrect cost assumptions during formation as well as a cost inflationary factor not being included in some areas." Similarly, the FY 2013-14 budget used nearly identical wording to describe the Promontory LLAD. So, for two back-to-back budget years, the Promontory LLAD was struggling financially, yet, the assessment was cut in half. This does not seem logical. The CSD LLAD budget should, at a minimum, contain the rationale for the decrease.

**ASSESSMENTS ARE SUPPOSED TO BE BASED ON ACTUAL COSTS**

The FY 2014-15 CSD budget identified the need to base the LLAD assessment on the actual costs of installation and maintenance of improvements: "... several changes to ensure LLAD fund accountability to provide for more accurate cost allocations will take place. Such changes include implementation of tracking CSD employee work time spent at a given LLAD, development of standardized routes of travel, requiring contractors to identify cost-per-LLAD, and research into fleet tracking software. Through such operational changes the CSD will be equipped to provide more accurate costs associated with each LLAD."

The following year's CSD budget, for FY 2015-16, contained nearly identical verbiage. Both budget statements can be reasonably understood to be indicative that tracking of actual costs by LLAD still proves elusive.

**THE LLADs HAVE LARGE EXCESS FUND BALANCES RELATIVE TO COSTS; THIS APPEARS CONTRARY TO THE SPIRIT OF THE LAW**

Projected data from the FY 2015-16 budget:

LLAD	Est. Fund Balance End FY 2014-15	Budgeted Costs FY FY2015-16	Fund Balance as Pct. of Costs
Stonegate	\$104,145	\$35,965	290 %
Promontory	\$732,658	\$383,217	191 %
Silva Valley	\$264,280	\$68,998	383 %
Creekside A & B	\$301,089	\$104,930	287 %
<b>Total</b>	<b>\$4,251,917</b>	<b>\$1,480,058</b>	<b>287 %</b>

Clearly, the fund balances for all LLADs are well in excess of actual or expected expenses and have been increasing year over year as shown in the following table. Below is actual data for the prior four years:

Fiscal Year	Actual Fund Balances	Actual Expenses	Fund Balance as Pct. Of Expenses
2014-15	\$4,001,628	\$1,083,024	369%
2013-14	\$3,663,164	\$1,247,499	294 %
2012-13	\$3,446,680	\$1,142,322	302 %
2011-12	\$3,192,070	\$1,232,828	259 %



The Landscaping and Lighting Act of 1972 raises questions about whether surplus fund balances should be used to reduce assessments in the following year. To the extent that maintaining some taxpayer funds for subsequent years is allowed, it is uncertain how large a balance can be maintained and for how long.

Streets and Highway Code §22656 is excerpted below:

If there is a surplus or a deficit in the improvement fund of an assessment district at the end of any fiscal year, the surplus or deficit shall be carried forward to the next annual assessment to be levied within such district and **applied as a credit or a debit, as the case may be, against such assessment.**

The grand jury asked one EDH CSD employee for the justification of large fund balances as opposed to a strict interpretation of §22656. The interviewee cited attorney-client privilege.

Another EDH CSD interviewee countered that Streets and Highway Code §22660 provides the ability to accumulate reserves within limits. §22660 (a) is excerpted:

The legislative body may, by resolution, determine that the estimated cost of any of the proposed improvements described in subdivisions (a) to (d), inclusive, of Section 22525 is greater than can be conveniently raised from a single annual assessment and order that the estimated cost shall be raised by an assessment levied and collected in installments over a period not to exceed five fiscal years.

Similarly, subparagraph §22660 (b) provides for collection of installments over a period not to exceed 30 years for expected significant project expenditures.

However, subparagraph §22660 (c) states that the resolution adopted by the governing body **shall** generally identify the improvement to be made, the approximate cost of the improvement, the number of annual installments to be made, in which fiscal years the installment will be collected, etc.

The EDH CSD Board of Directors has not adopted resolutions identifying the improvement(s), the approximate cost, etc. An EDH CSD employee opined that §22660 (a) and (b) says **may** and not **must** or **shall**; therefore, §22660 (c) does not apply. However, the grand jury thinks that a more reasonable statutory construction is that a legislative body **may** determine the need for more funds, and if they do determine that, they **must** set forth their reasoning, including the costs and the timing, in a resolution. This interpretation is more rational than the one set forth by the CSD employee.

To be clear, the grand jury believes in the desirability of having an appropriate level of reserves arrived at transparently and thoughtfully as §22660 provides, and not funds accumulated capriciously or arbitrarily.

It appears undeniable to this grand jury, that the crafters of the Landscaping and Lighting Act did not want fund balances to continually accumulate without a specified goal or project(s) in mind. The EDH CSD may or may not be violating the **letter** of the law, yet, it seems clear that it is ignoring the **spirit** of the law.

### CSD OVERHEAD IS APPLIED TO LLAD BUDGETS WITHOUT A CLEARLY ARTICULATED METHODOLOGY

Overhead costs include administrative overhead, county collection fees, and professional fees. Direct costs include things such as direct wages, benefits, supplies, services, and capital improvements/replacements. The EDH CSD's independent accountant reported on Applying Agreed-Upon Procedures relative to the LLADs made the following observation: "The calculations generated by the software are not transparent which makes it difficult to understand the application of overhead costs. The District staff has not calculated the overhead costs using actual amounts. There is no comparison or analysis of budgeted overhead amounts to actual overhead amounts."

To clarify, according to the CSD accountant, there is no scrutiny of budgeted to actual overhead costs to validate the software's calculations.

The grand jury compared budgeted overhead as a percentage of budgeted direct costs for each LLAD. The overhead cost as a percent of direct costs varied wildly from one LLAD to another ranging from a low of 5% to a high of 192%. We would expect these percentages to be more closely aligned across all LLADs.

The *county collection fee* is imposed by El Dorado County for collection and disbursement of the LLAD assessment from the taxpayer to the CSD. Similarly, even the allocation of that overhead component varies significantly between different LLADs ranging from \$0.76 to \$9.33 per parcel.

### MISALLOCATION OF CAPITAL EXPENDITURE

"All LLAD's (sic) with an equipment or deferred reserve fund balance will contribute toward 50% of the cost for a medium duty truck replacement (\$978.26/ea.)" - *FY 2015-16 CSD Budget*

Homeowners living in an LLAD with a smaller number of parcels will pay a higher dollar amount than homeowners in an LLAD with a larger number of parcels. It's not even clear that this medium duty truck is used at any LLAD. This would likely be a violation of the Landscape and Lighting Act as well as Proposition 218<sup>2</sup>.

---

<sup>2</sup> The Proposition 218 proportionality requirement ensures that the aggregate assessment imposed on all parcels is distributed among all assessed parcels in proportion to the special benefits conferred on each parcel. The special benefit requirement is thus part and parcel of the proportionality requirement.

## INEQUITIES IN ALLOCATION OF REVENUES AND EXPENSES

### **Fees**

When the public's use of a facility located within an LLAD requires a fee for its use, the LLAD does not get any benefit of those fees. Instead, this fee goes directly to the CSD. A few examples are fees collected for picnic rental sites at the Promontory or Lake Forest LLADs and synthetic grass fields at the Promontory LLAD. Yet, the LLAD must bear the full cost of operation, maintenance, repair, and replacement of those improvements.

### **Expense Tracking and Overhead Allocation**

The allocation of expenses and overhead among LLADs overburdens some LLADs and not others.

#### **FY 2014-15 Budget** (Expenses are less any capital expenditure)

LLAD	Expenses	Overhead	Acreage	Exp. per Acre	Overhead per Acre
Promontory	\$314,885	\$26,464	22.5	\$13,995	\$1,177
Bass Lake A	\$33,019	\$10,265	1.1	\$31,017	\$9,331
Bass Lake B	\$41,872	\$17,158	1	\$41,872	\$17,158

#### **FY 2015-16 Budget** (Expenses are less any capital expenditure)

LLAD	Expenses	Overhead	Acreage	Exp. per Acre	Overhead per Acre
Promontory	\$376,617	\$93,204	22.5	\$16,739	\$4,142
Bass Lake A	\$35,168	\$8,640	1.1	\$31,970	\$7,855
Bass Lake B	\$21,646	\$5,268	1	\$21,646	\$5,268

### **Notes:**

1. Bass Lake A and Bass Lake B are similar in size and improvements, yet in FY 2014-15 Bass Lake B was budgeted with nearly 70 percent more overhead and 25 percent more expenses.
2. Again, in FY 2014-15, it is hard to imagine how a 1 acre LLAD, Bass Lake B, can be allocated nearly 65 percent of the overhead costs allocated to the Promontory LLAD with 22.5 acres and 2 parks.
3. In FY 2015-16, now the budgeted expenses of Bass Lake B are only half of what they were for FY 2014-15.
4. Notice the wide differences in expenses and overhead per acre between the two years for the same LLAD and between different LLADs within the same year.

## OTHER OBSERVATIONS

A requirement of the Landscaping and Lighting Act of 1972 is a yearly engineer report. The most recent Final Engineer's Report posted on the EDH CSD website is from FY 2013. This document is the basis for the EDH CSD's resolution setting assessments for the LLADs and the budget and is the document that the public would need to use for a majority protest<sup>3</sup>. Therefore, in order to have an adequate public hearing and an adequate opportunity to protest, the report should be posted prior to the public meeting setting the assessments and subsequent thereto. The process for property owners to challenge the assessment levied by the CSD is defined in the Landscaping and Lighting Act and can prove quite onerous.

The 2015-16 Final Engineer's Report was prepared by SCI Consulting Group of Fairfield, CA. The grand jury obtained a copy of this report though it was not on the website. This report is very unclear to lay people and contains misleading information. Its detailed description of some assessment districts' (e.g. Hawk View and Bell Ranch) "...areas maintained and improvements..." do not, in fact, even exist. These LLADs are only in the planning stage and no significant development has yet started on these subdivisions. Similarly, Valley View's list of improvements only partially exist and, in fact, do not exist to the scale described.

In the most recent Engineer's Report for FY 2016-17, there is a nebulous calculation that attempts to determine the general benefit that properties outside of the LLADs derive from their proximity to LLADs. The calculation uses the number of parcels inside the park assessment district and the number of parcels within .25 miles of the park. It is surprising that the numbers of parcels have remained the same in the last four Engineer's Reports.

The Browning Reserve Group of Sacramento, CA published a reserve study in January 2012 that listed assets, current replacement value in 2011, estimated life, and expected replacement costs at the end of service life. The grand jury's cursory review of the Browning Study for the Promontory LLAD showed a current replacement cost for all landscaping, including irrigation and turf, at \$30,015, and sidewalks, curbs, gutters and stamped concrete at \$2,861. We find both of those numbers incredibly low. The Engineer's Report shows Promontory having 18 acres, which also seems to be in error; the CSD told us that Promontory Community Park was 18.72 acres and Kalithea Park is 3.82 acres. Since the Promontory LLAD contains both parks, the Engineer's report should list 22.54 acres for its size and makes the replacement costs all the more suspect.

The grand jury finds it disconcerting that glaring differences in the assets of an LLAD exist between the Browning Study and the SCI Engineer's Report. Equally perplexing was the ease with which the grand jury uncovered some of these blatant differences.

---

<sup>3</sup> Majority protest requires support by over 50% of the parcel owners

The FY 2015-16 budget states "staff once again evaluated the Browning Reserve for deferred maintenance, and have budgeted repairs and replacements as needed". However, there is no mechanism in place to reflect that repairs, replacements, retirements, or additions since 2011 are reflected in the Browning Reserve. Similarly, if an LLAD was created and built subsequent to the 2012 report, the Browning Reserve would not include assets from that LLAD, e.g. Valley View. There does not appear to be an up-to-date list of LLAD assets and improvements.

Perhaps it is time for the EDH CSD to form a committee of interested LLAD parcel owners to assist the CSD in the review of the process and the documents provided by these consultants.

### **FINAL REMARKS**

The grand jury found many unusual and inexplicable aberrations in the budgets especially when looking at year-to-year comparisons within the same LLAD or within the same year at different LLADs. That the budgeted overhead costs as a percentage of direct cost can vary from 5% to 192% is incomprehensible. How the county collection fee can be over 12 times greater per parcel in one LLAD versus another? Or, how is the accumulation of excess fund balances, either surpluses or reserves, equal to 4 times expected expenses justified? And, how can anyone who has ever seen Promontory believe they could replace all of the turf and irrigation for \$30,000?

### **DISCLAIMER**

One, or more, of the 2015-2016 El Dorado County Grand Jurors recused themselves from participation in this investigation.



## **FINDINGS**

- F1. Oversight of the LLAD assessment process is lacking
- F2. Assessments vary significantly from year to year with little or no rationale provided for the changes.
- F3. The total fund balances are growing year over year. Some LLADs have fund balances of nearly 400% of expected expenses with no explanation as to why such large balances are warranted or necessary.
- F4. CSD employees were not forthcoming with the grand jury particularly when questioned about the fund balances and the characterization thereof - reserves versus surpluses.
- F5. Allocation of CSD overhead among the LLADs does not have an ascertainable rationale. Budgeted expenses and allocated overhead costs are inconsistent and vary widely between LLADs. Tracking actual costs by LLAD is problematic.
- F6. The SCI Engineer's and Browning Reserve Group reports contain very obvious errors and/or misstatements that need to be examined by CSD staff with a critical eye toward detail.
- F7. Fees collected by the CSD for usage of improvements within various LLADs are put into the CSD general fund and not used to offset LLAD expenses for maintaining those improvements.

## **RECOMMENDATIONS**

- R1. When assessments vary significantly from one year to another, the CSD should explain the rationale for the change.
- R2. The CSD should continue its recent efforts to accurately record costs by LLAD and determine a more equitable way to allocate overhead.
- R3. Excessive fund balances should be reduced to a more acceptable percentage of expected future costs.
- R4. The CSD should fully comply with the provisions of §22660 of the Landscaping and Lighting Act and clearly disclose in a resolution when an LLAD is accumulating funds for a future expenditure that is too costly to be paid for out of a single year's assessment.
- R5. A new reserve study should be undertaken to insure assets and replacement costs are accurately portrayed and a mechanism put in place to track repairs, additions, replacements and retirements.
- R6. The LLAD Engineer's report should be reviewed by staff for accuracy and should be posted to the CSD website for public review for a reasonable period prior to adoption by the EDH CSD Board of Directors.
- R7. The EDH CSD Board of Directors should consider the formation of a citizen's advisory group composed of residents in LLADs to review budgeted and actual costs while providing guidance to the board.

## **REQUEST FOR RESPONSES**

Responses to both findings and recommendations in this report are required by law in accordance with California Penal Code §933 and §933.05 by the El Dorado Hills Community Services District Board of Directors by September 7, 2016.

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

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

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

# EL DORADO COUNTY 2015-2016 GRAND JURY

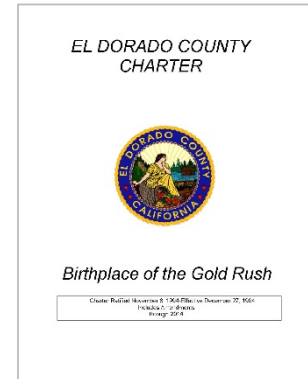
## 21<sup>ST</sup> CENTURY COUNTY CHARTER

Case 15-04 • June 2, 2016

El Dorado County is one of 14 current charter counties in California. The remaining 44 are general law counties. While charter counties have a limited degree of *home rule* authority they do not have any extra authority over local regulations, revenue raising abilities or budgetary decisions.

### BACKGROUND

The California Constitution (Article XI, §3) authorizes, but does not require, a county to adopt a charter by a simple majority vote of its electors. El Dorado County adopted its charter in 1994. That charter provides for a five-member board of supervisors and seven elected officials. Three of the elected officials are required by the state constitution; the other four were added by the charter.



### METHODOLOGY

- The current El Dorado County Charter was reviewed.
- County administrators were interviewed.

### DISCUSSION

Only one in four California counties currently operate with a charter. Several others have had charters, but have returned to general law. If having a charter provides significant advantages over being a general law county, why aren't there more charter counties? While 24 percent of counties have a charter, a different perspective reveals that because the charter counties include the most populous counties, more than 70 percent of Californians have a charter. A more reasonable question might be: Does El Dorado County fully realize the benefits of having a charter?

"General law counties adhere to state law as to the number and duties of county elected officials."<sup>1</sup> However, the limited home rule authority of charter counties "...may provide for the election, compensation, terms, removal, and salary of the governing board; for the election or appointment (except the sheriff, district attorney, and assessor who must be elected), compensation, terms, and removal of all county officers; for the powers and duties of all officers; and for consolidation and segregation of county offices."<sup>1</sup>

The board of supervisors is authorized<sup>2</sup> to propose amendments to the charter to be voted on at any general election. The present charter was carefully reviewed and specific areas where

<sup>1</sup> CSAC website: "County Structure & Powers"

<sup>2</sup> El Dorado County Charter Section 102.

improvement could be realized were found. The grand jury recommends that the board of supervisors consider several amendments.

---

## **Term of Offices**

The El Dorado County Charter currently provides term limits for members of the board of supervisors but not for other elected county officials. The current Treasurer/Tax Collector has served for over thirty consecutive years; the Auditor/Controller and Recorder have each served more than twenty years. In general law counties there are no term limits for supervisors or other elected county officials.

Adding supervisor term limits to the charter may have helped rid the county of deleterious dynasties at a time when it was difficult for potential candidates to get the name recognition necessary to effectively campaign against incumbents. Conversely, however, it may also preclude good, effective leaders from continuing to serve the county. Institutional knowledge gained by serving in this position helps an elected official perform in his or her elected position to their full potential. Experience is a highly desirable asset for any effective county supervisor to possess.

### Finding

F1. Term limits for county supervisors should be removed from the charter.

### Recommendation

R1. The grand jury recommends amending section 202 of the charter:

#### **202. Term of Offices**

~~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 which 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~~ even numbered years when Presidential elections occur. The supervisor for each of the Fourth and Fifth Districts shall be elected in ~~1994~~ even numbered years when Presidential elections do not occur.

---

## Filling of Vacancies

Charter section 203 currently calls for a supervisor vacancy to be filled by election. When a vacancy occurs more than 120 days or less than 90 days before the next scheduled election for that district, a special election is mandated. In general law counties, the governor fills any vacancies within 90 days. If the governor fails to act the board of supervisors can either fill the vacancy by appointment, hold a special election or leave the seat vacant until the next regular election.

### Finding

F2. Special elections are very expensive; it would be more expeditious and much less costly to allow the board of supervisors to appoint a replacement who meets all the qualifications necessary to run for the seat, for the remainder of the term or until the next regular countywide election, whichever comes first.

### Recommendation

R2. The grand jury recommends amending section 203 of the charter:

#### **203. Filling of Vacancies**

Whenever a vacancy occurs in the office of supervisor, the unexpired term shall be filled by appointment within 90 days of a person qualified to run for the office by an affirmative vote of at least three supervisors. Appointment will be for the remainder of the term or the next countywide election, whichever occurs first. ~~election. If the vacancy occurs more than 90 days but less than 180 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 with the scheduled election. If the vacancy occurs more than 180 or less than 90 days before a 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 180 days after the vacancy occurs. The special election shall be conducted in accordance 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.~~

In the event that there are not enough remaining board members to constitute a quorum or the board is unable to reach consensus of at least three supervisors within 90 days, general law shall apply.



---

## Recall

In counties without a charter elected officials can only be removed by specific statutory means. Chief among those is the recall process. The current charter only prescribes recall, however, the recall process can be cumbersome, costly and virtually impossible to effect. This is an area where having a charter provides a significant benefit to county constituents, but we have not availed ourselves of the opportunity.

There are times when the misconduct of an elected official is egregious enough that speedy action is necessary (e.g. if the official is putting county employees or county revenues in peril). The charter should allow an alternative method whereby the board of supervisors can remove any elected official, including a supervisor, from office. The method should be simple and straightforward without allowing capricious removal. It should absolutely not allow interference with independent constitutional and statutory functions of any office.

The Constitution provides that county charters shall specify the "compensation, terms and removal" of all elected officials. In *Penrod v. San Bernardino* 126 CA 4<sup>th</sup> 185, the court determined that this language included the authority for the board to adopt an ordinance to remove elected officials as long as it did not interfere with those officials' constitutional duties.

### Finding

F3. The charter should contain a provision for the board of supervisors to adopt an ordinance setting forth procedures to remove any elected official for significant misconduct.

### Recommendation

R3. The grand jury recommends amending section 209 of the charter:

**209. Recall and Removal from Office**

Any supervisor is subject to removal from office by recall.

Any County elected official may be removed from office in the manner provided by state law. In addition, any elected official can be removed by a four-fifths vote of the Board of Supervisors as set forth by ordinance. Any such removal must be for good cause. The board must first serve upon such officer a written statement of alleged grounds for such removal, and give the officer a reasonable opportunity to be heard. The authority shall not be used to interfere with the independent and constitutionally and statutorily designated investigative and prosecutorial functions of the Sheriff or District Attorney, or the independent and constitutionally and statutorily designated authority of any of the other elected officials.

---

## Compensation

In 1970, the voters amended the California Constitution Article XI §1(b) to provide that "...each governing body shall prescribe by ordinance the compensation of its members, but the ordinance prescribing such compensation shall be subject to referendum." (emphasis added)

The entirety of the current charter section 204 reads: "*Compensation of supervisors shall be fixed by ordinance.*". The charter should be amended to ensure the transparency and voter approval mechanism set forth in the constitution by setting forth the basic parameters of the compensation ordinance.

The current ordinance is Number 4675, **El Dorado County Ordinance Code §2.15.030. – Salaries of the Board of Supervisors.**

Paragraph A. (4) expressly sets the current monthly salary of a supervisor at \$6,406.25. Paragraph B. provides that supervisors receive "...*the same benefits provided by the County to the elected County department heads with the exception of longevity pay, to the extent authorized by law.*" In addition, salary and benefits "...of Supervisors shall increase in the same proportion as the increases in the salary and benefits to elected department heads..." effective at the same time.

The charter currently does not contain any guidance about the contents of the board compensation ordinance. It does not restate the constitutional requirement that it be subject to referendum. The ordinance, which includes potential future increases, vaguely described, does not give the taxpayers a realistic opportunity to voice their opinions at the ballot box about the board's salary decisions for themselves.

Compensation that is reliant upon another position in any way, obscures transparency that supervisors are setting their own salary and benefits. The board's decisions about their salaries must be clear, not obscured by being tied to future increases to other positions, particularly positions where the board controls the future increases.

### Finding

F4. The charter should mandate that the supervisor compensation ordinance explicitly declare the salary, benefits and other compensation for the board of supervisors and should not contain any obscure future increases that are tied to the salaries and benefits of other officials, especially officials whose salaries are set by the board.

### Recommendation

R4. The grand jury recommends amending section 204 of the charter:

<p><b>204. Compensation</b></p>
---------------------------------

<p>Compensation of supervisors shall be fixed by ordinance. <u>Salary, benefits and any other compensation must be clearly set forth within the ordinance and not be subject to future change by changes to other officials' salaries or benefits over which the board of supervisors has any influence.</u></p>
--

---

## Elected Department Heads

Section 210 b.(2) of the charter allows the board of supervisors to consolidate, segregate, assign or transfer the powers and duties of any elective offices to the extent authorized by general law and not in conflict with the charter. Section 402 only address removal. It needs to be amended to remove conflict with section 210 b.(2).

### Finding

F5. A potential conflict exists within the provisions of charter sections 210 b.(2) and 402. That conflict should be clarified.

### Recommendation

R5. The grand jury recommends amending section 402 of the charter:

#### **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
- 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 or their powers and duties have been consolidated, segregated, assigned or transferred in accordance with Section 210 b.(2) of this charter.

---

## Duties of the Chief Administrative Officer

This provision does not currently mandate that the Chief Administrative Officer must adhere to *state law*. This simple addition to the charter will add clarity and eliminate doubt.

### Finding

F6. The charter does not require the Chief Administrative Officer to adhere to state law.

### Recommendation

R6. The grand jury recommends amending section 304 of the charter:

#### **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 state law, 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:

*The remainder of Section 304 remains unchanged*

---

## Classified and Unclassified Employees

The County Administrative Officer should be identified as an unclassified employee. Currently, the County Administrative Officer appears to be neither classified or unclassified.

### Finding

F7. The language of section 502.1 gives the board of supervisors "...the right for good cause and after written notice to affected parties, to make "de minimis" changes which amend the foregoing list.", of unclassified positions.

### Recommendation

R7. The grand jury recommends amending section 502.1 of the charter:

#### **502.1 Classified and Unclassified Employees**

The classified service consists of all positions in which employees have achieved civil service status except those positions designated as unclassified below.

The unclassified service consists of:

- a. County Administrative Officer;
- ab. elected county officers;
- bc. appointed department heads;
- cd. all appointed boards, committees and commissions;
- de. all persons serving without compensation (compensation does not include incidental fees and expenses);
- ef. casual patient and inmates at county institutions;
- fg. the following administrative personnel charged with making policy decisions: Deputy Director of Welfare; Undersheriff; The Undersheriff shall have the right to return to a former classified position in accord with county ordinance;
- gh. any person holding a confidential position to each member of the Board of Supervisors;
- hi. persons employed to render professional, scientific, technical or expert services on a temporary basis for a specific project;
- ij. persons covered under State Merit Systems;
- jk. persons employed as independent contractors pursuant to contracts, as authorized by the Board of Supervisors.
- kl. persons otherwise excluded by operation of law.

The Board of Supervisors shall have the right for good cause and after written notice to affected parties, to make "de minimis" changes which amend the foregoing list.

## **FINDINGS**

- F8. Section 102 of the El Dorado County Charter authorizes the board of supervisors to propose amendments to the existing charter at any time without the need of a Charter Review Committee.
- F9. The board of supervisors should do a comprehensive review of the authority granted to charter counties to determine if there are benefits to being a charter county that El Dorado County could take advantage of.

## **RECOMMENDATIONS**

- R8. The El Dorado County Board of Supervisors should place some or all of the recommended charter changes, R1 through R7, outlined above, on the next or future general or special countywide election.
- R9. The grand jury recommends that the board of supervisors have staff examine the other 13 charters to see if there are additional benefits that El Dorado County could realize.

## **REQUEST FOR RESPONSES**

Responses to both findings and recommendations in this report are required by law in accordance with California Penal Code §933 and §933.05 from the El Dorado County Board of Supervisors before August 31, 2016

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

The Presiding Judge of the El Dorado County Superior Court additionally requests that the responses be sent electronically as a *Word* 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](mailto:courtadmin@eldoradocourt.org).

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

# EL DORADO COUNTY 2015-2016 GRAND JURY

## *FENIX, ICARUS NAUGHT*

Case 15-05 • June 9, 2016

FENIX<sup>1</sup> is El Dorado County's Fiscal Enterprise and Information Exchange project. The project is the county's installation and implementation of Tyler Technologies Munis financial solution, an Enterprise Resource Planning (ERP)<sup>2</sup> system intended to replace several county systems that execute on different computer platforms including the county's IBM mainframe.

During the three years since the project began in 2013, FENIX has been and continues to be the subject of much misinformation and speculation. It is not yet functional and it is still unknown when it will be operational.



The grand jury endeavored to determine the current status of the project, its projected operational date, the basis for misinformation and speculation, and any facets of its definition and subsequent execution that could be improved. Finally, is there something to be learned from the entire project that might improve other projects?

### **BACKGROUND**

The FENIX project replaces software systems purchased between 1989 and 1992 at a combined software licensing cost of \$1.7 million. They were customized extensively by El Dorado County Information Technologies (IT) staff to support county work processes. Unfortunately, the customization ultimately precluded the application of further vendor updates or new releases without incurring exorbitant expense and risk. In short, twenty-five years is several generations in technology, and the county's systems had become out of date to the extent they could no longer be repaired easily. Continued ad hoc repairs would only delay the inevitable need for a systemic fix, and delay would only increase the cost. In addition, vendors sold these systems to other vendors that may have offered competing products. These changes and updates, made modernization even more perilous.

---

<sup>1</sup> Although FENIX is a locally devised project name, it has become a ubiquitous moniker for the El Dorado County installation and implementation of Tyler Technologies Munis financial solution.

<sup>2</sup> Enterprise Resource Planning (ERP) is a category of business management software, typically a suite of integrated applications, that collect, store, manage and interpret data from several business activities including product planning, purchase, manufacturing or service delivery. It provides an integrated view of processes using common databases, often in real-time.



El Dorado County's technology environment was evaluated in 2007 as part of an Information Technologies (IT) strategic planning process. A driving factor for that evaluation was that the IBM mainframe, the foundation environment for a majority of the county's systems, was coming to end of life.<sup>3</sup> The evaluation identified the benefits, risks, and related costs of various options, including retaining the status quo for the mainframe hardware and software systems. The county researched numerous vendors, including its existing vendors. Information from other California counties was compiled, including the processes and resources used during system replacement project planning and overall satisfaction with the results. Based upon that feedback, IT management recommended to the board of supervisors (BOS) to contract with an independent consultant to develop a roadmap for replacement of those aging systems.

But, management support and budget was not available. No further action was taken until 2010 when the Chief Administrative Officer directed IT to research replacing the county's financial, human resources and payroll systems, specifically looking at an enterprise resource planning (ERP) system. The 2007 research was revisited and updated. ERP system project implementation best practices, documentation and lessons learned were obtained from other California counties. The board of supervisors authorized the release of a request for proposal (RFP) that closed May 21, 2012 with 11 vendors submitting proposals.

In March 2013, the BOS awarded the RFP to Tyler Technologies of Yarmouth, Maine and authorized the chair to execute an agreement with Tyler for a not-to-exceed amount of \$2,613,377. The total ERP project budget was approved with a not-to-exceed amount of \$5.6 million.

## **METHODOLOGY**

The grand jury reviewed:

- County ERP system RFP
- County ERP system functional requirements
- County contract with Tyler Technologies
- Vendor project documentation
- County project documentation
- BOS project status updates
- Marin County 2012/2013 grand jury report *Marin's Software Saga Continues – But Is There MERIT In ATOM*
- Marin County contract with Tyler Technologies

The grand jury interviewed:

- Fenix project staff
- County elected officials

---

<sup>3</sup> End of life occurs when it is no longer economically feasible to continue using the current mainframe hardware and attendant software. It should be replaced, possibly with a newer model, to realize possible cost savings and advantages of newer technologies. The county's mainframe systems have typically encountered end of life every five years.

## **REQUEST FOR PROPOSAL PROCESS AND VENDOR SELECTION**

A request for proposal (RFP) outlines the scope, services and requirements that must be met by potential vendors interested in providing those services. The county's RFP for the Enterprise Resource Planning system included a 78 page functional requirements document itemizing approximately 2000 requirements in 17 categories.

The RFP defined four levels for evaluation of responding vendors:

- 1) Procurement Requirements Assessment
- 2) Detailed Proposal Assessment
- 3) Demonstrations
- 4) Implementation Firm Interviews and Discovery Sessions.

Criteria defined under level 2, Detailed Proposal Assessment, Public Sector Experience and References, states "Vendors who have proven experience at public sector sites similar in scope, size and complexity to the County will provide higher confidence to County evaluators."

The county's selection committee moved SunGard and Tyler Technologies to the final phase. SunGard had experience in over a dozen California counties. Tyler's Munis had been installed in one California county, Mendocino. Tyler was selected and awarded a contract. It was unclear based on documents provided, why Tyler was ultimately selected.

## **BUDGET**

The county board of supervisors approved a \$5.6 million project budget that authorized \$2.6 million in vendor expenses and \$3 million for county expenses.

Tyler's expenses included \$874,360 for software licensing, \$78,120 for hardware, and \$1.66 million for services such as project management, consulting, data conversion, training, and travel.

The county portion of the budget was extremely vague. County expenses included \$158,900 for hardware and software, and \$2.83 million for additional resources such as limited term and contracted employees, stipends, other project costs. The largest portion, \$2.83 million, was not adequately broken down in subcategories. Typically, this information is included in the project plan and, well drafted budgets generally identify costs for staff labor, materials procurement, ongoing operating costs, other direct costs such as travel or training and a contingency amount for the unknown. The county's Chief Technology Officer told the BOS that it was recognized that the Tyler system did not have a California presence, and, as a result, the project budget was front-loaded.<sup>4</sup>

As of November 2015, it was reported to the BOS that of the \$5.6 million project budget, \$2.5 million had been spent, leaving a balance of \$3.1 million. It is unknown how much of this was Tyler's and how much was the county's.

---

<sup>4</sup> Distribute or allocate unevenly, with the greater proportion at the beginning of an enterprise or process.

The budget related documentation that the grand jury received was at the transactional detail level with no categorization of type of expense i.e. software license, hardware, maintenance, services, or modifications. It was impossible to validate the information reported. The county does not have a project budget tracking document. This ongoing failure to manage the budget by expense category is of grave concern.

The only budget reconciliation report available was provided by Tyler, dated May 29, 2015 showing that the county was running out of contracted consulting days. It can be assumed that additional dollars will have to be allocated for those services, but the overall budget impact is unknown at this time.

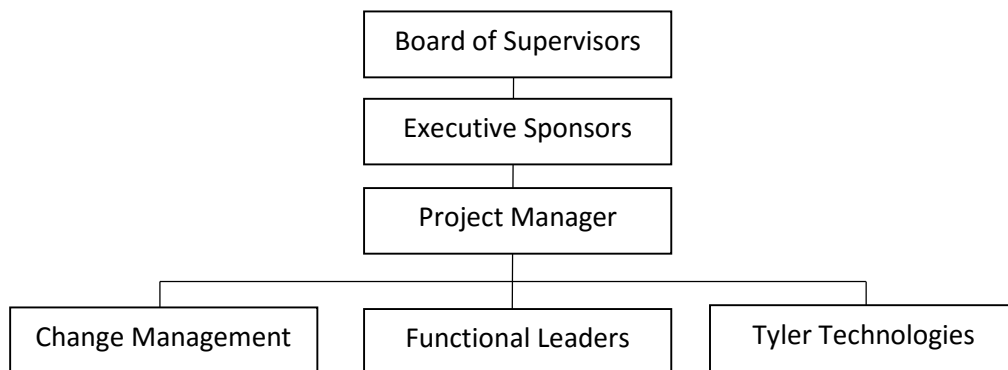
## CONTRACT

The contract between the county and Tyler appears to be a very straightforward, boilerplate<sup>5</sup> contract. It includes standard language outlining general terms and conditions such as indemnification, governing law, confidentiality, payment terms, severability, contract administration responsibilities, etc. The agreement terms outlined in the contract include software licensing, maintenance, professional services and third party products. The contract attachments include Tyler’s response to the county’s RFP and documents describing the vendor’s services and supporting processes. Other than the county’s standard agreement language, the contract does not include any county specific requirements.

It is unusual in a project this size, both in investment and complexity, for the contract to not include county specific requirements and terms. At the very least, those functions that were identified in the RFP as not being supported should have been included with committed costs and delivery dates.

## PROJECT STRUCTURE

The Project Charter submitted to the BOS in September of 2013 defined this project structure.



---

<sup>5</sup> Boilerplate refers to the standardized, formal language in a contract or legal document.

Executive sponsors are the Chief Administrative Officer, the District Attorney/Chief Technology Officer, and the Auditor/Controller. Their role is to champion the project, provide strategic direction, obtain funding, review expenses, and facilitate timely decisions.

The Assistant IT Director was appointed project manager. That role establishes the overall direction of the project, including standard project management activities of planning, status reporting and management controls such as issue, change, risk, and quality. It should be noted that the IT director's position has been vacant for the majority of the FENIX project, placing the assistant director in an untenable situation serving as both project manager and de-facto IT director.

Change management was identified as part of the project structure but without a designated resource or role. The change management process and supporting procedure was later defined in the project charter as a function of project management.

Functional leaders are the subject matter experts responsible for the coordination of activities specific to their areas of expertise. Those activities include module set-up, workflow analysis, identification of interface requirements, user acceptance testing and training.

Tyler Technologies' role includes successful implementation of the ERP system including participation in project management, system set-up, business process review/analysis assistance, issue identification/resolution and training.

Although not identified above, the current project organization now includes a project leader, who is an employee of IT, directly reporting to the project manager. The project leader works closely with the functional leaders and Tyler Technologies to facilitate assigned project activities.

## **PROJECT LEADERSHIP**

A critical factor in support of project management and the overall success of a project is senior management involvement. Unfortunately, the FENIX project's executive sponsors have not met in over a year. The grand jury learned that this was due to lack of attendance by a primary stakeholder. In the 36 months since the project began, the BOS has received a total of eight project status reports. Since March of 2015, the BOS has only received one update. It has been over six months since that update and the BOS has not requested, or received, a project status. This lack of involvement by the BOS may be attributed to various factors. They do not fully understand the risk and complexities of an ERP implementation project. They see their role as policy makers, leaving the project management and oversight responsibilities to senior management. In either case, the end result has put the project at risk.

## **PROJECT MANAGEMENT**

Project management<sup>6</sup> is the key for success of any complex project, such as the implementation of an ERP system. There are various successful project management methodologies. Regardless of the methodology employed, careful consideration must be given to the overall project objectives, timeline, and cost, as well as the roles and responsibilities of all participants and stakeholders. Inadequate project management plays a major role in most failed projects.

The county contracted with Tyler to provide *part-time* project management services *in support of* the county assigned project manager. Tyler's documentation included a complete project plan including scope, resources, timeline, plans for change management, quality management, risk management, communication, and training. In addition, there was other typical supporting project documentation such as calendars, site plans, report plans, budget reconciliation, meeting agendas, minutes, and status reports.

The only project management document the county has is the project charter. The county does not have a project plan. The county does not have a detailed project timeline. The county does not have plans for issue management, quality management, risk management, or training. The county's communication plan, included in the project charter, consisted of the following statement: "An updated project plan will be made available for view to all interested parties throughout the County." The grand jury was told that the county did not develop these project management documents, because the vendor was providing them.

Tyler developed the project management documentation. The county does not recognize that it doesn't include the detail necessary to support the county's project management responsibilities. The county's reliance on the vendor's project plan is indicative of a lack of project management experience and under estimating the complexities of managing an ERP project.

## **IMPLEMENTATION TIMELINE**

The original FENIX project implementation plan had four phases:

- 1) Financials
- 2) Human resources and payroll
- 3) Work orders, inventory, fixed assets and fleet management
- 4) Business license

As part of the contract between Tyler and the County, the parties agreed on go-live<sup>7</sup> dates for phase 1 as 3/1/2015 and phase 2 as 10/1/2015. The go-live dates for phases 3 and 4 were to be determined.

---

<sup>6</sup> Project management is the application of knowledge, skills, tools and techniques to project activities to meet the project requirements.

<sup>7</sup> Date at which productive use of the software begins.

On July 22, 2014 the BOS was presented with a project status report stating that the go-live dates were being moved to 10/3/2015 for phase 1 and 1/1/2016 for phase 2. The justification for this delay was twofold. First, the county's budget preparation process, occurring March through August, required county staff support leaving no resources for FENIX. Second, time would be needed by both Tyler and the county to develop and test the required system modifications before going live.

By December of 2014 the project had been assigned status red, meaning "probable that the project will NOT be delivered with acceptable quality without changes to schedule, budget, resources, and/or scope." This status was attributed to the number of financial system modifications required to accomplish the Phase 1 October 2015 go-live date.

On March 24, 2015, the project manager reported to the BOS that neither phase 1 or 2 would go-live in 2015. The project time line would be adjusted after the project team returned from a summit with Tyler in June to discuss approaches for obtaining the required system modifications.

As of June 1, 2016, none of the phases have "gone live". Indeed, the county has not had an updated, confirmed project implementation timeline in over fifteen months.

## **MODIFICATIONS**

It is common during ERP implementation projects to seek customization of the new ERP system in an attempt to make it function like the system it is replacing or to meet the organization's existing operating practices. While there can be gains in terms of user convenience from such efforts, customization is time consuming and expensive.

Tyler's software license contract does not allow customers to modify their software. Modifications requested by Tyler's customers must adhere to Tyler's business plan. If approved, they become an integrated part of Munis, available to all Tyler customers as part of normal system updates covered under maintenance agreements.

It is not surprising that the county would require system modifications based upon their history of unique work processes and Tyler's limited experience with California counties. But, given the significant drawbacks of customization, the goal should have been to keep the number of modifications to a minimum. That could have been accomplished in two ways. First, by completing a detailed business process analysis and developing comprehensive functional system requirements early in project planning, prior to system selection. Second, adapting work processes to the system as a part of testing and implementation.

By November of 2015, the county had identified over 100 required system modifications. Twenty-one of those modifications have been delivered for which the county paid \$105,000. The remaining 82 modifications have been quoted at just over \$612,000. The BOS was informed only that the county and Tyler had identified three options to obtain the remaining modifications. Detailed information regarding the cost or project impact of each option was not provided in that update.

The grand jury later learned that two of the options being considered would cost the county close to \$1.8 million. The additional \$1.2 million was attributed to the additional resources and effort required by Tyler to complete development in time to meet the project go-live dates. The third option would not require the county to pay the additional \$1.2 million, but would extend the project go-live dates.

County chose the third option, saving \$1.2 million but extending the project go-live dates; these delays also have significant, but not as easily ascertainable, costs. Since the grand jury had been made aware that the project executive sponsors no longer meet, it is unclear who made the choice or what factors contributed to the decision. In the interviews conducted, there was no mention of any alternative, risk or cost benefit analysis being completed. There has been no BOS update providing this information.

### **DATA CONVERSIONS AND INTERFACES**

The importance of data conversions and interfaces can't be ignored in any ERP implementation project. Both are processes whereby data is moved from one system to another. Data conversion is usually a one-time event. Data is extracted from the current system then cleansed and reformatted before installing it into a new system. By contrast, a data interface is repetitive, used whenever needed. For example, the county periodically sends employment information to various state agencies.

The county contract with Tyler identified 33 conversions at a cost close to \$120,000. The chart of accounts and project conversions were completed by October 2014. Budget/actual, vendor, invoice and customer conversions were active. Yet, all conversions were placed on hold by January 2015.

The county contract with Tyler does not include interfaces. The only reference to them is in the Tyler scope plan — “the county will be trained on the interface options throughout the system”. The grand jury was not provided with documentation identifying county required interfaces; the project impact is unknown.

### **CURRENT STATUS**

Over the past six months, the county and Tyler have been working to amend the FENIX project contract to address the county's changes, primarily related to required system modifications. Finally, on June 7, 2016, the proposed contract amendment was presented to and approved by the board of supervisors. This amendment commits the county to pay Tyler an additional \$791,700, bringing the total contract not-to-exceed amount to \$3,405,077. It also establishes new go-live dates for the project. The go-live date for phase 1 and phase 4, including financials, work orders, inventory, fixed assets and fleet management, is planned for October 2017. Phase 2 and phase 3, including human resources, payroll and business license are planned to go-live in January 2018.



## MARIN COUNTY

There is a general misconception that El Dorado County is benefiting from Marin County activities. Marin is also implementing Tyler Technology's Munis ERP solution, project name ATOM, Administrative Technologies of Marin. Their project has been the subject of conversation in various FENIX project forums; it is appropriate to include a brief overview and status of the ATOM project.

Marin's Tyler ERP implementation followed an earlier project that failed. That failure provided Marin with valuable insight into current efforts. Part of the original planning in preparation for the recent project included an 18 month focused business process redesign effort that identified several opportunities to reduce the scope of expected system modifications, data conversions and software modules implemented. The redesign effort resulted in a 500 page functional requirements document. By comparison, El Dorado County's functional requirements document was only 78 pages.

Marin has a \$14 million project budget which includes approximately \$8 million being paid to Tyler for software licensing, including a third party payroll timekeeping system and a treasury management system, and full time project management services. The remaining \$6 million for county expenses includes \$4.5 million for dedicated project staffing, \$300,000 for equipment and expenses, \$250,000 for quality assurance, and a \$1 million contingency.

Marin's project plan and supporting budget defines two separate projects. The first, finance, kicked off in February 2015 and is on track to go-live in July 2016. The second project, human resources and payroll, kicked off in January of 2016, with an expected go-live date of July 2017.

Marin's 249-page contract with Tyler included a 100-page statement of work and detailed requirements for over \$132,000 in conversions and close to \$500,000 in interfaces and system modifications. Again by comparison, El Dorado County's contract was 69 pages, with no county specific requirements.

El Dorado County has not realized any notable benefits from Marin's project. The county may realize benefits for future system implementation projects by including Marin's project information in a lessons learned analysis.

## **FINDINGS**

- F1. County leadership has underestimated the complexities and risk of an ERP system implementation project.
- F2. The county's ERP system functional requirements were inadequate.
- F3. The county's contract with Tyler was poorly conceived and lacked critical county specific terms and conditions. Specifically, it did not account for significant customization.
- F4. The county does not have a FENIX project plan, which would include a detailed timeline and supporting plans for resource, budget, change, quality, and risk management.
- F5. The county's portion of the budget was too vague to be easily managed and cost contained.
- F6. The county's project leadership and project management is lacking and therefore ineffective.
- F7. The project was delayed because the county did not allocate full time staffing for the project.
- F8. County leadership failed to adequately consider costs, complexity and time delays caused by extensive customization.
- F9. The FENIX project is experiencing many of the industry recognized reasons for failure including lack of senior management involvement, poor requirements, inexperienced project manager, and lack of resources. If they can be overcome, the project, like its namesake, may rise up and succeed.

## **RECOMMENDATIONS**

- R1. The county should hire an experienced senior level project manager, reporting to the CAO, to manage the remainder of the FENIX project including all county system implementation projects.
- R2. The BOS should establish an objective advisory resource to ensure it has all the relevant information needed to oversee the FENIX project and other system implementation projects.
- R3. The county should contract for an independent evaluation of the FENIX project, immediately and at the end of the project, to determine lessons learned.
- R4. The BOS should encourage the project executive sponsors to meet regularly and provide monthly updates to the board.

## **DISCLAIMER**

This grand jury includes two members who are former employees of the El Dorado County Information Technologies Department. Both members left IT more than three years ago. Penal code §916.2 requires that grand jurors who worked for an agency less than three years previously recuse themselves. Both members stated they had no conflict which would preclude them from participation, and the grand jury concurred.

## **REQUEST FOR RESPONSES**

Responses to both findings and recommendations in this report are required by law in accordance with California Penal Code §933 and §933.05 from the El Dorado County Board of Supervisors before September 14, 2016.

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

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

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

# EL DORADO COUNTY 2015-2016 GRAND JURY

## *WEST SLOPE ANIMAL SHELTER: BEST IN SHOW*

Case 15-06 • June 2, 2016

The process of acquiring land and building a new animal shelter was long and arduous. Previous grand juries reviewed the process and community complaints about the costs and delays. Recommendations were made by previous grand juries that improved the county's property acquisition. After construction commenced, the 2013-14 grand jury noted that "This new animal control facility is an example of the effectiveness of those new procedures in that it will open this fall on-time and on-budget and at a reasonable cost to tax-payers."

This year's grand jury endeavored to determine whether the facility has continued to operate in the manner the 2013-14 grand jury hoped it would after it opened in December 2014. The shelter's operations were the focus of a facility inspection of the West Slope El Dorado County Animal Services Facility at 6435 Capitol Avenue in Diamond Springs. The shelter and business office in South Lake Tahoe was not included in the facility inspection, or this report.

### **BACKGROUND**

The El Dorado County, California, Code of Ordinances, Title 6, also known as the County Animal Control Ordinance regulates "...the control and humane treatment of animals within the boundaries of the county for the protection of the safety and welfare of the public." It delineates the administrative provisions of Animal Services, animal regulations, dog requirements, impoundments, regulation of commercial animal establishments, non-commercial kennels along with catteries<sup>1</sup>, wild animal provisions, spay and neuter clinics, grazing lands management, control of wild stallions, and regulations for apiaries<sup>2</sup> and beekeeping.

Animal Services includes field services, rabies control, disaster preparedness and shelter operations.

Field Services enforces state statutes and county ordinances including regulation of animal care and welfare, investigations of citizens' complaints in response to reports of loose or injured animals, and inspection of and licensing for animal establishments and kennels.

The rabies control program investigates animal bites and exposure risk to rabies, provides rabies vaccinations to animals and processes dog licenses for which evidence of rabies vaccination is required.

Disaster preparedness includes emergency shelter planning for household cats and dogs, livestock, horses, birds and exotic pets. It encourages use of a published emergency preparedness checklist for citizens' use in the event of an evacuation caused by natural disasters such as wildfires.

---

<sup>1</sup> A place where cats are bred or housed temporarily (like a dog kennel).

<sup>2</sup> An apiary (also known as a bee yard) is a place where beehives of honeybees are kept.

Pet adoptions for dogs, cats, horses and other animals housed at the shelter is a major function of shelter services. The west slope shelter is open for adoptions Monday through Saturday and is closed Sundays and holidays. Pet adoptions follow a strict protocol. Adoption fees cover the cost of spay or neuter sterilization, basic veterinary services, microchip identification and a one-year dog license for El Dorado County residents. Shelter Services also handles dog licensing, complaints, public concerns about bites, and taking reports of injured or dead animals.

Animal Services has a foster care program to provide temporary housing for lost and found pets. The El Dorado County animal shelter is primarily a holding and adoption facility for stray pets, or pets confiscated because of abuse or neglect. Owned pets are accepted for adoption from a family in crisis when the shelter has space available. Animal services works closely with a network of nearby local shelters in California and Nevada to place eligible animals with families.

The shelter accepts monetary donations from the public and local pet organizations to house, feed and provide medical care to the animals. A current needs list of other desired donation items is available at the Animal Services website.

## **METHODOLOGY**

- On-site visit to the West Slope Animal Services Facility in Diamond Springs
- Research of the El Dorado County website
- Review of the El Dorado County, California, Code of Ordinances, Title 6 - Animals
- Interviews with animal services administration and office staff
- Review of the El Dorado County Grand Jury 2013-2014 Final Report, "Past Animal Control Facility Mistakes Have Prompted A Better Real Estate Acquisition and Leasing Process for El Dorado County"
- Review of El Dorado County Animal Services print media

## **DISCUSSION**

The Diamond Springs shelter facility opened in December 2014. It has many unique features for housing a variety of animals. Dog runs can be configured from 21 to 28 spaces as necessary, the feral dog kennel has nineteen spaces, and several quarantine rooms house biters. Aggressive dogs are kept in a separate dangerous dog area, while animals rare to an animal shelter like reptiles or birds are housed in an exotic animal room.

A flat four-acre site in Diamond Springs encompasses the El Dorado County Animal Shelter facility. A 17,000 square foot building includes 5,000 square feet for additional storage and expansion when needed. There is a 1,000 square foot barn and a one-acre outdoor exercise area.

At the time of the grand jury visit, 40 cats were in residence. A room for adoptable cats has 41 cages and a community cat room houses four to six cats. A litter of unweaned kittens can be kept together in another area. Separate dog and cat food storage areas are in close proximity to the dogs and cats. There is also a storage room for bedding, litter, and toys along with a separate sick bay for cats.

Animals are vaccinated at intake and relevant data entered into a computerized database that was established in 2003. Animal records are retained for seven years.

A medical procedure area and a separate post-operative recovery room having six kennels is where in-house spay and neuter procedures are performed weekly on adopted animals prior to leaving the shelter. The facility is considered a low kill shelter. Euthanasia is used only on animals with severe medical conditions, extreme aggressiveness or animals that are otherwise not adoptable. A laboratory with refrigeration for maintaining medicines and vaccines is adjacent to an evaluation room.

Cleaning materials and other chemicals are stored in the chemical room. Throughout the facility floors and walls are waterproofed with an epoxy resin coating that won't deteriorate or mold, making them easy to clean. To reduce odor and airborne microbes, three separate systems deliver filtered air that is not mixed with air from other areas of the facility.

A 1,000 square foot paved barn with a turn-out area and exercise yard has six stalls for large animals like horses and cows. It can be used in emergency evacuations to house livestock. The entire facility is surrounded with fencing with partitions available when needed. Goats, emus, sheep, pigs, horses, cows, pot-bellied pigs, rabbits, chickens and roosters can be housed. At the time of the grand jury visit there was an emu and a rooster in the outside area.

In addition to animal spaces, there are administrative offices, an evidence room to preserve chain of custody having lockers and a safe, a laundry room with heavy-duty washers and dryers, a kitchen area and cleaning supplies room. The staff break room has lockers for employees with separate bathrooms equipped with showers — animal control is not always a neat and tidy business. The front office is home to their resident cat, "**Bullitt**".

As many as 40-50 volunteers work during a typical week to bathe, hold, exercise or just socialize with the animals. Some volunteers foster animals until they are ready for adoption. Many volunteer groomers help adoptable pets feel and look their best, helping them find their forever home. Volunteer groomers use an adjustable grooming table and a step-up tub for larger animals, thanks to generous donations from a local organization. Potential new pet owners can interact and take photos with a specific animal they are interested in adopting in one of four get acquainted rooms. There is a definite need for a full-time volunteer coordinator.

Animal Services has five full-time officers with highly specialized training. Officers attend the California Animal Law Enforcement Training Academy where the curriculum includes education and training in laws of arrest, search and seizure and firearms. Animal Services officers are considered peace officers; they are charged with the enforcement of animal-related laws and ordinances in El Dorado County. The officers carry weapons and have the authority to serve search warrants and make arrests. Daily duties may include taking reports on lost and found pets, scanning for microchips and providing care for shelter animals. They may also perform adoption services, youth and adult education throughout the community, dog licensing and rabies vaccinations. Some staff have dual responsibilities. For example, the Operations Manager doubles as a Field Officer.

People for Animal Welfare of El Dorado (PAWED), a volunteer organization, raised \$250,000 for the new shelter. There is a donation plaque displaying the names of some individuals and organizations that helped fund the animal shelter with numerous amenities such as cages, other necessary items and the anesthesia equipment. PAWED was the largest donor that provided many of the amenities as well as dog and cat food, kennels, blankets, cat poles, and other much needed items to run an efficient shelter.

## **COMMENDATIONS**

The El Dorado County Animal Shelter is commended for their services to the citizens and animals of this county. It is clean and well maintained. The staff and volunteers are dedicated to their mission.

## **FINDINGS**

- F1. The El Dorado County Animal Shelter is a facility providing state-of-the-art animal care services while serving as an example to improve Animal Services in other counties.
- F2. The Animal Shelter is well-equipped for emergency preparedness for all types of animals.

## **RECOMMENDATIONS**

- R1. A full-time staff position of volunteer coordinator is recommended.

## **ATTACHMENTS**

- <http://www.edcgov.us/animalservices>



## **REQUEST FOR RESPONSES**

Responses to both findings and recommendations in this report are required by law in accordance with California Penal Code §933 and §933.05 on or before August 1, 2016 from Chief Animal Control Officer Henry Brzezinski.

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

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

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

# EL DORADO COUNTY 2015-2016 GRAND JURY

## *AMERICANS WITH DISABILITIES ACT - COUNTY COMPLIANCE*

Case 15-07 • June 2, 2016

The Americans with Disabilities Act (ADA) is a comprehensive civil rights legislation prohibiting discrimination and ensuring that people with disabilities<sup>1</sup> have the same opportunities to participate in the mainstream of American life — to enjoy employment opportunities, to purchase goods and services, and to participate in state and local government programs and services.

California is one of the most ADA compliant states in the nation. It is also the most ADA litigious. Examples abound where litigation has resulted in public entities becoming saddled with significant and ongoing costs to address ADA deficiencies. The City of Sacramento recently settled such a lawsuit where considerable municipal funds are now earmarked annually for years into the future to address those defects. Hence, a diligent effort is necessary to comply with the law and the spirit of ADA.

### **BACKGROUND**

President George H. W. Bush signed the Americans with Disabilities Act (ADA) into law on July 26, 1990. It is built upon the foundation laid by Section 504 of the Rehabilitation Act of 1973. While Section 504 applies only to entities receiving federal financial assistance, the ADA covers all state and local governments, including those that receive no federal financial assistance. The ADA also applies to private businesses that meet the ADA definition of public accommodation<sup>2</sup>, commercial facilities<sup>3</sup>, and many private employers<sup>4</sup>. While the ADA has five separate Titles<sup>5</sup>, Title II specifically applies to state and local governments and the programs, services and activities they deliver. The Department of Justice Civil Rights Division is the key agency responsible for enforcing Title II, and coordinating other federal agencies' enforcement activities under Title II<sup>6</sup>.

---

<sup>1</sup> The ADA defines disability as a mental or physical impairment that substantially limits one or more major life activities.

<sup>2</sup> A few examples of public accommodations would be restaurants, hotels, movie theaters, and doctor's offices.

<sup>3</sup> Office buildings, factories and warehouses would be considered commercial facilities.

<sup>4</sup> Private employers with 15 or more employees are covered under Title I of the Americans with Disabilities Act.

<sup>5</sup> Title I Employment, Title II State and Local Government, Title III Public Accommodations and Commercial Facilities, Title IV Telecommunication, Title V Miscellaneous Provisions

<sup>6</sup> [http://www.ada.gov/ada\\_title\\_II.htm](http://www.ada.gov/ada_title_II.htm)

On July 26<sup>th</sup>, 2010 the Department of Justice released updated regulations for Titles II and III of the Americans with Disabilities Act of 1990. The new regulations set minimum scoping and technical requirements that govern the construction and alteration of facilities covered by the ADA. Adoption of the 2010 standards<sup>7</sup> established a revised reference point for Title II entities choosing to make structural changes to existing facilities to meet their program accessibility requirements.

When the start date for construction was on or after March 15, 2012, all newly constructed or altered state and local government facilities were required to comply with the 2010 standards. Before that date, the 1990 standards or the 2010 standards were used for projects when the start of construction commenced on or after September 15, 2010, but before March 15, 2012.

## **METHODOLOGY**

The grand jury reviewed:

- Americans with Disabilities Act Title II regulations
- Department of Justice 2010 ADA Standards for Accessible Design
- ADA Best Practices Tool Kit for State and Local Governments
- County 1993 ADA Title II transition plan
- County ADA public notice information and grievance procedure
- Other California county ADA information including their public notice and grievance procedure

The grand jury interviewed:

- Relevant County Managers/Directors

---

<sup>7</sup> <http://www.ada.gov/regs2010/2010ADAStandards/2010ADAStandards.pdf>

## **DISCUSSION**

A key element of Title II mandates physical access to government facilities via reasonable accommodation without discrimination. ADA requirements can be particularly evident where mobility issues must be accommodated, including alternatives to stairs, unimpeded pathways, renovated restrooms, locations of parking, etc. El Dorado County government owns or leases approximately 100 facilities that fall under this requirement.

Title II also contains administrative requirements and outlines the steps public entities should take to achieve compliance, including development of a transition plan for structural changes, self-evaluation for compliance and designation of an individual to oversee compliance.

### **TRANSITION PLAN**

A transition plan outlines the steps the county will take, or are taking, to comply with the word and intent of the ADA. At a minimum, the plan must contain:

1. Identification of physical obstacles limiting the accessibility of the county's programs or activities for individuals with disabilities.
2. A detailed description of the methods that will be used to make the programs or facilities accessible.
3. A specific schedule for taking the necessary steps to achieve compliance. If the transition period is longer than one year, identification of the steps that will be taken during each year of the transition period.
4. Designation of the official responsible for implementation of the plan.

The county's General Services Director developed a 600-page Title II transition plan in 1992 that was adopted by the board of supervisors in July of 1993. It is unknown what, if any, actions occurred as a result of this early plan.

The county contracted with a construction management firm in 2012 to provide a conditions assessment of the county's primary<sup>8</sup> facilities. This assessment identified the overall risks and needs for each facility, not just ADA compliance. The county also contracted with an ADA compliance consulting firm to provide ADA compliance consulting services. From the information provided by these two firms, the county has developed a multi-year capital improvement work plan.

**NOTE:** The focus of the 2012 assessment was limited to the county's primary facilities. The current work plan is not comprehensive enough to meet the county's ADA transition plan requirements noted above.

---

<sup>8</sup> Approximately 20 of the county's facilities are considered primary because they make up close to 60% of the county's total facilities footage.

## COMPLIANCE SELF-EVALUATION

The self-evaluation process documents the actions being taken by a government agency to ensure that its programs are accessible to people with disabilities. It must include a review of all programs, services, or activities offered to the public. The self-evaluation should analyze the nature of each program to determine its accessibility and describe the measures needed to provide access. It should also include an assessment of the county's current ADA related policies, practices and procedures.

In January 1993, the county's board of supervisors received a self-evaluation report and authorized staff to proceed with the implementation of its recommendations with existing resources or develop a cost estimate for review during fiscal year 1993-1994 budget deliberations. The grand jury was unable to locate this self-evaluation survey. It is unknown what, if any, follow up occurred as a result.

The grand jury was unable to find any overall county policies, practices or procedures related to county-wide ADA responsibilities, other than the public notice document and the grievance procedure discussed later in this report. Individual departments may have specific documentation, but, departmental management was not interviewed for this report.

## ADA COORDINATOR

The regulations require state and local governments with fifty or more employees designate an employee responsible for coordinating compliance with ADA requirements. There are many benefits to having a knowledgeable ADA coordinator.

An ADA coordinator makes it easy for members of the public to identify someone available to help with questions and concerns about disability discrimination. For example, the ADA coordinator is often the main contact when someone wishes to request an auxiliary aid or service for effective communication, such as a sign language interpreter or Braille documents.

An ADA coordinator also benefits state and local government entities providing a specific contact person having knowledge and information about the ADA so staff questions can be answered efficiently and consistently. In addition, she or he coordinates compliance measures and can be instrumental in ensuring that compliance plans move forward.

El Dorado County has designated a senior department analyst in the Facilities Division of the Chief Administrative Office as the county's ADA coordinator. He is responsible for following up on complaints submitted using the Facilities Division ADA access issues web form<sup>9</sup>, publishing and managing the county's ADA grievance procedure, and providing public notice including relevant information regarding Title II of the ADA and how it applies to the county's programs, services and activities.

---

<sup>9</sup> [http://www.edcgov.us/Facilities/WebForms/Contact\\_Information.aspx](http://www.edcgov.us/Facilities/WebForms/Contact_Information.aspx)

The grand jury found it difficult to locate the ADA access issues web form on the county's website even with the foreknowledge of its existence. It was located on the Facilities Division web page. It is unlikely that the general public would know to look at the facilities section of the county website for ADA access issues, especially if their issue is not facility related.

Throughout the county, individual departmental staff address ADA regulations specific to the services their department provides. For example, the county's risk manager is responsible for employment related ADA questions or concerns. Any inquiries received by the ADA coordinator that are not facilities related are forwarded to the appropriate departmental management level staff.

The county's public notice process includes posting an ADA notice with the grievance procedure at the entrances of county facilities. The grand jury found that not all facilities had these postings, and, that the grievance procedure is outdated. Neither is available on the county website, and it's unknown if either is provided to the public at time of service, such as employment applicants, recipients of social services, or members of citizens' advisory committees.

Various county meeting agendas include a statement with contact information for those that may require accommodation to participate in the public meeting. This notification is not consistently included on all county sponsored public meeting agendas.

The grand jury reviewed other California counties' ADA information, including their public notice and grievance procedure. The counties reviewed included Placer, Sonoma, Nevada and Marin. In that review, comprehensive county ADA information was easily located. Navigation to the ADA information was either available as a link on all of the county's web pages, as part of the header or footer, or provided in multiple drop down menu options such as *Services and Information* or *How Do I?*

## **FINDINGS**

- F1. The county does not have a current ADA transition plan.
- F2. The county does not have a current ADA self-evaluation.
- F3. The county does not have a county-wide approach to ADA compliance including supporting policies, procedures and training.
- F4. The county ADA access issues complaint web form is difficult for the public to locate.
- F5. The county ADA public notice distribution is inadequate.
- F6. The county ADA grievance procedure is outdated.

## **RECOMMENDATIONS**

- R1. The county should formalize the facilities assessment information and capital improvement work plan into an ADA transition plan including any facilities not already addressed in the current work plan.
- R2. The county should complete an ADA self-evaluation.
- R3. The county should develop county-wide ADA policies, procedures, and employee training.
- R4. The county should improve the ADA complaint web form and overall ADA web presence.
- R5. The county should review and update the ADA information yearly.

## **REQUEST FOR RESPONSES**

Responses to both findings and recommendations in this report are required by law in accordance with California Penal Code §933 and §933.05 from the El Dorado County Board of Supervisors before September 7, 2016.

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

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

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



# EL DORADO COUNTY 2015-2016 GRAND JURY

## *SHERIFF'S HEADQUARTERS: HOW OLD IS TOO OLD?*

Case 15-08 • June 2, 2016

### INTRODUCTION

This year's grand jury toured the Sheriff's headquarters located on Fair Lane in Placerville. When the Sheriff's headquarters was first dedicated in 1970, it also housed the county jail. When a larger jail was built in 1988, the Sheriff expanded operations into the space that had housed the old jail.

### METHODOLOGY

- Toured Sheriff's headquarters and offsite facilities
- Interviewed Sheriff's department personnel

### DISCUSSION

The visitors' lobby of the Sheriff's headquarters has a cold and unwelcoming air about it. The entrance and lobby is visibly clean and tidy, however there is an underlying odor that cannot be ignored. The ceiling shows evidence of water damage like other areas throughout the building. We were told it was caused by a leaking roof. Just off of the lobby, a reception office provides minimal security or protection from visitors. A few steps down from the main level is Records and an interview/interrogation room which also provides little in the way of security or privacy. Visitors sitting in the lobby waiting for assistance can easily witness and hear what transpires.

The old jail area is downstairs where the bars of the cells and doors remain. Even though the jail cell toilets and showers were removed and covered over some time ago a distinct sewer gas odor is pervasive. Continual dampness creates a dank atmosphere adding to an omnipresent odor permeating the building.

All biohazard evidence must be kept in a controlled environment to preserve the integrity of evidence. Yet, there is no on-site emergency generator that can, in the event of a power outage, provide power to the large refrigerators and freezers.

The evidence room for weapons is extremely overcrowded and without a controlled temperature or ventilation system. Water leaks and the gnawing of rodents have reportedly caused damage in the department's secure ammunition store room. Narrow halls are filled with tables cluttered with weapons, cleaning materials and parts and pieces of miscellaneous items.

The condition of the Sheriff's headquarters has been deteriorating for a long time. It presents an unhealthy and substandard working environment.

The Sheriff's department has leased, at a cost of \$300,000 per year, several offices and storage buildings in and around Placerville due to the inadequacy of available space at the main facility to house all of the Sheriff's operations. The grand jury made onsite visits to the leased facilities on Forni Road, Pierroz Road, and Broadway. The Sheriff has storage for boats and dive team gear, Search and Rescue vehicles, radio maintenance/towers, and evidence vehicle storage off of China Garden Road in Diamond Springs. The grand jury did not visit the Search and Rescue training facility on Fort Jim Road.

## **FINDINGS**

F1. The current facility used for the Sheriff's headquarters is visibly overcrowded and is a substandard work environment.

## **RECOMMENDATIONS**

R1. A new Sheriff's headquarters should be established to house all departmental operations saving the cost of leased space and resulting in increased efficiencies.

R2. The Board of Supervisors must replace the Sheriff's headquarters.

## **REQUEST FOR RESPONSES**

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

From the following:

- El Dorado County Sheriff on or before August 8, 2016
- El Dorado County Board of Supervisors on or before September 7, 2016

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

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

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

# EL DORADO COUNTY 2015-2016 GRAND JURY

## *PROPOSED PUBLIC SAFETY HEADQUARTERS*

Case 15-09 • June 9, 2016

The El Dorado County Sheriff has proposed a new public safety headquarters. The Sheriff's Office is proposing to bring all off-site locations under one roof to eliminate outside rental costs, open lines of communication, improve work efficiencies, allow technological growth and improve access and services to the public.

### METHODOLOGY

- Interviewed Sheriff's department personnel.
- Interviewed appropriate El Dorado County managers/directors.
- Attended public forums presented by El Dorado County Sheriff staff and county officials.
- Reviewed various county documents.

### DISCUSSION

The existing Sheriff's headquarters was dedicated in 1970, and is now 46 years old. When originally constructed, the headquarters also housed the county jail. From its dedication, the headquarters was reported as being at capacity and too small for the Sheriff department's needs. The explosive growth of the county has sparked an expansion of the Sheriff department's personnel and responsibilities to keep pace with the needs of the county and its citizens.

In 2013, Vanir Construction Management prepared a needs assessment study to determine the operations and functions required of a sheriff's headquarters. Best practices were assessed, concepts were laid out and consolidated, and efficiencies were determined. The findings of the report stated, "*The County should consider replacing this facility. The cost to upgrade this facility including ADA requirements is not justified.*"<sup>1</sup> After this finding, the Board of Supervisors voted to discontinue any major maintenance to the facility on Fair Lane.

The design of a new facility was undertaken by Architectural Nexus and will provide for all divisions and functions of the Sheriff's Department to be housed under one roof. The design process and space analysis determined that the proper size for the main facility is 106,000 square feet. It also discussed ancillary facilities such as additional parking and potential power generation.

In the fall of 2014, the Board of Supervisors approved the purchase of 30.37 acres for the facility and future expansion. The land is located off of Missouri Flat Road on Industrial Drive in Diamond Springs. An additional .36 acre parcel will provide additional vehicular access to Merchandise Way for a total of 30.73 acres at a cost of \$2.7 million dollars. Escrow for the purchase of the land closed in March 2016.

---

<sup>1</sup> Cited from Public Handout provided by John D'Agostini, Sheriff-Coroner Public Administrator – May 23, 2016

A potential source of funding for construction of the facility was uncovered through the United States Department of Agriculture (USDA). An El Dorado County facility finance team, formed by Larry Combs, Chief Administrative Officer (CAO)<sup>2</sup>, approved the USDA application and its contingencies. An environmental impact report was conducted and approved; an estimated cost of \$54 million dollars for the project was established. The Board of Supervisors agreed to submit a qualifying application that was approved by the USDA citing it as the type of project with which they wanted to be involved. The loan offered by USDA was for \$54 million, financed at an annual interest rate of 2.875% over a 40-year period, with an annual debt payment of approximately \$2.2 million.

USDA has a deadline of June 1, 2016 to lock in the 2nd quarter interest rate of 2.875% per annum. On June 30<sup>th</sup>, the interest rate for the 3<sup>rd</sup> quarter will be announced and even the slightest adjustment would impact the annual debt payment. At this time, it appears that the deadline date will not be met and the loan will be subject to the 3<sup>rd</sup> quarter interest rates and possibly escalating construction costs.

As dictated by law, the Sheriff is also the Coroner of El Dorado County and it is his responsibility to investigate all suspicious, unattended and criminal deaths. Currently, the Sheriff's department transports decedents to a local mortuary for storage where a standard post-mortem autopsy can be performed. For criminal acts, Sheriff's deputies transport the decedents to a Sacramento County morgue where forensic autopsies are performed at an additional cost to the county. Moving El Dorado County decedents to outside facilities can delay an autopsy and jeopardize the integrity of evidence. Included in the design of the new facility is a fully equipped morgue capable of performing standard post-mortem and forensic autopsies that may be utilized by neighboring counties generating revenue for El Dorado County.<sup>3</sup>

The average cost of a forensic autopsy is \$4,000-\$5,000 and \$1,500-\$2,000 for a standard post-mortem autopsy. In 2015 the Sheriff's department paid Sacramento County for 289 forensic autopsies.<sup>4</sup>

A 25-yard indoor firing range is included in the facility which will provide deputies the ability to perform required shooting exercises without traveling to a distant, off-site firing range that is only available during daylight hours and at prescribed times. The highest percentage of gun related incidents occur during the night time hours. With an indoor range, deputies will be able to train in low light conditions, conduct night time practice and tactical training. The range will be of sufficient size to allow the use of moveable walls and windows to meet training needs. Deputies will also be able to remain on-site for extensive specialty training, such as that required for SWAT teams and specialty assignments.

---

<sup>2</sup> Letter date May 9, 2016 by CAO to BOS (Page 2 of 4)

<sup>3</sup> Cited from Public Handout provided by John D'Agostini, Sheriff-Coroner Public Administrator – May 23, 2016

<sup>4</sup> Cited from interview with Sheriff and Undersheriff – May 5, 2016

Warehouse type buildings proposed for the site include:

- Property Evidence building: Increased storage needs relating to major crimes and ongoing criminal investigations. Staff efficiency will be greatly increased due to enhanced inventory organization and the integrity of stored evidence will be preserved. It is noted that any loss or degradation of evidence through improper storage could result in criminal charges being dismissed or convictions overturned on appeal.
- Radio shop: Increased repair time efficiency.
- Boat and Off Highway Vehicle storage: Storage for six boats and 45 off-highway vehicles; indoor storage will be provided for expensive Dive Team equipment.
- Special Operations Storage: House and secure equipment for specialty units, such as, SWAT, Search and Rescue, mass casualty equipment and the Sheriff's Team of Active Retirees (STARS) equipment.
- Vehicular evidence storage is also accommodated within a secured fenced area.

A 20-year expansion plan includes a car wash, crime lab, additional solar energy units and a future parking lot which could replace the Emergency Vehicle Operations Course.

A solar covered parking area will be provided for patrol and deputy parking within the confines of the administrative area. This area will not only provide additional electrical power for the headquarters, it will also have a secure Wi-Fi connection to download all patrol car information from shift data. Future expansion might include additional solar power installation. A Power Purchase Agreement was determined to be the best way to finance the costs of a solar farm. Consumption savings by the solar farm will be credited against higher tier energy costs. Surplus solar energy can be applied to the overall utility costs of El Dorado County.

As of April 2016, the Board of Supervisors asked staff to look at the feasibility of completing the project in phases. The phased construction plan is to be presented to the Board of Supervisors to include the scope of the phases, projected costs, financing terms with USDA and related repayment and budgeting options.<sup>5</sup>

The phased construction plan introduces a myriad of possibilities and interjects a large amount of uncertainty:

- How large would each phase be and what would the timing be?
- Which portions of the department would move in with each phase?
- What will a phased construction approach have on construction and loan costs?
- How many more months can the current headquarters be used?

---

<sup>5</sup> Cited in letter to BOS from Larry Combs, CAO – dated May 9, 2016

## **FINDINGS**

- F1. Facility site has been purchased and project funding identified.
- F2. A facility needs assessment and the Environmental Impact Report have been submitted and approved.
- F3. Construction background work has been completed and is ready to go.
- F4. Delay in acceptance of USDA loan may result in an increase in annual interest rate, costs, and annual debt service.
- F5. Phased construction may increase total cost of construction.
- F6. Acceptance of USDA loan by the Board of Supervisors is the final step required to secure financing.

## **RECOMMENDATIONS**

- R1. The Board of Supervisors accept the USDA loan application on or before July 1, 2016 or at the earliest date possible.
- R2. The primary 106,000 square foot Sheriff's Public Safety Headquarters be built as soon as possible and in one phase.
- R3. Future replacement of aging buildings and facilities should be replaced in a timely manner.

## **REQUEST FOR RESPONSES**

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

Responses are requested from:

- El Dorado County Board of Supervisors on or before September 22, 2016
- El Dorado County Sheriff on or before August 23, 2016

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

The Presiding Judge of the El Dorado County Superior Court additionally requests that the responses be sent electronically as a Word 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](mailto:courtadmin@eldoradocourt.org).

[Reports issued by the Grand Jury do not identify individuals interviewed.](#) Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.



# EL DORADO COUNTY 2015-2016 GRAND JURY

## *JUVENILE DETENTION FACILITIES INSPECTION*

Case 15-10 • June 9, 2016

The Grand Jury is authorized to visit and inquire into the conditions of any public prison within the county, including juvenile facilities, as outlined in Section 919 (b) of the California Penal Code. Safety and security are vital elements in operating any detention facility. An important aspect of a facility inspection is to ensure the proper programs are in place for the betterment of juvenile inmates, and that they are treated in a safe and humane way. Additionally, the El Dorado County Juvenile Justice and Delinquency Prevention Commission inspects juvenile facilities on an annual basis.

El Dorado County has juvenile facilities in South Lake Tahoe (SLT) and Placerville. Both are 40 bed facilities. Both are focused on juvenile rehabilitation and serve as locked detention facilities, holding both adjudicated, or convicted, and non-sentenced offenders. The South Lake Tahoe site is referred to as a Juvenile Treatment Center and Placerville as Juvenile Hall, yet the programs are the same.

Juvenile facilities face new challenges. They house more detainees today who are serious offenders, highly incorrigible and criminally-oriented requiring strict supervision not unlike adult offenders. These are not the juvenile offenders of the past, whose shenanigans resulted in a phone call for parents to come get them and take them home. Juveniles with minor offenses do not tend to be detained in the hall.

The Grand Jury observed the functions and services provided first-hand, bringing about a better understanding of law enforcement, corrections facilities and juvenile operations.

### **BACKGROUND**

It was important to the 2015-2016 Grand Jury to inspect the Placerville Juvenile Hall because the Probation Department is currently attempting to obtain adequate funding to replace the aging facility. The grand jury inspected the much newer (2004) and amply sized SLT Juvenile Treatment Center (JTC) because of concerns about mental health services at that facility. El Dorado County Mental Health stopped providing services at the JTC in August 2015. Tahoe Turning Point Mental Health has provided limited mental health services since that time, and the grand jury wanted to review how that contract was working.

### **METHODOLOGY**

- Reviewed juvenile facility inspection reports from the fire authority, medical and mental health administrator, building and grounds, registered dietitian, and education
- Reviewed Policy and Procedure manual
- Discussed grievances with the juveniles
- Interviewed administrators, staff and juveniles

- Reviewed Title 24 and Title 25 regulations for facility management
- Reviewed Board of State Community and Corrections (BSCC) website biannual report, laws and regulations, facility standards and operations and health inspections checklist
- Reviewed AB109 (2011) Community Corrections Partnership Plan for El Dorado County
- Reviewed reports of 2013-2014 and 2014-2015 El Dorado County Grand Juries

## DISCUSSION

The grand jury inspections at Placerville and South Lake Tahoe were of the juvenile detention facilities overseen by the Probation Department. The tour followed the processing path of a youth, starting in the receiving area, medical unit, housing areas, dining hall, common safety areas and both indoor and outdoor exercise areas. The Juvenile Court system provides guidance for the social and personal development of juveniles with systematic rehabilitation counseling and establishing life goals.

Juvenile detention centers provide valuable programs to decrease recidivism in youthful offenders, to increase their awareness of what is criminal behavior, increase their education level and provide a good foundation for life skills within society. Each juvenile is assigned to one of the available programs when sentenced and attends the program daily along with school provided by the El Dorado County Office of Education.

Programs available at both the Placerville and SLT facilities are the Matrix Model Alcohol and Drug treatment, the Matrix Model Relapse Prevention Program and Matrix Model Adolescent Education. Also available is the Family Reunification Program that encourages preservation of family values and ties to the family, reinforcing interpersonal skills, and positive values. The Challenge Program is only available at the Juvenile Treatment Center in SLT.

## **SOUTH LAKE TAHOE JUVENILE TREATMENT CENTER**

The SLT Treatment Center is in an exceptionally pleasant area surrounded by natural forest. The facility was built in 2004 to house forty minors; the current census is eight. It is well-kept. The staff take obvious pride in caring for the cleanliness and safety of the juvenile's environment. The exterior, grounds, exercise areas and playing fields are in good condition. The general cleanliness of the facility was noted. The common living areas are built for safety allowing supervised socialization, the sleeping areas are well lit and ventilated and general maintenance takes place at night

The Challenge Program, implemented in 2005 only at the SLT site, is a comprehensive evidence-based program including rehabilitation for alcohol and drugs, anger management, dynamic thinking skills, life skills and work success goals. It includes *girls circle* and *boys council*, separate support groups for each sex, and community work. Art programs, yoga, church and bible study are optional.

Also available are programs for work/school release, and individual/group counseling. Family and parent education is an integral part of all programs. The Challenge Program focuses on juvenile education rather than detention with reinforcement through behavior modification and an emphasis on changing criminal thinking with moral recognition therapy. It has four phases of mandatory school attendance with a research paper and a term paper required for completion.

Medical services include a private medical provider onsite six days a week and daily administration of medications. Minors can request medical care on their own. Barton Memorial Hospital provides emergency medical services.

Education services are provided by the El Dorado County Office of Education High School. It operates 26 hours a week having the California standards-based curriculum for grades 9 - 12. All high school requirements are met and all earned credits are transferrable throughout the state. The California High School exit exam is administered five times annually.

Nutritional service is excellent. There is a Registered Dietician on staff to oversee creation of the menus prepared in the onsite kitchen that exceeds Title 15 code and child nutrition standards.

*Petra* is a 15 month old Shepard-mix puppy trained in Nevada as an inmate prison dog. She is animal therapy at its finest giving the unconditional affection a dog can provide to each youth. The Nevada Humane Society has partnered with the Nevada prison system to allow inmates to raise puppies as hands-on therapy dogs. *Petra* is one of the first therapy dogs to be placed in a juvenile facility.

### **SLT MENTAL HEALTH SERVICES**

El Dorado County (EDC) Mental Health had provided juvenile psychiatric services, including medication and emergency services, to the Juvenile Treatment Center (JTC) until services were discontinued in August 2015.

Probation contracted with Tahoe Youth and Family Services (TYFS) to provide mental health care at the JTC. TYFS currently, provides 10 hours per week of individual and group counseling by two mental health therapists. That level of service is inadequate. SLT mental health providers have been struggling to adequately provide the number of appointment hours needed.

The JTC Mental Health program coordinator, employed by Probation, also provides some counseling services; however, an additional 20 hours per week would best meet the needs of the youths. Currently, appointments are only available Monday mornings and all day Wednesday. Tahoe Youth and Family Services provides quality services with individual and group counseling, and the alcohol and drug program. However, there are inadequate appointment times available to meet the needs of all the youths.

In addition, there is a need for additional counseling hours to be available for grief and suicide intervention counseling. From time to time, EDC Mental Health Services has responded to a crisis situation, even though they no longer provide *regular* services. The JTC does the best they can with what's available to provide quality service, but availability is inadequate.

## PLACERVILLE JUVENILE HALL

Juvenile Hall in Placerville is a forty bed co-ed facility. The census was 19 on June 17, 2016; 12 males and 7 females The average population is 13 youths although it may vary frequently. It was 22 on June 13, 2016.

Entry is through the lobby; there is no real booking entrance. An interview space in the lobby area is where the juvenile's mental health, medical history and juvenile justice history is recorded and a pat down search is conducted. Juveniles as young as eight years old have been at the facility. After a juvenile is sentenced, he or she could stay in Juvenile Hall until they reach 21 years old. However, they are usually transferred to an adult facility after turning 18. El Dorado County also has contracts with neighboring counties to house juveniles.

An orientation packet is provided to all newly incarcerated youth. The packet materials are openly posted along with the schedule of activities. Grievance forms and a complaint/suggestion box is available for discrete use. There are two outdoor areas for exercise, one covered and one open.

While in residence, juveniles have a daily routine. They are awakened at 6:15 am. They clean their sleeping and living areas, and are ready for school by 7:55 am. Segregated showers are provided.

The Family Reunification Program has been in effect for 20 years and is reportedly having a positive effect on youth and family in the Placerville area. The current family-centered program moves away from an *institutional* setting to working with juveniles as they return to their families. There is an emphasis on assisting a juvenile's community integration with both family counseling, and drug and alcohol counseling. The program assessment includes the latest matrix-modeled programs to meet the needs of youthful offenders geared toward reunification with their family and reintroduction into society with better education and job skills. Assistance is available to youths getting their California ID card, if necessary.

Educational services are provided at Golden Ridge School, an El Dorado County Office of Education High School. A classroom is used as a study hall having individual desks for students. An El Dorado High School woodshop class built desks with side walls to help students stay focused on their own work. School classes and study hall are held each week day. Library materials and textbooks are available in the *group* room during off-school hours. All earned school credits are transferrable.

Mental health services are currently provided by New Morning Youth and Family Services. A major concern with mental health services in Placerville is the lack of private space to conduct therapy. Confidentiality is extremely important in drug/alcohol and mental health therapy, however, due to space constraints, mental health staff share one office with two desks without much privacy when youth are being counseled.

The security camera system has been updated to cover the facility entrance, stairs and the hallway leading to the juvenile court stairway. The new camera system has doubled the number of cameras to 32, and recordings can now be saved for up to three months.

## **PLACERVILLE JUVENILE HALL GRANT**

The facility was built in 1969 and is now outdated. In December 2014, a facility needs assessment determined the juvenile hall was not up to date, was near end of life and not able to be repurposed. SLT was not included because it is a newer facility.

A grant application to fund a new 40 bed facility was submitted to the Board of State and Community Corrections (BSCC). In January 2015, the BSCC found the application was in compliance with the criteria and accepted the application. In April 2015, the BSCC stated the grant award would be \$9.6 million from SB81 state funding. The original 40 bed facility would cost approximately \$19 million, having the county fund \$9.4 million.

The BSCC allowed the county to amend the application to a downsized 20 bed facility in March 2016. The BSCC approved it and allowed the county to maintain the available \$9.6 million grant for the reduced size facility. The reduced facility is estimated to cost \$10 million; with the \$9.6 million grant, the county's required 5% funding match would be approximately \$500,000. Currently, the project is pending review by the El Dorado County Board of Supervisors. The county must identify and select a construction site to locate the new facility that is appropriate. Preliminary planning for the new facility have been developed.

It appears that a 20 bed facility will not accommodate enough youths all the time. However, the Probation Chief assured the grand jury that there are options available, including sending some youths to the SLT JTC where there is ample space. Further, the proposed 20 bed facility will be designed with the infrastructure (such as kitchen, medical and common space) for 40 beds. The site and the design will allow the future construction of an additional 20 bed space.

## **FINDINGS**

- F1. The Placerville Juvenile Hall, built almost 50 years ago, is an outdated and outmoded facility.
- F2. The existing Placerville Juvenile Hall does not have adequate space devoted to the provision of confidential mental health services. Having multiple clients being counseled in the same room does not provide adequate privacy for those services.
- F3. The mental health services available in the JTC are inadequate. While the quality of service provided by TYFS seems good, there are not enough service hours available to serve all the youth needing services.

## **RECOMMENDATIONS**

- R1. Continue the progress by obtaining approval from the Board of Supervisors for a new 20 bed facility that will meet the immediate needs of our youthful offenders.
- R2. Improve mental health services for youth in the SLT JTC by increasing the hours the outside contractor provides to 20 hours per week.

## **REQUEST FOR RESPONSES**

Responses to both findings and recommendations in this report are required by law in accordance with California Penal Code §933 and §933.05 from the Eldorado County Chief Probation Officer on or before August 23, 2016.

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

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

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

# EL DORADO COUNTY 2015-2016 GRAND JURY

## *EL DORADO COUNTY JAILS INSPECTION*

Case 15-11 • June 2, 2016

The Grand Jury is authorized to visit and inquire into the conditions of any public prison within the county, including county jails, as outlined in Section 919 (b) of the California Penal Code. Inspecting safety and security in jails are priorities along with ensuring inmates are treated in a safe and humane manner. The California Board of State and Community Corrections (BSCC) is the state regulatory agency that establishes and oversees standards for the construction, operation and administration of county detention facilities.

A jail is defined as a locked adult detention facility which holds both arrested, non-sentenced and convicted adult criminal offenders. This report is about the grand jury inspection of the El Dorado County jails.

### **BACKGROUND**

The jails in El Dorado County, located in South Lake Tahoe (SLT) and Placerville, are older facilities. The SLT jail was originally constructed in 1973 with additions and modifications throughout the 1980's. Inmate population is usually near its capacity of 158. The Placerville jail, constructed in 1988, also has an inmate population close to its capacity of 311. The 2013-2014 grand jury recommended both jails be evaluated for replacement or refurbishment because of their age and an increasingly older jail population.

### **METHODOLOGY**

- Reviewed past grand jury reports
- Reviewed the latest BSCC Inspection report
- Reviewed the fire plan
- Reviewed the dietary plan
- Reviewed the policy and procedure manual
- Reviewed sample of inmate grievances and incident reports
- Interviewed jail administration, jail staff and inmates

## DISCUSSION

The jail staff told the grand jury that Assembly Bill (AB109) "2011 Public Safety Realignment", has caused many convicted criminals who would previously have been housed in state prisons to serve their time in county facilities. As a result, the general inmate population is more sophisticated and dangerous than in the past. County jail inmates can now be incarcerated for decades, rather than the previous one-year maximum sentence. This has created an older and more dangerous county jail population, who frequently develop relationships with other inmates, causing more possibilities for concentrated anger against guards of other inmates.

California State Proposition 47 for "Safe Neighborhoods and Schools" has resulted in reclassifying many drug offenses that were once felonies to misdemeanors, sending offenders to county jail rather than state prison, which, again, exacerbates the county jail population.

Realignment (AB109) was established by the Executive Committee of Community Corrections Partnership for necessary changes in the prison population. The Partnership presented local plans to the Board of Supervisors and then assisted with their implementation.

Staff commented that the jail is emerging as a mental health facility in addition to a jail for criminal incarceration due to the increased number of inmates who require mental health services. They also commented that there are more drugs smuggled into the jail and that there are more violent offenders than in the past. Another negative impact from realignment is an aging inmate population requiring elder services — going from a medical services acute care model to long-term care.

In past years, the El Dorado County jails were frequently able to accommodate inmates from other neighboring counties for a fee. This was financially beneficial to the Sheriff's budget and the county. Realignment effectively eliminated the ability to house a significant number of non-El Dorado County inmates.

The jails were built for fewer, and less violent prisoners than we currently have. Realignment has caused prisoners who previously would have been in state prisons to be in county jails. This has affected not only the numbers of prisoners but the type of prisoners – more hardened criminals, recidivists, members of prison affiliations and low level criminals with few connections with each other.

Also, the jails were designed for shorter stays. As more felons spend longer periods there, there are more jail relationships generating a need for different spaces (more segregated areas for example). Inmates are housed longer having more medical needs. The jails were also built before there were as many incarcerated mentally ill patients.



## PLACERVILLE JAIL INSPECTION

The Placerville tour started in the booking intake area to help the grand jury become acquainted with the intake process, health screening and steps an inmate would go through when entering the facility. The well-maintained exterior and interior conditions were noted. The grounds, exercise areas, cells and dining areas were inspected. Safety and security issues were discussed with the jail staff. Staff also reported there was a lack of permanent beds.

Inmates are scanned with a metal detector before admittance and when leaving. Inmates are given a hygiene kit at intake and must shower and dress in jail clothing before being admitted to the general population area where detainees have access to washer and dryer machines. When moving from one area to another, inmates must follow the *black line* on the floor. Medical cells are available for inmates requiring care and medical supervision. California law requires that all inmates be allowed to exercise three hours a week in the *yard*. It also requires that detainees must be allowed one phone call within three hours of booking.

The jail is organized into areas called *Pods*. A pod is a group of cells configured around a central common area having surveillance monitors that allows corrections officers to observe inmate behavior remotely. Staff tries to minimize disturbances within the pods; inmates are grouped into a pod based upon their penchant for good behavior, gang affiliation, or sexual predilection.

The jail has behavior modification programs designed to help inmates that may not have had *normal* family bonding, home life, or educational experiences. Jail programs include Alcoholics Anonymous, Narcotics Anonymous, educational programs, and various religious groups. A full service kitchen is staffed by inmates supervised by jail staff. Medical staff are on site Monday through Friday from 8:30-4:30 with X-ray services available once a week. A general concern of staff was the previously mentioned need for additional mental health services.

There are not enough beds for the jail population as it fluctuates. While in jail parlance beds frequently mean cells, here it is not that there is insufficient cell space, but rather a lack of adequate furnishings. They have resorted to using temporary or makeshift beds that, because of their appearance, are called *boats*.

## SOUTH LAKE TAHOE JAIL INSPECTION

The SLT inspection started in the visitor's lobby. The reception area renovation is a part of budgeted improvements that will, in phases, include the booking area and remote module control area that oversees access to locked areas within the jail. The jail capacity is 158; the current population was 127 with 105 males and 22 females. Staff morale is reportedly good. There were nine staff vacancies during our visit. Staff retention is reportedly a challenge because of lower than competitive salaries, retirement of staff, firings, transfers and difficulty of staff to acclimate to a colder high altitude environment. Currently, recruitment efforts are targeting certain positions, yet some vacancies are not filled to stay within budget.

The jail tour took us through the module control unit where remote surveillance monitors oversee eleven inmate pods, similar to Placerville pods, the kitchen area and points of entry.

The current budget addresses several immediate concerns. In the coming months, plans include employing body cameras on the correction officers. Forty additional cameras are planned to be installed throughout the facility, especially in housing areas. Additional security upgrades are needed in the kitchen and laundry and the outside doors. While security perimeter fencing is a concern, changes cannot be effected because of Tahoe Regional Planning Agency restrictions.

The grand jury discussed programs with inmates that included substance abuse, life skills, General Education Development Test (GED), education, and religious services. Inmates would like more library books, greater access to the internet, games and stationery. The inmates were generally complimentary of the food, though some would like larger portions.

Inmate services discussed with staff included adult education including GED, English as a second language education and adult enrichment career counseling. HEARTS — a court-ordered addiction recovery program and plan for sobriety has twenty-four classes offered twice weekly for 12 weeks. Alcoholics Anonymous, Narcotics Anonymous, Overcomers Outreach, HIV and Infectious diseases education and prevention are other programs that are available.

Attorney-client privilege and confidentiality is available in a room provided for that purpose. Plans are for three legal research computer stations for inmate use having Lexis Advance®, a legal search engine.

An improved *safety cell* is necessary for inmates who need greater monitoring. Converting an existing cell into an improved safety cell will cost \$50,000.

The civilian kitchen supervisor oversees a culinary arts program where inmates can earn college credits through the local community college. Inmates can become *Serve Safe* certified after 500 hours and receive 14 college credits. Four inmate cooks prepare meals three times daily for both staff and inmates. The rising costs of the most basic food items make the kitchen budget a challenge. For example, the price of a case of 15 dozen eggs has increased from \$30.00 to \$90.00. The cooks create their own menus to cut costs where they can.

## **FINDINGS**

- F1. An aging and longer term inmate population requires a different type medical care model.
- F2. More sophisticated criminals with gang affiliations and inmates exhibiting increased mental health issues are challenging to jail staff.
- F3. The Placerville Jail is in need of more permanent beds (furniture, not cells).
- F4. An improved safety cell is needed.

## **RECOMMENDATIONS**

- R1. Conversion of a regular cell into a safety cell will provide a higher level of care for mental health inmates at SLT.
- R2. There is a need to buy and install more beds in the Placerville jail.

## **REQUEST FOR RESPONSES**

Responses to both findings and recommendations in this report are required by law in accordance with California Penal Code §933 and §933.05 from the El Dorado County Sheriff on or before August 23, 2016

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

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

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

# EL DORADO COUNTY 2015-2016 GRAND JURY

## *COUNTY SUPERINTENDENT OF SCHOOLS — AN ELECTIVE OFFICE, BUT WHY?*

Case 15-12 • June 22, 2016

### **SUMMARY**

In June and then again in August of 2015, former El Dorado County Superintendent of Schools, Jeremy Meyers, was arrested for driving under the influence (DUI). Both arrests came during normal business hours and in both cases his blood alcohol level was more than twice the legal limit. Subsequent to both arrests, the El Dorado County (EDC) Trustees of the Board of Education (BOE) called for special public meetings to discuss their concerns about the arrests. Members of the grand jury attended both special meetings.

The public was given the opportunity to address the BOE at both meetings and there was a genuine outpouring of support, pleas for the Superintendent to seek help, and at least one call for the Superintendent to be treated the same as any teacher would be - fired. During the first meeting, the lawyer for the El Dorado County Office of Education (EDCOE) advised the Trustees that the County Superintendent of Schools was not their employee; he was an elected official. Therefore, their recourse was limited. Most of both Trustee meetings were in closed session and there were no reports out of the closed session. The lack of discernable action by the Trustees precipitated the grand jury to investigate the matter further.

### **BACKGROUND**

The State Constitution, Article IX, mandates the "Legislature shall provide a system of common schools by which a free school shall be kept up and supported in each district at least six months in every year..." The state constitution also mandates that there be a county superintendent of schools. In 1976 the state Legislature authorized the voters in each county to decide whether to continue to elect their county superintendent of schools or fill the office as an appointment by the county board of education. A California Constitutional amendment gave the county boards of education the power to fix the salary of county superintendents.

There are 58 county superintendents of schools in California. Fifty-three county superintendents are elected; the remaining five that appoint their superintendents are some of the largest counties: Sacramento, San Francisco, Santa Clara, Los Angeles, and San Diego.

In the counties which elect their superintendents, the county superintendent of schools is legally independent from the county board of education as well as county board of supervisors. An elected county superintendent is governed by the California Constitution and the Education Code.

## METHODOLOGY

- Review California Constitution, County Charter, California Education Code
- Interviewed former and current superintendents of both elected and appointed offices
- Interviewed board members for county boards of education
- Reviewed El Dorado County election records
- Reviewed *An Administrative Janus, Elected and Appointed County Superintendents of Schools in California*, Donald A. Dixon, 2006

## DISCUSSION

The names El Dorado County Superintendent of Schools and El Dorado County Board of Education give the illusion that those offices and boards are created and governed by county government and that the Superintendent and Board of Education have broad oversight of all public schools within El Dorado County. This is a common misconception that is patently incorrect.

There are currently fifteen school districts within El Dorado County. Each of the districts has its own board of trustees and its own appointed superintendent. These districts include El Dorado Union High School District, Lake Tahoe Unified School District, Placerville Union School District to name just a few. To be clear, each district has its own appointed superintendent, an employee of the district, that answers to the elected board of trustees who are empowered to both employ and terminate that superintendent.

There are local appointed school district superintendents, elected and appointed county superintendents of schools, and an elected state Superintendent of Public Instruction. This report focuses solely on the elected County Office of Education's (COE) Superintendent of Schools.

California Education Code states the county superintendents of schools shall, among other duties:

- Supervise the schools in their county.
- Maintain responsibility for the fiscal oversight of each school district in their county.
- Visit each school to observe operations, examine the sufficiency of textbooks, the overall condition of the facilities, the accuracy of the data reported on the school accountability report card, etc.
- Distribute all laws, reports, circulars, instructions that they receive from the state for the use of the school officers.
- Review and approve, conditionally approve, or disapprove school district budgets and ongoing expenditure patterns before they are sent to the California Department of Education.

It can be seen from reviewing the County Superintendent of Schools' duties vis-à-vis other school districts in the county, that the office serves as an intermediary between the state and the individual school districts. If a school district within the county is being horribly mismanaged or bordering on bankruptcy, the County Superintendent of Schools would report that to the state Department of Education.

Vicki Barber, Ed.D., served as the EDC County Superintendent of Schools from 1994 until June 2013. She was appointed by the BOE to fulfill the unfinished term of her predecessor, Kenneth Lowry. Dr. Barber ran unopposed during the entire course of her nearly 20-year career. Upon Dr. Barber's retirement in June 2013, with one year remaining in her term, the EDC BOE appointed Jeremy Meyers, EDCOE Assistant Superintendent of Schools, to finish the final year of Dr. Barber's term. In 2014, running unopposed, Mr. Meyers was elected to a four-year term.

By the summer of 2015, the Superintendent's second DUI arrest in a short period of time was viewed by many as a very serious and escalating condition. The question of his suitability for duty and talk of perhaps being removed from office was widespread. However, as noted earlier, the El Dorado County Board of Education has no real authority over an elected Superintendent. They solely have the power to set the Superintendent's salary and, in the event of a vacancy, appoint a replacement. Absent felonious conduct, (both DUI's were charged as misdemeanors) there was no recourse but recall; removal of a recalcitrant Superintendent would require a recall election, a time consuming and costly undertaking.

So what did happen? Mr. Meyers resigned his elected office with a negotiated severance package. While the taxpayers were stung and probably taken aback with the \$125,000 buyout agreement, they were spared an estimated \$300,000 for the cost of a special election for the purposes of a recall. And, the matter was settled expeditiously.

The grand jury was unable to find any contested elections for County Superintendent of Schools as far back as the early 1980's. There has been a demonstrable lack of interest by anyone in this county to step forward and challenge an incumbent. We can only speculate as to the reasons. A candidate must reside in this county, possess at least a Master's Degree in an area of relevant study and have a valid California Administrative credential. Further, this individual must be willing to finance a campaign and go through the rigors of an election challenging an incumbent. It is not surprising that no one has done it in the past 34+ years.

After Jeremy Meyers resigned his position with 3 years remaining in his term, the EDC BOE publicized the vacancy nationally and conducted interviews with qualified applicants. An applicant from the El Dorado County Office of Education was appointed.

The Grand Jury endeavored to determine if there was an advantage to appointing versus electing a County Superintendent of Schools. There is scant evidence and fewer studies to provide guidance on this issue. One helpful research paper on this topic is the Dixon Report<sup>1</sup>. The following is what was gleaned from our research, observations, and testimony from both elected and appointed Superintendents and County Board of Education Trustees.

Perceived benefits of having an elected superintendent:

- The public may feel it has more control over the schools
- An elected superintendent may be more responsive to the citizen's needs
- Lower turnover
- Elected superintendents must reside within the county
- Generally, an elected official has considerably more independence and may not experience as much pressure from the unions, legislature and hiring board.

Perceived disadvantages of having an elected superintendent:

- There is no performance review, goal setting or direction from an elected executive board.
- Limits candidate pool to only those residing in EDC.
- Qualified candidates may be dissuaded to pursue this position because of the need to launch and fund an election campaign.
- Anyone with the required credentials may run for office. They may not be the most knowledgeable or have the highest skills. A less qualified candidate may prevail on name recognition or popularity.
- As witnessed in our county, outright removal from office can only be done via recall with substantial public cost.

Perceived benefits of having an appointed superintendent:

- Board of Education would be allowed to recruit qualified candidates from all over the country.
- Potential increase in administrative efficiency.
- Having a professional rather than political superintendent.
- The ability to discipline and/or remove a failing superintendent

Perceived disadvantages of having an appointed superintendent:

- Higher turnover
- Expense to COE for recruitment.

---

<sup>1</sup> An Administrative Janus, Elected and Appointed County Superintendents of Schools in California, Donald A. Dixon, 2006

## FINDINGS

- F1. The election of the EDC Superintendent of Schools has been uncontested for the past 34 years, possibly longer.
- F2. The EDC Board of Education does not have the legal authority to discipline or remove the elected EDC Superintendent of Schools.
- F3. Transitioning from an elected to an appointed county superintendent of schools would require a call to action from El Dorado County's citizens and placing the proposal on the ballot. The measure, to be successful, would require a simple majority vote.

## RECOMMENDATIONS

- R1. The El Dorado County Board of Education should thoroughly examine the pros and cons of retaining an elected Superintendent of Schools and issue a report to the Board of Supervisors of their findings and recommendation.
- R2. Based on the findings from the above recommendation, the County Board of Supervisors and the County Board of Education should consider putting the matter on the ballot.

## REQUEST FOR RESPONSES

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

From the following governing bodies:

- El Dorado County Board of Supervisors on or before September 22, 2016
- El Dorado County Board of Education on or before September 22, 2016

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

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

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