

Mariposa County Grand Jury

Final Report

2011-2012



Mariposa County Grand Jury Final Report

June 2012

The Honorable F. Dana Walton
Judge of the Mariposa County Superior Court
Mariposa, California

Dear Judge Walton,

The 2011-2012 Mariposa County Grand Jury herewith submits its Final Report.

We recited our oath of office July 1, 2011. Eleven members and three alternates were selected to serve. The five men and six women of the Grand Jury constituted a broad cross section of the population of Mariposa County. From the beginning, it was clear that our members possessed a sincere interest in our local government and its operation.

Our term began with a training session presented by Dr. Bruce T. Olson, the author of *Grand Juries In California, a Study in Citizenship* and the leading expert in the history and operation of county Grand Juries in California. Without his humorous insights and thorough instruction, we would have been unable to function as a Grand Jury.

We received twelve complaints over the course of the year. One complaint did not fall under our jurisdiction, and another was a request for investigation by a county agency. The ten remaining complaints required our involvement. Eight of those complaints related to one Community Special District.

Oversight reports were completed for nine county departments and two community special districts. Our goal was to provide unbiased recommendations to keep County government running efficiently and effectively.

In this Final Report, we are including an explanation of Assembly Bill 109, which has been gradually taking effect during our term. AB 109 shifts responsibility for managing non-violent offenders from state prisons back to counties. The impact of this law will be substantial to both our local government and the citizens of Mariposa County.

Over the course of our tenure, we called upon guest participants from government agencies and departments to educate us about County government. We relied extensively on District Attorney Robert Brown and County Counsel Steven W. Dahlem for their guidance. The Superior Court staff were always eager to assist us. Thanks to all.

Finally, we thank you, Your Honor, for giving us the opportunity to serve on the Mariposa County Grand Jury. It has been an experience both educational and rewarding.

Respectfully submitted,

Lawrence D. Walton, Foreperson
2011-2012 Mariposa Grand Jury

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Mariposa County Grand Jury 2010-2011 Members

Donna Cordero

J.J. Gillispie

Richard Gimblin

Victoria Hooper

Lynette Jackson

Ruth Ketvirtis

Walt Lewis

Ray Marean

Sandra L. McRae

Lawrence D. Walton—Foreman

Joe Williams

Mission Statement

We willingly accept our responsibility to serve the community and Mariposa County. Our acknowledged role is to oversee the appropriate function of the various facets of our county government. To that end, we dedicate ourselves to preserving its integrity.

Guest Speakers

We wish to thank all those who generously shared their time speaking to us about Mariposa County Government.

Rick Benson, County Administrative Officer	August 4, 2011
Robert Brown, County District Attorney	August 11, 2011
Dan Tynan, Interim General Manager Lake Don Pedro CSD	September 23, 2011
James Allen, Chair of the Board of Supervisors	November 3, 2011
Pete Judy, Chief Probation Officer	January 5, 2012
James Rydingsword, Director of Human Services	February 2, 2012
William Davis, County Auditor	April 3, 2012
Cindy Larca, Human Services Fiscal Officer	April 17, 2012
Doug Binnewies, Mariposa County Sheriff	April 19, 2012

Mariposa County Public Safety Realignment Plan

In order to understand California Assembly Bill 109, or Public Safety Realignment, it is necessary to understand how our criminal justice system worked beforehand.

California State Government had been discussing the problem of prison overcrowding and realignment for at least five years before the United States Supreme Court ruled that California must reduce its prison population. Legislators, over time, have increased the length of sentencing for some serious offenses and inmates with prior convictions as in the three strikes law. Before AB 109, parole was administered by parole officers, who were employed by the state. If a county probationer were returned to the county jail, it would be at a cost to the county, but if he were returned to state prison, the state would pick up the tab.

Before AB 109, there were four sentencing options. The first three were on the county's dime and only applied to minor crimes.

Straight probation, supervised by a county probation officer.

Straight time in the county jail not to exceed a year.

A combination of the first two.

A sentencing option that was paid by the state and operated by the California Department of Corrections and Rehabilitation (CDCR), including a set time, always more than a year.

The original purpose of state prison was based on the idea that some people commit more serious crimes and should have longer sentences, separate from those who commit less serious crimes, with shorter sentences.

Some individuals are not necessarily serious or violent criminals, but, due to the lack of a support system, they continue in their accustomed behavior. Many counties ship these individuals off to the state because of the high cost of dealing with them. This has increased the numbers of non-serious, non-violent, non-sexual state prison inmates who cycle in and out of prison.

Realignment

All prisoners currently incarcerated in state prison will serve out their sentences. Counties will not be flooded with convicts who are released before their time is up.

Even if the sentence is more than a year, offenders convicted of non-serious, non-violent, and non-sexual crimes (Both crimes and criminals are popularly known as "non-non-nons".) will now serve their time in county jail instead of state prison, as long as they haven't had any serious or violent priors. Prescribed length of sentencing is not changed, and there is no upper limit.

Judges have unrestricted decision-making power to order "split sentences" allowing some time, even if only one day, to be spent in county jail, and some to be spent in the community under "mandatory supervision." This is different from probation, because it includes additional monitoring conditions, such as electronic monitoring,

residential treatment programs, GPS, or home detention. This can be as effective as county jail, however, it costs less to the county than keeping a convict in jail. Judges may take costs into consideration when sentencing. Although the county will be reimbursed by the state for housing the "non-non-nons", the amounts may be less than the cost of housing all of them for the entire time of their sentences. This may create a need for more split sentences.

The benefit of probation and parole is a period of supervision between incarceration and release as a free person into the community that can be used as a period of adjustment. In the realignment law, there is no provision for probation after a "non-non-nons" gets out of county jail, nor a provision for parole after a "non-non-nons" currently incarcerated in state prison is released. As a result, a split sentence might allow for this period of adjustment that was previously fulfilled by probation or parole.

State parole always lasts for three years, but can be extended for a longer period, if the parolee does not follow the terms of his parole. In contrast, an individual can be released from PRCS between a minimum six months and a maximum of one year if he is abiding by the conditions of his supervision. PRCS, (Post Release Community Supervision) automatically terminates after three years regardless of how well the offender has complied with the terms and conditions of his PRCS. Sentences for PRCS violations are limited to 180 days in custody. Parole violators will also be sentenced to a maximum of 180 days in county jail. This will be on the county's dime.

County Sheriffs have always had the power to release some low risk, misdemeanor or minimum security inmates from county jail into home detention or electronic monitoring. Now they will have more power to release a broader category of inmates, even those inmates who are not minimum security, low risk, or serving time on a misdemeanor, as long as overcrowding is a problem at the county jail. Some of the inmates released could be those awaiting trial who could not post bail, or for whom bail was not granted. Under realignment, a county sheriff has the option to release these inmates into an electronic monitoring system or house arrest.

Funding Issues

The state is providing money to the counties to compensate for some of the expected costs of realignment. The way that the money is allocated is unrestricted, except that it must be used for realignment issues, such as the incarceration of "non-non-nons", community services for offenders, and PRCS. The allocation of funds will vary from one county to another based upon their particular political needs and the choices made by the sheriff and the probation department. As a result, the solutions of how to allocate the money will vary from county to county.

Money for realignment is not enough to incarcerate every "non-non-non" in county jail for the same amount of time as they would have stayed in state prison. As a result, counties must order shorter sentences, split sentencing, or pay for the extra cost of incarceration themselves.

Due to the shift of responsibility and funding for parole from the state parole offices to the county probation offices, the state will be laying off parole agents and downsizing. This will create a new class of unemployed. It may be that some will be

able to get jobs in probation departments, because their expertise may be useful to address the new functions the probation departments will be performing. However, in some counties, currently, the requirements for probation officers are different from those for parole agents, so it remains to be seen how many of these parole agents can be absorbed by already burdened probation departments.

The realignment funding has been written to favor counties, not based on how many crimes or the types of crimes that have been committed in the county currently, but rather on how many "non-non-nons" had been sent to state prison during the years prior.

There were thousands of pre-existing parolees in California when realignment went into effect on October 1, 2011. If any one of these parolees commits a non-serious or non-violent crime and is returned to custody, when he is released from custody, he will be placed in PRCS, paid for by the county, whereas previously he would have been on state-funded parole. This number is also higher than the state recognized when it calculated funding needs. This is also an issue that will need to be corrected.

A portion of the state sales tax and vehicle license fees have been dedicated permanently to the counties by AB 109. \$400 million is provided to the counties this year, growing to more than \$850 million next year and more than \$1 billion in 2013-2014.

The following trailer bills were signed to secure sufficient funding for counties:

AB 111

Gives counties additional flexibility to access funding to increase local jail capacity for the purpose of implementing Realignment.

AB 94 (2011 Realignment Legislation Addressing Public Safety)

Comes into effect upon the passage of AB 111. Authorizes counties that have received a conditional award under a specified jail facilities financing program to relinquish that award and reapply for a conditional award under a separate financing program. Lowers the county's required contribution from 25 percent to 10 percent and additionally requires CDCR and the Corrections Standard Authority to give funding preference to those counties that relinquish local jail construction conditional awards and agree to continue to assist the state in site re-entry facilities.

AB 118

Outlines the financial structure for allocating funds to a variety of accounts for realignment. Establishes the Local Revenue Fund 2011 for receiving revenue and appropriates from that account to the counties. Directs the deposit of revenues associated with 1.0625 percent of the state sales tax rate to be deposited in the Fund. Establishes a reserve account should revenues come in higher than anticipated. The reallocation formulas will be developed more permanently using appropriate data and information for the 2012-2013 fiscal year and each fiscal year thereafter. Implements sufficient protections to provide ongoing funding and mandated protection for the state and local government. The smallest of counties that benefit from the minimum grant will each receive approximately \$77,000 in 2011-12.

SB 89

Dedicates a portion (\$12) of the Vehicle License Fee to the Fund. Revenue comes from two sources; freed up VLF previously dedicated to DMV administration and VLF that was previously dedicated to cities for general purpose use. Estimated total amount of VLF revenue now dedicated to realignment is \$354.3 million in 2010-2011.

SB 87

Provides counties with a one-time appropriation of \$25 million to cover costs associated with hiring, retention, training, data improvements, contracting costs, and capacity planning pursuant to each county's AB 109 implementation plan.

Local Planning Process

In the past two years , statewide efforts have been made to use evidence based practices to reduce prison population, Evidence based practices consist of: supervision policies, procedures, programs, and practices that have been proven by scientific research to reduce recidivism in individuals that are under parole, probation, or post release supervision. These will include day reporting centers, drug courts, residential multi service centers, mental health treatment programs, electronic monitoring, educational programs, and work training.

An Executive Committee will also be established which will consist of: the Chief Probation Officer, Chief of Police, Sheriff, District Attorney, Public Defender, and Director of either Social Services or County Mental Health, or County Drug and Alcohol as determined by the Board of Supervisors.

There is uncertainty in the actual impacts resulting from AB 109, which, in turn, resulted in the CCP (Community Corrections Partnership) agreeing on a three phase approach implementation plan.

Phase I Implementation in the first nine months with guidance from Assessments.com Inc. and administrated by the Probation Office. The Assessment was purchased by SB 678 funds. This tool will identify the risk and need score of our current probation population.

Phase II Focusing on adding and expanding programs and developing task force operations. Planning for the best use of evidence based funds that fit community needs.

Phase III Secure state funding for 2011-2012 of a proposed \$400,000. The CCP will focus on quality control and program effectiveness and address unexpected consequences that might occur.

Jail Alternatives

Probation will expand its current use of electronic monitoring, house arrest, and community restoration projects including being housed at Mt Bullion, for low risk offenders. This will include purchase of electronic monitoring equipment and realignment of personnel to monitor offenders in the community. The Sheriff's Dispatch will receive extra funds after hours if issues arise. Funds for extra in jail

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services that might include health, dental, psychiatric, and drug and alcohol counseling programs and overtime for extra jail personnel for high risk inmates.

By working for "good time/work time" credits, inmates can serve 50% of the sentence instead of the two-thirds required by current law. This will help mitigate time spent in over crowded jails.

Higher risk population will need closer monitoring outside normal business hours. The CCP will assess the need for a Probation Enforcement and Apprehension Team (PEAT) which will be probation officers and sheriff deputies that identify the high risk population.

Funds for overtime, apprehension, surveillance, compliance, enforcement checks on nights and weekends will be needed.

Offenders with problems of responsibility and self-regulation generally respond to additional structure and boundaries. It will be necessary to develop a list of rewards for positive reinforcement with a level of funding.

The Day Reporting Center (DRC) will be provided for support services to improve the success on probation. This will include contacts for health, employment, housing, and residential treatment.

The state will contract with counties for beds in the state prison and fire camps. It is hoped that having an emergency fund available will cover extraordinary expenses and not use the general fund.

There is no way of knowing the exact impact of AB 109, but it is hoped that careful planning that includes accurate data and community involvement will meet system needs.

Oversight Reports

Mariposa County Probation Department

Members of the Grand Jury visited the Probation Department on August 12, 2011 and interviewed the Chief Probation Officer, Pete Judy. On January 5, 2012, Mr. Judy came to speak to the Grand Jury.

California Penal Code §919 requires the Grand Jury to inspect the Juvenile detention facility, which is under the auspices of the Probation Department.

Introduction

According to the County's description, probation is a court ordered sanction that allows a person to remain in the community under the supervision of a probation officer. The conditions of this community-based supervision can vary. It could include jail time, fines, restitution, community service, or other sanctions.

Probation can also require counseling, drug/alcohol restrictions, weapons restrictions and for the offender to report to his or her probation officer. If the probationer violates the rules of their probation, they could go back before a judge and be sent to jail.

The mission of probation is to ensure public safety.

The Probation Department is also responsible for the operation of the Juvenile Detention Facility, which consists of four beds, two cells, and a common area attached to the probation office. Detention is limited to no more than ninety-six hours, because of a lack of educational facilities. The Juvenile Detention Facility is difficult to staff, because of its limited use and unusual hours. It is manned during working hours by probation staff and at night by part time help. It is seldom used at the present time, but is available when necessary.

Findings

F The recent passage of AB109 requires the release of so-called "non-violent" felons to the county probation offices.

F The Probation Department expects an increase in the number of inmates released from prison.

F The Probation Department does not have plans to budget for more probation officers, even though one officer is retiring. It is expected that the use of electronic monitoring will help with the loss of officers. However, there is a concern that, in the future, the medical cost of juvenile prisoners may be a problem.

F The cost of maintaining the Juvenile Detention Facility is nominal and without it detention would have to be at other counties' juvenile halls at an expensive per diem rate.

Conclusions

C The passage of AB109 will place a strain on the Probation Department, at a time when one of its officers is retiring.

C Mariposa County's Juvenile Detention Facility is an important responsibility of the Probation Department. It is the opinion of the Grand Jury that the unit is well maintained and a necessary nominal expense to the county.

Recommendations

It is recommended that the Juvenile Detention Facility remain in operation.

Mariposa County Adult Detention Facility

The Grand Jury provided an inspection on August 19, 2011. It is required annually by California law, Title 15 of the California Administrative Code, §919(b) and §6030(a) of the Penal Code. On February 9, 2012 the Grand Jury returned for another visit with oversight questions about the new AB 109 law and how it was affecting the facility.

Introduction

The facility is overseen by the Jail Lieutenant assigned by the Sheriff's Office. He manages a staff of 17. Four shifts are rotated with three officers assigned to each shift. The facility is capable of housing 58 inmates. If more than the maximum population is met, the local Superior Court Judge has the authority to release prisoners early. Inmates are classified and housed based on current and past behavior or nature of current and past charges. All inmates are initially locked down for twenty-four hours to confirm their classification status. The three types of housing are as follows:

General Population

Those inmates who maintain good and responsible behavior are allowed to remain with the general population.

Administrative Segregation

If an inmate does not obey the rules or is a threat to the safety and security of the facility he is put into segregation.

Lockdown Segregation

Lockdown segregation housing is reserved for the highest security inmates. In addition, inmates can request protective custody or protection from other inmates. This housing is also available to inmates with medical or mental health problems.

Findings

F Although the facility is understaffed, it appears to be well run. An inmate was taken to the hospital by a staff member the day we were there which left only two staff members in charge. Vacations, illnesses, and training account for other staff shortages. During our inspection there was no back up if an officer was unavailable for any reason. The control room requires an officer at all times and he/she is not allowed to leave even if there is an incident among inmates. A patrol deputy is then called in the event of an incident. It might take the deputy an extended time to arrive. The Corrections Standards Authority did a biennial inspection October 2011. They noted that the three sergeant allocations cannot provide 24/7 coverage and a call-out process is in place if needed. There again, call-outs take extended time to arrive. Past Grand Juries have noted that the lack of staffing is an ongoing problem.

During our second inspection on February 9th there were five officers on duty and a new computer control console had been installed in the control room.

F Our second oversight visit was in response to our new prisoner realignment law, AB109 and how it has affected the jail. Currently, seven inmates have returned to the county. There is no way of knowing how AB109 will affect the county in the future.

F All personnel are well trained in emergency procedures.

F The average cost to house an inmate is \$90-94 a day.

F Three meals prepared by a contract company are provided each day. Those with dietary restrictions are given special meals to meet their needs.

F A nurse is on site two days a week. If prisoners require additional care they are transported to John C. Fremont Hospital for further evaluation.

F Emergency evacuation plans are available but not posted.

F Living areas are clean and well maintained.

F Inmates are allowed showers daily, clean outer clothing weekly, and underwear two times per week.

Conclusions

C The Facility is understaffed, but conforms to requirements of state and national codes.

C Medical expenses are a concern. The \$220,000 annual medical budget could easily be exceeded.

C Currently, there are no provisions to fill positions that are vacant due to employee transfer, disability, or proximity to retirement. It may be only a few months, but this problem leaves the facility short handed.

Recommendations

R The 2011-2012 Grand Jury concurs with previous Grand Juries that attention be brought to the severe understaffing at the facility. This Grand Jury believes it is life-threatening to the deputies on duty.

R Pursue funding for major medical.

R Counseling should be a consideration, both post-sentencing and pre-probation as part of AB 109 funding.

Commendations

The Mariposa County Detention Facility is managed humanely and professionally in light of understaffing.

Mount Bullion Conservation Camp

Grand Jury members visited the camp facilities August 19, 2011. Camp Commander, Lieutenant C. Dean provided a tour of the facilities, situated in a remote location near the summit of Mount Bullion, in Mariposa County.

Introduction

The Camp is a minimum security prison facility designated to house one hundred ten low-risk offenders. It has been an adult conservation camp since October, 2004. The camp is operated by the California Department of Rehabilitation and Corrections (CDRC). Inmate training and employment specific to fire protection services falls under the responsibility of CalFire. This is the only adult conservation camp within the boundaries of the local ranger district, serving all of Mariposa, Merced and Madera Counties. Current staffing includes California Department of Corrections, nine positions and fourteen positions for CalFire/LAC. Prisoners are selected to be placed at this facility based on their personal history of risk and potential to provide community services. They are encouraged to become employed in work programs. Specific training is for fire suppression and clean-up. Inmates are frequently deployed to conduct fire protection services. During our Grand Jury visit, crews were returning from a fire suppression operation in Monterey County.

Assembly Bill 109 (AB109) provisions are still in process of being implemented. Concerns have been voiced regarding the potential closure of Mount Bullion Conservation Camp. As of March 26, 2012, this facility is slated to remain in service.

Findings

F Inmate crews routinely work with Federal, State and local government units. Services include weed abatement, brush and tree trimming, firebreaks, as well as roadside clearing and forest restoration work.

F Fire protective services are a primary deployment for the Mount Bullion crews. Their work is well documented in regard to two major local fires: The Oliver Fire which began on June 25, 2008, and the Telegraph Fire, on July 25, 2008. Throughout the fire season, these crews respond to fires well beyond the limits of our local area.

F Inmates contribute to our community by volunteering their efforts toward the Mariposa Safe Families Program. Proceeds from hobby projects, including woodworking, jewelry, and artwork provide financial support.

F Camp inmates earn employment compensation of one dollar per hour. Educational benefits include available high-school or equivalent courses. There is an 85% completion rate by those seeking GED diplomas. Inmate sponsored small business classes are available. College courses are also offered. It is reported that some inmates have received AA degrees. Grand Jury interviews with two inmates indicate the available education benefits are well received.

Conclusions

C Mount Bullion Conservation Camp is a facility that is well run by the State of California. It functions effectively as a minimum security prison compound for adult inmates.

C Programs implemented by this camp provide substantial assistance to local agencies. Our community is the beneficiary of fire protection, enhanced conservation efforts, and financial gain through volunteer work by these inmates.

C Inmates become better prepared to return to civilian life. Education and training provide qualifications for job placement.

C We recognize that the Mount Bullion Conservation Camp is an asset to our community as an employer and as a contributor to community projects.

Recommendation

Mount Bullion Conservation Camp provides a valued service to Mariposa County. This Grand Jury encourages local government to take appropriate measures to support its continued operation.

Auditor/Finance Office

Introduction

The Grand Jury met with the County Auditor, William Davis, on September 21, 2011 at 10:00 AM. We met again on October 26, 2011 at 10:00 AM. Present at this meeting were the Auditor, the Assistant Auditor, and an Account Technician.

Documents received from the Auditor's Department:

- Final Budget, Fiscal Year 2011-2012
- Organizational Chart
- List of Codes that Govern the Auditor's Office
- List of Health and Human Services Property Rents and Leases

Services Provided

The Auditor is the Chief Financial Officer of the County. He and his office exercise financial control over revenues and expenditures of the county; prepare the final budget document; receive and pay all County monies, maintain tax rolls, calculate taxes, apportion tax collections, and complete financial reports. The Auditor is also head of the Audits function, which oversees outside independent audits of the County's finances, the Trial Courts audit, and other audits for specific programs, such as Transportation.

Findings

F The current Auditor has been on the job since January of 2011. The organization of the Auditor's Department has remained the same.

F Many concerns that the Grand Jury presented to the Auditor involved the Human Services Department. The Auditor referred us to the Director and the Fiscal Officer of Human Services.

F Due to a lack of "chain of custody" of cash and checks within County government, in September of 2011, the Auditor instituted cash handling procedures to prevent loss of funds due to oversight, error, improper handling, and theft.

F Since the Grand Jury visited the County Auditor, he has rooted out numerous financial problems and bookkeeping mistakes that have been made within County government, particularly within Human Services. These financial issues were not discovered before his tenure.

F The Auditor stated that he cannot spare any staff to perform on-site examinations of County agencies and departments.

Conclusions

C The Auditor's Department appears to be well run. Employees seem knowledgeable and capable. Questions were answered to our satisfaction. If answers weren't available, they were researched and provided later.

C The Grand Jury's concerns regarding the Human Services department have been subsequently addressed during a direct oversight investigation of the Human Services Department by the Grand Jury.

C The Grand Jury has conducted continuing oversight reviews of this department over the last few years. The results of these oversights indicate that a standard of operational effectiveness is being maintained. An extensive investigation is not warranted at this time.

C Utilizing an independent auditing firm and his own staff, the County Auditor has been effective in his examination of the County's financial climate.

Recommendations

R The Grand Jury supports the continued scrutiny of County agencies and departments by our Auditor. It is recommended that future Grand Juries make use of his financial expertise and that of his department.

R It is recommended by the Grand Jury that funding be allocated to the County Auditor to hire an additional assistant who will perform on-site examinations of the finances of County departments and agencies.

Recognition

William Davis, County Auditor, has gone beyond the clerical function that previous County Auditors have assumed. He has been proactive in finding and rooting out questionable financial activities in our County. As a result, losses and misappropriations of funds incurred by County departments and agencies have been curtailed. The Grand Jury commends him for his professionalism and determination.

Human Services

The 2011-2012 Grand Jury made an oversight visit to the Human Services Department on February 15, 2012.

Authorization for Oversight

Penal Code, §925

The Grand Jury requested and received the following sets of documents for fiscal year 2011-2012 from Human Services beginning in December 2011:

- Questionnaires from the County Auditor and the Human Services Director
- Lease agreement for Human Services Building
- Human Services sub-lease agreements with Child Support Services and Mother Lode Job Training
- Estoppel certificate for acceptance of leased premises
- PG & E bills for 6/17/11 to 10/17/11
- Budget spreadsheets for the Human Services Department
- Mental Health Act components

Interviewed:

- Human Services Director
- Fiscal Officer of Human Services
- Human Services Dispatcher
- Human Services Staff Services Manager
- Human Services Office Technician
- County Auditor
- Interim Director of Public Works
- Public Works Facilities Manager

Introduction

The current Director of Human Services was hired four years ago by the Board of Supervisors.

Human Services is reimbursed by the Federal and State Governments for providing Federal and State programs to Mariposa County residents. There are up to 30 streams of funding.

There are eleven eligibility workers in Human Services who serve approximately 2500 residents in Mariposa County.

In June 2011 the new Human Services building brought under one roof departments that had been housed in various buildings throughout the county. The Recovery, Opportunity, and Development (R.O.A.D.) House is still on Jones Street.

The Human Services building operates under rules of confidentiality and Health Insurance Portability and Accountability Act of 1996 (HIPAA).

Services

- Human Services Administration directs and accounts for all departments and programs administered by the Human Services Department.
- Social Services conducts a number of functions on behalf of the State and Federal governments including: Medi-Cal, County Medical Services Program (CMSP), general assistance, and food stamps; provisions of adult protective services; in-home supportive services; child welfare services and foster home licensing; Eligibility and employment functions.
- Behavioral Health offers short-term counseling with after-care groups to children, families, and adults. Case management and medication services are provided to the severely mentally ill. Child abuse treatment services in support of the Human Services Child Protective Services program are provided. Also provided is an American Indian mental health program.
- In 1997 Wraparound was established in California under SB 163. The purpose of this program is to return children and youth in group home care to their homes and communities.
- Alcohol and Drug Recovery Services include prevention, intervention, and treatment through individual, family and group counseling.
- The Energy Grant relates to Community Action's Energy Assistance grants for energy utility and weatherization assistance.
- The Community Action Agency (CAA) provides various low-income, family self-sufficiency and community development programs that include emergency shelter and food assistance.

Findings and Conclusions

Building Lease

F During the construction of the new Human Services building, over 20 local contractors, suppliers and businesses were employed. The yearly lease amount is \$1,154,319 and is covered under the Human Services Administration operating budget.

There is conflicting information presented regarding how the Human Services building is funded. According to the Human Services Director, the building was constructed through a Federal grant under Housing Development. In addition, the Director asserts that the Federal government reimburses a large share of the operating cost.

F According to the Human Services Fiscal Officer, if there is a change in operating costs from year to year of more than 15%, Human Services must file a written explanation. The State then adjusts the operating costs to reflect the new costs and the Human Services operating budgets are charged accordingly. Percentages go up for every department.

However, according to the County Auditor, the State of California reimburses the County for the operating costs. He states that although the lease amount did not increase from the previous year, the previous costs were about \$280,000 per year and the current cost is over \$1,100,000/year, an increase of more than \$800,000. He claims, as a result, unattached State funds are being shifted from other services to the operating costs. The Auditor is not aware of any Federal grant money that is being used for the operating costs.

C There is a conflict in the information regarding from where the money for the operating cost is funded. We have concerns that the substantial rent increase for the new Human Services building has reduced funds available for department programs.

Building Utilities

F The Human Services Facility was recently constructed in 2011. It is a large building, designed to accommodate most of this department's staff, plus additional agencies. The building relies on an electronic management system to control functions such as heating, air conditioning, and lighting. There are fifty zones within the building, each having independent control settings.

The management system uses environmental sensors and is designed to operate in compliance with occupant requirements. There are overrides, allowing system function such as lighting and heating whenever required. The system is designed to be state-of-the-art energy efficient.

Facility maintenance is provided by Mariposa County Public Works. Maintenance personnel work extended hours at the facility, mostly at night into early morning. It is reported that system overrides are used during maintenance work. It has not been clearly established if lighting and other systems are being restored to off or stand-by modes when maintenance work is completed.

C The facility environmental system is complex. After hours facility occupancy requires automated controls to be overridden. On weekdays, some of the upstairs lights may remain lit until early morning hours.

The Stroming Building

F The County's lease for 5037 Stroming Road is contracted until December 31, 2014. The building was vacated in June 2011. The National Park Service has now leased the building as of March 1, 2012. The State paid for the operating costs of the building while it was empty.

According to the Human Services Director, the State has not been informed that the building has been vacated. A cost report will be filed to show transition to the new tenant. He hopes that the County will not be charged.

According to the Fiscal Officer, the State requires the County to file a yearly cost report showing its operating costs. She states that Human Services' operating costs are within the State's limit. The State allows facilities to be empty for up to a year without penalty, when the vacancy is due to relocation. As a result, the Fiscal Officer believes there will be no repercussions to the County. The operating costs that the

State has reimbursed for the building are part of Human Service's operating budget and are reabsorbed.

Revenues

F Human Services has a \$16,000,000 annual budget. Funds for all of the Human Services are from Federal and State agencies, grants and local funds. Federal funds filter down to the State which, in turn, filter down to the County. Local funds come from property taxes and sales taxes collected by the County. These local funds are handed over to the State and then returned as realignment funds for Mental Health and Social Services. In return, the State gives the County more latitude in how the funding will be implemented for local programs.

Program Integrity Unit

F A new Program Integrity Unit (PIU) has been put into operation. Various Social Service programs receive allocations that include a program integrity and/or fraud component to which Program Integrity Unit staff will charge their time. Operational costs are driven by the time that staff spends doing work in each of the different programs. Between July 2011 and February 2012 there were 88 new referrals for investigation and there were 91 closed investigations.

Audit Exceptions

F The County Auditor has found inconsistencies in Human Services funds. He called in auditors from the State. The State auditors acknowledged a problem. They suggested this issue be brought to the attention of auditors contracted by the County. The auditors found an exception, or potential problem, totaling \$1,700,000.

The Human Services Department is audited by an outside source, yearly. This audit is for processes, only. If a discrepancy is found, an in depth audit will be done.

According to the County Auditor, from 2008-2011 three specific programs funded by the state had issues. He believes that eligibility requirements were not met, because, beginning in 2009, funds earmarked for those three programs were used, instead, as expenditures for General Community Services. Based on the audits, the expenditures went on through 2011 and about \$1,700,000 has been misspent since 2008 by Human Services. The audit revealed that \$1,900,000 was issued by the State, and approximately \$280,000 was actually spent correctly from 2008 to 2011.

According to the Auditor, in previous years, funds were sent to Human Services with the assumption that it would be spent appropriately. He believes that Human Services provided the previous Auditor a list of line items where the money was to be used and the Auditor approved it. No documentation was required to trace it. At the time of the implementation of the programs, the Fiscal Officer provided direction to the Auditor's Office with the approval of the Director of Human Services.

The current Auditor has put in a system of checks and balances. He has created oversight of all departments, including Human Services. When money passes through his office, and is received by a department, he contacts that department to determine whether money that is received is cash or reimbursement. If it is cash, it will remain on the balance sheet until the department provides the documentation

showing that the mandated work has been performed, and at that point, the money is recognized as revenue. On the other hand, if the funding is for reimbursement, the department must present documentation showing what it is being reimbursed for. County departments must document all spending. Due to the creation and application of these new policies, all funds are traceable.

According to the Director, on February 15, 2012 there was an audit that had exceptions. He stated that to handle one of the exceptions, County Administration and the Board of Supervisors have to meet to rectify the issue, and that the item must be brought up on the Board of Supervisor's agenda by April 2012.

According to the Fiscal Officer, there was an audit on February 22, 2012 that exposed two exceptions. She says that generally, the audit is not made public until there is a plan of corrective action. One exception, she pointed out, was a major expense of about \$300,000 for a program that had been developed but that could not yet be implemented, and, as a result, monies were rerouted until that program could be launched. To rectify the exception, the Fiscal Officer stated, Human Services administration and the Board of Supervisors will formulate a correction intended to reroute funds into next year's budget so the program may be implemented. She states that the other small exception will be corrected in the same manner. On the whole, according to the Fiscal Officer, exceptions are usually minor if there are any at all.

At a later date, the Fiscal Officer stated that Mental Health asked for and received money from the State to fund three projects and in 2008 there was a surplus. She claimed that some of this funding was diverted from those three projects to core Mental Health programs.

The Fiscal Officer asserts that all the requirements of the three programs were fulfilled. Her opinion is that the County Auditor does not truly understand how the funding is meant to work. She recognizes, however, that it is clear in the law that those mandated programs that are funded by the State, must be implemented as mandated, although the State does not specifically address what should be done if there is a surplus. This transfer of funds was approved by both the Fiscal Officer and the Director.

During a meeting with Board of Supervisors and County Administrators, information regarding the misspent funds was divulged. A consultant presented a corrective plan of action to the County Mental Health Board in May 2012 proposing the repayment by County Mental Health by deducting future revenues. The Mariposa County Mental Health Board approved the corrective plan of action. It will be presented to the Board of Supervisors, who may approve it and forward it to the State Oversight Commission for Mental Health for final approval. It is unknown what the State will decide.

C In prior years, Human Services has been operating without sufficient oversight by Mariposa County or the State. As a result, lax practices by several individuals have become habitual and money has not been spent as mandated. There may be some additional costs and considerable effort to enact the corrections. It is still unknown if there will be additional fiscal repercussions to the county as a result of misappropriated allocations by this department.

Filing Reports to the State

F Currently, at the State level, Mental Health Services has been dismantled. Yearly plan updates and revenue reports must now be filed with the State Department of Health Care Services. The State has mandated that 80% of funds are to be used for core services and 20% for Prevention, Early Intervention (PEI). A program called Innovation would receive a total of 5% taken from both PEI and core services.

C The State will be handing over more funds to the County, which will have more latitude to spend. Appropriate allocation will become the responsibility of the Board of Supervisors, the local Mental Health Department, and the local Mental Health Board.

Time Study Reports

F The Social Services Department's time study reports are the accounting of employee time spent on specific activities. These are documents used by this department to receive reimbursement from the state. The state allocates funding to specific programs. The Social Services Department is required to justify this funding by certifying that employees worked the hours listed on the reports.

Auditors hired by the county indicated that there have been inconsistencies in the time studies. The cause of these inconsistencies was unclear. The auditors concluded that time study documents may have been altered.

Human Services Fiscal Officer stated that time reports have not always been completed correctly or in a timely manner. She reports that employees have had confusion in filling out the reports and that some have been changed, after they have been submitted to the state. In her Grand Jury interview, she explained that the funds all come from the same general "pocket." Within that "pocket" there are smaller "pockets." Working with departmental supervisors and the Deputy Director, the time reports are reviewed. Sometimes changes have been made to reflect requirements to procure specific funding sources. If a change has been made, the employee who originally filed the time study report is notified.

The Grand Jury has been informed that new policy has been put in place. It requires all time study reports to be completed by employees and reviewed by their supervisors, in a timely manner.

C Time study reports were routinely inaccurate and frequently altered. Department management indicates that the issue has been rectified. Time study reports now reflect the actual manpower used for specific state programs.

F According to auditors hired by the County, in the audit of the State Department of Community Services and Development contract reporting for the 2010-11 fiscal year, Mariposa County Human Services Department claimed expenditures \$2,363 in excess of amounts shown on the County general ledger.

According to the County Auditor, Human Services has a computer system separate from the County's computer system. In the Human Services computer there are bookkeeping inaccuracies. As a result, if a claim is submitted based on their system rather than the County system, then that claim may be out of balance.

The County computer system is the system used for accounting by all departments. All County expenditures are processed through this system. According to the Auditor, Human Services has sent inaccurate information to his office. The Auditor's office corrects the figures before inputting them into the County system. The figures were not necessarily changed on the Human Services system. This has created inconsistencies and may be why Human Service's books are out of balance.

C Budget discrepancies are apparent between the Human Services Department computer and the separate County computer. These discrepancies appear to be relatively minor and primarily a result of input error.

Prudent Reserves

F Prudent reserves are moneys that are set aside to be used later when extra resources are needed. They must be established as part of the three-year plan. Human Services has funds set aside as prudent reserves within Mental Health Services. In 2011, the Human Services Department had \$427,000 in prudent reserves. That same year, the Fiscal Officer allocated more than half of the prudent reserves, without filing a plan. Nevertheless, at the end of 2011, the Fiscal Officer submitted a new plan to use the total amount of prudent reserves of \$427,000 in 2012 for other services where funding was going to be short. Contrary to what was stated in the new plan, at the end of 2011, the prudent reserves amounted to less than \$200,000. Her alleged intent was to attempt to refill the \$1,700,000 "bucket." The Fiscal Officer did not let the appropriate parties know. It was an oversight on her part, and the Director was also aware of it.

C More than half of the prudent reserves were spent in 2011, without a plan. The entire amount of prudent reserves, including the part that was already spent, was included in the 2012 plan. The Fiscal Officer intended to make partial repayment of the \$1,700,000 exception generated by this department. This was a violation of Human Services policy and was allowed because of lax practices and no oversight.

Energy Grant

F The Energy Grant supports Community Action's Energy Assistance services for energy, utility, and weatherization. This program is generally first come first serve. There are up to 150 applicants waiting for assistance depending on grant money availability.

F The Energy Grant contract shows that employees receive benefits at 129% of their salary, much higher than the 62-65% benefits received by other Mariposa County employees.

The Director was asked about salary and benefits numbers being skewed. He answered that he would look into that and check with the Fiscal Officer.

The Fiscal Officer stated that because of State requirements, some of the salaries and materials costs are combined on the same budget line. After two Grand Jury requests for a budget breakdown, the Director provided information on April 9, 2012.

The Staff Services Manager runs the weatherization and utilities programs. She stated that there are no salaries on the addressed budget line. It is for the purchase

of utilities and weatherization materials installed in homes. When the Staff Services Manager was told by the Grand Jury that the Fiscal Officer had stated that salaries were included on that budget line, she left the room. When she came back, she stated that possibly \$51,000 could be salaries and that she would talk with the Fiscal Officer and get back to the Grand Jury with an answer.

Since the meeting with the Staff Services Manager, the Fiscal Officer admitted she made a mistake and there are no salaries included in that line.

The Fiscal Officer reports there is a new budget that has mid-year corrections with more money added and another grant that was approved by the Board of Supervisors. Now the benefit to salary ratio in this budget is about 42%, much lower than the 62-65% usual benefits to salary ratio for other Mariposa County employees. According to the Fiscal Officer, this works because she makes appropriate changes based on the contract and the number of people who are working.

The Fiscal Officer, her staff, and the Director of Human Services all approved the budget spreadsheets. The Director of Human Services is aware of how the money is spent and he signs off on the budgets before they are sent out.

C There are concerns regarding conflicting information we received about budget items. There was a lack of clarity to address our questions about employee benefit to salary ratio. Answers to our concerns were inconsistent and not supported by documentation.

"Ghost Account"

F The County Auditor discovered a "ghost account" that belonged to the Energy Grant Program. The function of the "ghost account" was to mask accounting irregularities. This account had been in place since 2008 and possibly as early as 2007. As a result of its discovery, in September 2011, the County had to pay back \$134,000 to the State from the County general fund.

According to the Human Services Fiscal Officer, amounts allowed for salaries in the Energy Grant Program are not always sufficient and the unfunded parts would be recorded in a "ghost account." It was hoped that one day the State would provide a surplus of funds and the shortfall could be paid off. The Fiscal Officer states that over a 6-year period, the "ghost account" had built up to \$134,000.

The Fiscal Officer states she was told by the previous Director and previous Deputy Director of Community Services to keep her hands out of these funds and she did not know why. When the previous Deputy Director of Community Services retired a year and a half ago, the Fiscal Officer was given responsibility for the "ghost account." The current Director of Human Services and the previous County Auditor were both aware of this account.

C The "ghost account" was not the creation of a single individual. There were numerous individuals, past and present, at the highest levels of the Human Services Department who were aware of this account. In addition, the previous County Auditor knew of it.

Recommendations

R Now that the State Mental Health Department has been dismantled and is part of the State Department of Health Care Services, Mariposa County will be more fully in control of dispensing programs to its citizens. There will still be some controls by the State that will have to be adhered to by AB100 and Prop 63 from 2004. It is now more important than ever that Human Services provide clear and correct information to the local Mental Health Board and the Board of Supervisors.

R There needs to be strong oversight by the Auditor's office. The current Auditor has put in place a system of checks and balances that provide oversight of Human Services. Continued oversight is necessary, and should be consistently carried out by the Department of the County Auditor. In turn, the Auditor needs to work closely with Human Services, the local Mental Health Board, and the Board of Supervisors, so that everyone understands the finances and programs and that there is no mismanagement or misunderstanding.

R The Board of Supervisors has ultimate authority over Human Services. All members of the Board of Supervisors need to be aware of and to understand the decisions that are being made at Human Services. Human Services should not be a department that runs itself. In the last year, the County has paid back to the State \$6,000 to a program in which the State found inconsistencies. The County paid \$134,000 back to the State because of the "ghost account". County Mental Health in Human Services may be paying back over \$1,200,000 from future County Mental Health budgets. If there are flaws in the repayment plan of action, it could cost the County untold amounts of money.

R The Board of Supervisors must make checks and balances permanent to ensure continued oversight, no matter who is elected to the position of County Auditor.

R There are many instances of questionable practices. This is not caused by just one person. Re-evaluations of employees of this department by the Board of Supervisors are necessary, starting with all members of top management.

Mother Lode Job Training

On February 15, 2012, the Grand Jury visited Mother Lode Job Training.

Introduction

Mother Lode Job Training is the local one-stop career center and its services are free to our citizens. The Workforce Investment Act (WIA) of 1998 provides the funds for this program. They are part of the Federal Department of Labor and work not only with Mariposa County but with Tuolumne, Calaveras and Amador Counties.

Findings

Mother Lode Job Training is designed to be self-service, with staff assistance as needed. All are welcome including first time job seekers, inexperienced workers, and professionals. An individual can search the job market and listings for part-time, full-time, temporary, or permanent jobs. One can access information and community resources that assist people in becoming employed, staying employed, and continuing to build job skills through education and training. There is also limited training offered to veterans and dislocated workers. Also provided is a limited program for youth: for example, those who are applying for college aid.

Computers, fax machines, telephones, and software are available for use. Mother Lode Job Training is there to make the connection between people and jobs by providing information and services.

Mother Lode Job Training has a five-year lease in the Human Services building. It is a renewable lease that is renegotiated at a cost of \$29,908 per fiscal year. Lease payments are transferred to the Human Services Administration budget and used to support the building lease, utilities, communications, and janitorial costs.

Conclusions

Mother Lode Job Training provides a valuable service that is not otherwise available in our rural community.

Recommendations

There are no recommendations for this department.

Child Support Services

On April 13, 2012, the Grand Jury visited Child Support Services.

Introduction

Child Support Services is separate from Human Services. It is funded by State and Federal funds. No County funds are used. The move to the Human Services building significantly reduces monthly costs and facilitates contact with other departments.

Findings

The primary function of Child Support Services is to establish paternity and child support for a child when the parents are separated. This service is open to everyone. There are no income requirements. Currently there are approximately 750 cases. Child Support Services is a State mandate that is administered at the County level. All states are mandated to have Child Support Services. As a result, if a person paying mandated child support in one state establishes residence in another, that person is still liable for the payment.

Child Support Services has the authority to serve papers and can court-order DNA testing to establish paternity. A summons and complaint goes to the court. If there is no response, there is a default after 60 days and it becomes a court order. Child support is based on income and established by the State. If the custodial parent is on State aid, the first \$50 goes to the child and the remainder is reimbursed to the State. If the custodial parent is not on aid, there are wider parameters that can be agreed upon by both parents. The child support money by the non-custodial parent is sent to the State in Sacramento and redistributed to the custodial parent. If grandparents are raising the child, both parents will have to pay child support. Also, health insurance benefits can be established for the child from the parent who has the best coverage through their employer.

When a parent is non-cooperative, Child Support Services has power of enforcement granted by the State. This includes locating the place of employment of the non-custodial parent. The employer is sent a form requiring that court-ordered child support be deducted from the parent's paycheck. In addition, income tax returns can be attached for child support. Twenty-five percent of unemployment, disability and Social Security can be attached. There is no statute of limitations for child support. When child support payments are missed for more than 60 days, Child Support Services can suspend a driver's license. Professional licenses and passports may be invalidated. Civil and criminal complaints may be filed. A lien may be placed on the property of the non-custodial parent, forcing child support to be deducted when the property is sold or refinanced. There is a 10% penalty for delinquent payments.

Mariposa County Child Support Services has a one-year lease in the Human Services building. It is a renewable lease at a cost of \$56,010 per fiscal year. Lease payments are transferred to the Human Services administration budget and used to support the building lease, utilities, communications, janitorial and information technology costs.

Conclusions

Child Support Services helps to promote parents' financial responsibility to their children.

Recommendations

There are no recommendations for this department. The Grand Jury thanks the Director of Child Support Services for her time.

Mariposa Public Utilities District

On December 8, 2011, the Grand Jury made an oversight inspection with Mark Rowney, Manager of the Mariposa Public Utilities District (MPUD). It included the Briceburg/Merced River pumping station, a one million gallon water storage tank on Colorado Road, the water treatment plant, District Fire Station, and the Waste Water Treatment Plant.

Introduction

Serving a population of approximately 2,000, MPUD provides water, sewer, and fire protection to the township of Mariposa. Today the District area is 873 acres. MPUD is an independent district whose policies are established by a Board of Directors that set rates and fees for services provided.

The pump station near Saxon Creek underground adjacent to the Merced River has two 1,000 hp pumps at present with the capacity for another pump if needed. The current capacity is 2,400 gpm. The pump station supplies a 43,000' line 12" main to Stockton Creek Reservoir which is about a mile from the town of Mariposa. Stockton Creek reservoir is a primary water supply. Current sources of water are adequate for future growth. The District received a grant through the Sierra Nevada Conservancy and Proposition 84 funding that will provide for acquisition of 410 acres next to the reservoir for public use trails and fire hazard reductions.



©Courtesy of Walt Lewis

Water distribution serves the downtown area, Hospital Road, the Campbell tract, the Mueller Tract, Smith Road and east of Hwy 49 North to CalFire. Some piping was installed in 1952 and is inadequate for future expansion. A portion of the district is served by three wells which were constructed in 1976 and do not meet current MPUD specifications.

The water treatment plant is designed for a capacity of 500 gpm, but current capacity is 430 and does not meet the standards for clean drinking water. Construction of a new water treatment facility is underway. Two grants and Proposition 50 funding have made expected completion by October 2012.

The wastewater treatment plant was originally constructed in 1984 and is operating at 30-40% of dry weather flow capacity. The facility operates under a permit that is renewed every 5 years. Facility improvements necessary to meet upcoming (2012) permit requirements are estimated at over \$7,000,000.

The wastewater collection system was constructed in 1958. The wet weather infiltration of storm water has become a problem in the treatment of the wastewater. If not addressed, the future expansion of the district will be compromised.

The Fire District is a function of the district Board of Directors and the General Manager. The "paid call fire fighters" are not full time employees of the District. There are no general taxes to support economic requirements of the department. Owners of developed parcels, single family homes, and Mariposa County taxes make up the approximate \$100,000 budget. The last financial adjustment was in 1992. The primary apparatus for fire protection are three fire trucks, one with a 50' ladder. The MPUD has mutual aid agreements with CalFire and the California office of Emergency Services. The State Fire Marshall does not generally assume jurisdiction over the District on call outs, but performs on a case by case basis.

Findings

F Current and expandable water supply will allow for future expansion.

F The Sierra Nevada Conservancy and Proposition 84 will provide 410 acres for public trails and fire hazard reduction on and near Stockton Creek Reservoir.

F The current water treatment plant does not meet standards for clean drinking water. The new treatment plant is expected to be completed in October of 2012.

F Piping from the water treatment plant, installed in 1952, is too small for future expansion. Three wells in zone 3 do not meet current MPUD specifications.

F The wastewater treatment plant was constructed in 1984. It reportedly needs \$7,000,000 in improvements to meet the upcoming permit requirements that are renewed every 5 years, (2012).

F As weather related storm water exceeds the limits of the design flow of the wastewater plant, it will compromise future expansion.

F The Fire District budget has not been adjusted since 1992. The District provides minimum fire protection for the district. Mutual aid agreements with CalFire and the

California Office of Emergency Services provide for additional fire protection as necessary.

Conclusions

C The available water is adequate for future growth. The water treatment plant is in the process of being replaced to meet current and projected needs, infrastructural needs have not yet been addressed.

C The wastewater collection and treatment plant is in need of approximately \$7,000,000 improvements for the upcoming permit renewal in 2012 which includes: water treatment modifications of discharge water, replacement of 73,000' of main line, control of storm related wastewater that exceeds the plants design flow, which will be an obstacle in future development.

C The Fire District's budget needs to be reviewed since the last adjustment was in 1992.

C The minimum fire protection provided by the District is adequate, considering that CalFire and the California Office of Emergency Services is available on short notice.

Recommendations

R Wastewater collection and Treatment plant permit requirements must be reviewed.

R MPUD needs a new wastewater treatment plant, or the existing plant must be modified to treat increasing amounts of standard wastewater as well as increased infiltration of storm-related wastewater.

R 73,000' of main line must be replaced.

R A review of the Fire District budget is necessary.

Recognition

The MPUD appears operationally sound. The General Manager is a dedicated professional and Mariposa County residents are beneficiaries of his hard work. The Grand Jury would like to thank him for his time and courtesy during our oversight visits.

Lake Don Pedro Community Services District

Introduction

The Lake Don Pedro Community Services District (LDPCSD) has been an ongoing concern and the subject of oversight of preceding Grand Juries. Continued oversight by the 2011-2012 Grand Jury is appropriate. The Grand Jury had an interview with the Interim General Manager on 9/23/11 and visited the LDPCSD office and facilities 10/27/11. Grand Jury members attended three Board of Director meetings. We also had direct contact with Board members, district staff and concerned citizens. Many of these contacts regarded eight complaints received by the current Grand Jury concerning operations of the LDPCSD.

The 2010-2011 Grand Jury made six recommendations specific to the operations of the LDPCSD. All the recommendations targeted the Board of Directors. A response to these recommendations was provided by legal council employed by the LDPCSD. The Grand Jury reviewed this response and determined that it was evasive. We were interested to see if the recommendations would be enacted by the Board.

Our oversight of the LDPCSD included review of the district's budget, which is approximately 1.4 million dollars this fiscal year. We reviewed audit reports, mileage logs, credit card receipts, telephone logs, meeting transcripts, policies, as well as numerous Board meeting tapes. Several of the complaints received by the Grand Jury included additional documents and attachments. Everything from itemized Board meeting transcripts and computer blog postings to historical perspectives of the LDPCSD with political analysis was included. In addition, the Freedom of Information Act File and the California Public Records Act Gov code 6250 – 6276.48 were reviewed. We also received input from several Mariposa County officials. Legal concerns required us to have an ongoing information exchange with the Mariposa County District Attorney. To balance our inquiries, the Board members as well as the Interim General Manager were provided a questionnaire that requested their insight regarding current issues as well as future district concerns. This report is based on information and input from numerous individuals.

Since our oversight visit, the LDPCSD has been additionally challenged. On 2/27/12, the office building was victim to a fire of suspicious origin. The fire rendered the building unusable with business operations severely impacted. Office personnel have temporarily relocated into adjacent district facilities. Daily operations are proceeding successfully. Construction of a new business office has not yet begun.

Authorization for Oversight: Penal Code, §925 and §933.5

Organization

LDPCSD is a Special District, serving citizens in both Mariposa and Tuolumne Counties. The district was created in 1980 to distribute water within a defined geographic region. The district business office and plant facilities are within the boundaries of Mariposa County. The primary source of water comes from Lake McClure through a contractual agreement with Merced Irrigation District. An underground well is a secondary water source. It serves additional customers who are located outside the original service boundary.

This special district operates in compliance with California Government Code, Division 3, §61621. Distribution guidelines are established through a contractual agreement with Merced Irrigation District. This long term agreement is due to be renewed 6/30/14.

A Board of Directors, comprising five members, makes financial and policy decisions and is responsible for hiring a General Manager (GM). Presently, that position is filled by an Interim General Manager (IGM). Policy requires the GM to have certification as a Water Treatment Operator and in Water Distribution. The current IGM holds these certificates. The IGM manages a staff of 2½ office employees and four or five field employees, dependent upon budget and district needs. The field employees perform facility and distribution operations that require them to hold state certification.

The LDPCSD operates independent of County government. State government agencies provide oversight to assure water safety compliance. Fiscal and operational concerns are the responsibility of the LDPCSD Board of Directors and management personnel. An outside audit is conducted bi-annually. The last audit indicates that the LDPCSD is currently operating within budget. This is in contrast to the preceding year when a deficit was recorded. The shortfall was largely overcome by implementation of rate and fee increase for water services.

Findings and Conclusions

F Credit Card Use: Credit Cards intended only for official purchases were being used by individuals for personal spending. One card was used by mistake for Christmas shopping, but reported immediately. On another occasion, during a monthly audit it was found that, a card was used by the spouse of an employee. Funds used unofficially were reimbursed by employees.

C Credit Card Use: All official District credit cards were returned. They are now distributed only when needed.

F FOIA, (Freedom of Information Act) and CPIA (California Public Information Act), requests are submitted by form from the office or by email request. All requests are processed by the Financial Administrator in a timely manner. Requests range from copies of tapes of meetings to salaries of employees.

F Billing Disputes: Billing disputes are settled by the Billing/Property Specialist. Disputes are usually submitted by phone. The problem is solved by an employee who re-reads the meter of the disputed bill, then checks for possible water leaks, indicated by unusually green plant growth in the area.

C Billing Adjustments: Billing adjustments are made in a timely manner.

F Service Requests: Service requests, mostly water leaks, are usually submitted by phone. Repair is done by priority. Larger water leaks are fixed first.

C Service Calls: Service calls are performed in a timely manner.

F Cash handling: The cash drawer is used by two people at a time. Funds in the cash drawer are verified at closing by an employee other than the two using the drawer and stored in a fire proof cabinet over night. Payments are posted as paid

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under secured name and password in computer system. Payments can be made thru a "drive-up" drop box.

C Cash Handling: There are no Cash Handling procedures in place.

F District Vehicle Use: There are 4 district vehicles in use. Mileage logs, while once used, were discontinued in February of 2010. There are no log books for any vehicle.

C District Vehicle Use: There are no Vehicle and Mileage logs in use.

F Employee On-Call Service: During off-hours, an employee is on-call, in case of service problems. There is policy dealing with off-hour calls, however, time cards are not filled out with the correct time, mileage, or service. There is a "verbal" agreement between the Interim General Manager and employees about on call pay that overrides the written policy.

C Employee On-Call Service: Policy is not being followed, and time, service and mileage is poorly documented.

F Special District function: LDPCSD provides basic water services to the community. Operations are running adequately. The final product, potable water, meets legal standards and is delivered satisfactorily to customers.

C Effective Interim General Manager: The IGM has been effective in running the daily operations of the LDPCSD. He has maintained required services while upgrading the plant facilities and water delivery infrastructure. This was accomplished without an increase in staff and minimal support from the LDPCSD Board of Directors.

F District infrastructure and plant safety: The IGM, who has recently resigned, has implemented required safety procedures. Overall, facility operations have become more efficient and infrastructure has been repaired, reducing water loss. This has been accomplished without hiring additional employees.

C Financial Concerns: Members of the Board of Directors have stated they were pleased about district finances because the previous budget shortage has been overcome. The Grand Jury has a different perspective. There are several issues that could negatively affect the district's finances. We believe the Board members are being short-sighted regarding upcoming events that may severely impact the district's bottom line.

F Board of directors; disharmony and dysfunction: This Grand jury received seven complaints targeting the lack of functionality of the members of the Board of Directors. The main thrust of the complaints involved infighting and dysfunction at Board meetings. Improper, self-serving political alliances between Board members, staff and certain citizens were also mentioned as problems, leading to stymied Board function. It is significant that several of the complaints were from past or current Board members. Most of the complainants can be clearly discerned as belonging to one side or another, and distrust between alliances is evident.

Board meetings proceed slowly due to a long agenda of backlogged issues. Every meeting at some point disintegrates and meeting decorum is abandoned. Often it is the Board President and citizen attendees who make personal attacks or

disrespectful comments. The disharmony at these meetings disrupts the already-marginalized functionality of the Board. There is a distinct lack of unity within the Board. Frequently, issues are not resolved, so they become part of the backlogged agenda for the next meeting. With most Boards, background tasks are completed by committee and answers brought to Board meetings. In the LDPCSD, even that avenue is compromised. Committee participation is limited. One Board member openly refuses to work in the committee process at all.

C Board of Directors, Disharmony and Dysfunction: This is an ongoing problem. Polarized political agendas permeate the community and the LDPCSD Board of Directors. One or more Board members have educated themselves regarding district issues and their responsibilities. Unfortunately, this has not helped to create a unified Board that efficiently and effectively administers its duties. The posturing and infighting that disrupt Board meetings continues to dominate. Negative interactions between Board members and citizens continue to bring discredit to the district. Board members not working with committees must be willing to make that commitment. All Board members must view LDPCSD concerns as their highest priority and put personal agendas aside.

F Compliance with Grand Jury Recommendations: The previous Grand Jury provided six recommendations. Because the Board was not working as a unified body, the use of a mediator was advised. The Board hired a mediator on a limited basis and has not proceeded with mediation. Knowing, following, and revising district policies was a second recommendation. In response, the IGM ordered policy to be revised. Other than some job description revisions, no new policy has been written or implemented. The previous Board President resigned, per the third recommendation of the Grand Jury. A fourth recommendation was that a permanent GM be appointed. That has not happened. The fifth recommendation stated that blogs by Board Members that do not support district interests need to stop. This blog activity continued well into the term of the current Grand Jury. A final recommendation advised that the Board members seek understanding of the LDPCSD's finances. This Grand Jury did not deem it necessary to question the ability of the Board members regarding daily operations. Financial concerns are apparent, they are listed in a later finding.

C Grand Jury Recommendations: The 2010-2011 Grand jury put considerable thought into their recommendations. This Board has ignored some of those recommendations. If the Board had followed through with the mediator, the Grand Jury may not have received six complaints regarding Board conduct. If a permanent GM had been employed and supported by the Board, ongoing employee issues may have been circumvented. If blog postings by a Board member attacking citizens had stopped, fewer individuals may have had concerns about the competence of the Board. It would behoove the Board members of the LDPCSD to be receptive to the objective viewpoint that a Grand Jury provides.

F Financial Concerns: The district rate and fee structure may not be sustainable. Legal challenges may be forthcoming. A loss of revenue as well as legal costs to defend against challenges could be substantial. This district is also fighting three current lawsuits. Defense costs are ongoing and potential settlements could be crippling. Beyond that there are issues relevant to an aging infrastructure. No funds have been set aside to address future growth or major reconstruction.

F Legal Representation: One law firm provides most of the legal representation for the LDPCSD. Members of the Board of Directors and district management rely on continual input. In this fiscal year, the Board found it necessary to have an attorney at many of their meetings. The attorney is also consulted regularly regarding employee and policy issues. He was used by management staff regarding a personnel grievance and by the Board to answer Grand Jury recommendations. The same law firm provides representation in one of two unresolved lawsuits against the LDPCSD. The cost of legal representation is substantial.

C Legal Representation: The Board of Directors relies heavily on input from its contracted legal advisers. It appears that Board members have become too comfortable with counsel making decisions for them.

Recommendations

R Credit Card Use Policy: Require signature of employee when card is received and returned. Keep record of times and purchase receipts of use, and check against employee signature.

R Cash Handling Procedures: Have documentation and procedures for cash drawer funds. Maintain a log for receiving cash thru the drop box, verified by 2 employees.

R District Vehicle Use: Mileage and Vehicle logs for each vehicle must be reinstated, to prevent abuse.

R Employee On-Call Service: Policy for on-call pay must be followed, if available or rewritten where needed. Time cards and logs must be instated to better calculate employee pay.

R District Policy: The previous Grand Jury recommended that the LDPCSD Board of Directors review, revise and follow existing policy. We concur. Creating and updating policy is a primary function of the Board. It is far overdue.

R Board Unity: Often, to work with others requires compromise and humility. These traits seem to be in short supply within the ranks of the LDPCSD Board of Directors. We urge the citizens of this district to select individuals who will set aside personal agendas in order to work in unity with other Board members.

R Board Training: All Board Members must attend ethics training before being seated on the Board.

R Legal Representation: It is incumbent upon the Board of Directors to evaluate the need and cost of their legal representation. Over-reliance on legal counsel in district affairs is problematic.

R Board of Directors, Dysfunction: There is no reason for Board members to act with disrespect. Blogs or other communications that do not promote district interests must stop. Directors who will not join committees or work with others to resolve issues must go. These are some identified reasons that define this Board of Directors as being dysfunctional. If Board members are unwilling to take corrective action for the greater good of the district they serve, then they need to resign.

Recognition

The Grand Jury extends thanks to the former Interim General Manager, the Financial Officer, and the Billing / Property Specialist for providing the information we requested. The time and expertise they contributed has been invaluable.

Complaint Reports

Overview

The Grand Jury received 12 complaints during its tenure. Upon receipt, each complaint was read aloud to Grand Jury members, after which a discussion was held. The jury then held a vote as to whether or not to pursue the complaint. If the jury decided not to follow-up on a complaint, a letter was sent to the complainant stating why we would not be investigating the issue. Two complaints arrived late in our year and it was decided that they would be held for the next Grand Jury.

If the jury decided to pursue a complaint, it was assigned to the appropriate committee for a background study to determine jurisdiction and the viability of the complaint. After its initial investigation, the committee made a brief report to the Grand Jury along with its recommendations. These recommendations may include:

- lack of Grand Jury jurisdiction/authority
- the need for further background information prior to further inquiry
- lack of documentation or witnesses to support an investigation
- recommendation to investigate further

The Grand Jury as a whole then made a determination as to which course to follow. The following pages are a summary of these activities.

Complaint 1

Date Received: 7/21/11

Complaint

Lake Don Pedro Community Service District
The Complaint alleges inappropriate telephone usage by the district staff.

Authority for Investigation

Penal Code, §925, §933.5

Assigned Committee

LDPCSD Committee

Avenues of Investigation

1. District telephone billing records, provided by complainant
2. Telephone Interviews with complainant
3. Interviews with district staff
4. Review of district response to complaint
5. Interview with Mariposa County District Attorney
6. Review of tapes and transcripts, district board meetings
7. Review of district policy

Findings

Complaint was brought to the attention of the LDPCSD Board of Directors at a board meeting. Subsequently, the district staff conducted an investigation and responded back with their findings. Meanwhile, the complaint was filed with both the Mariposa County Grand Jury and the Mariposa County District Attorney.

The District Attorney determined this complaint lacked the essential elements to be deemed a criminal matter. The LDPCSD investigation concluded that most of the alleged inappropriate telephone use was, in fact, district business related. Still, there were several remaining calls identified as being made by staff for personal use. The district's report justifies these calls as allowable, according to the district's current informal policy. It concluded there were no billing charges or loss of employee work time attributable to these calls.

Conclusions

The severity of the complaint was overstated. Complainant based some of these allegations on apparent erroneous assumptions. The Grand Jury investigation could not establish overt, inappropriate use. It did, however, determine the district is lax in defining or monitoring telephone use for personal business. The potential for abuse is apparent.

Recommendations

Policy should be incorporated to assure staff uses district telephone equipment only for appropriate business purposes.

Complaint 2

Date Received: 9/15/11

Complaint

Lake Don Pedro Community Service District

This complaint alleges violations of ethics and district policy by a board director. A second allegation indicates possible criminal activity by a citizen, in regard to district affairs.

Authority for investigation

Penal Code, §925, §933.5

Assigned Committee

LDPCSD Committee

Avenues of Investigation

1. Telephone interview with complainant
2. Review of tapes and transcripts, district board meetings
3. Review of district policies
4. Review of Kehoe Act, Senate Bill 135, 2005
5. Review of Rosenberg's Rules of Order
6. Interviews with Mariposa County District Attorney

Findings

The complaint as submitted, focuses on the actions of two individuals in regard to their efforts toward a recall of district Board of Director members. Since their ethics and conformance with the law were questioned, those allegations are addressed. In a subsequent interview, complainant stated his real concerns centered around a dysfunctional district Board of Directors. He specified actions by the identified Board Director as subverting essential board function.

Conclusions

Investigations of alleged criminal violations are normally beyond the jurisdiction of a civil grand jury. The DA reviewed this complaint and determined there were no apparent criminal violations. The Grand Jury investigation concluded that the actions of the identified individuals do indeed undermine the effective function of this district. However, it is apparent that these activities are just a portion of the ongoing issues affecting this district's ability to function effectively. It is our belief that it would be more appropriate to address the entirety of our concerns. They will be included in an assessment of this special district, in the 2011-2012 Grand Jury final report.

Recommendations

It is imperative that this district's representatives conduct themselves in a responsible and respectful manner. Their goal should be to conduct business for the greater good of their district.

Complaint 3

Date Received: 9-20-2011

Complaint

Lake Don Pedro Community Service District
The complainant alleges dysfunctional and arguing Board.

Authority for Investigation

Penal Code, §925, §933.5

Assigned Committee

LDPCSD Committee

Avenues of Investigation

1. Telephone interview with complainant
2. Interviews with District Staff
3. Review of recorded tapes and transcripts of District Board meetings
4. Site review

Findings

The Grand Jury agrees with the complainant as to the behavior of the Board. The Board members are often unprofessional, rude, and unproductive and argue constantly. They frequently are belligerent to each other and to the rate-paying members who attend the monthly meetings. Board members showed no ability or willingness to work with one another. The board is more cooperative when there are Grand Jury members in attendance, however, when left with no supervision, they return to their negative ways.

Recommendations

It is imperative that this district's board conduct themselves in a responsible and respectful manner. Their goal should be to conduct business for the greater good of their district.

Complaint 4

Date Received: 10/06/11

Complaint

Lake Don Pedro Community Services District

This complaint alleges that two members of the district Board of Directors engaged in unethical conduct. It requests "a serious investigation" into reported misrepresentation of facts and circumstances, resulting in district water meters being removed. The complainant concludes it would be appropriate for the offending Board members to be removed from their elected positions.

Authority for Investigation

Penal Code,, §925, §933.5

Assigned Committee

LDPCSD Committee

Avenues of Investigation

1. Telephone interviews with complainant
2. Review, attachments submitted with complaint

Findings

The complexity of this complaint makes it difficult to identify issues appropriate for Grand Jury review. Opinions by complainant and his personal assessment of this district, spanning over two decades is included. Mixed with facts are insinuations, additional allegations and conclusions by the complainant. Supporting documents include partial Board meeting transcripts. They contain discussion relating to circumstances dealing with water meter placement. The documentation is complainant's alleged evidence of the misrepresentation provided by the two accused Board members. The complainant concludes that the inappropriate actions of those Board members resulted in non-payment or underpayment of fees and rate payments to this district.

Conclusions

Investigations of alleged criminal activity are normally beyond the jurisdiction of a civil Grand Jury. The DA reviewed this complaint and determined there were no apparent criminal violations. The Grand Jury investigation concluded there was insufficient factual information to substantiate complainant's allegations.

Recommendations

The allegations in this complaint are beyond the jurisdiction of a civil Grand Jury investigation.

Complaint 5

Date Received: September 20, 2011

Complaint

This complaint was received by the 2010-2011 Grand Jury on 3/11/2011. The complainant alleged that a use permit application for an approval of a church at 5180 Highway 140 was not acted upon and that complainant was owed \$14,400 in lost revenue. Complaint included letters and emails back and forth between the complainant, the previous Grand Jury foreman, Mariposa Planning Department, the District IV Mariposa County Supervisor, and County Counsel.

Authority for Investigation

Penal Code, §925, §933.5

Assigned Committee

County Administration

Avenues of Investigation

1. Review of complainant documents
2. Phone interview with Planning Department Director
3. Site visit at the Planning Department

Findings

F 6/12/09: Complainant had a conversation with the Director of the Planning Department, who stated there would be no reason his request would not be granted and it would take about one week.

F 6/18/2009: On behalf of his client, the complainant requested from the Mariposa County Planning Department a determination for a compatible and allowable use of the property at 5180 Highway 140, for a church.

F 8/21/2009: Complainant had contacted the Planning Department by email and phone on numerous occasions. He was told that the person he needed to deal with was on vacation and the case had been given to another employee.

F 2/2010: Complainant reported that he was approached by a second potential client regarding renting the property at 5180 Highway 140. This client was turned away because property zoning had not been determined.

F 8/19/2010: Complainant sent an invoice for \$12,600 to the Board of Supervisors and Mariposa Planning Department, claiming that the County was responsible for lost rent starting 7/1/2009.

F 8/21/2010: Complainant emailed the Board of Supervisors complaining that there was no action being taken by the Planning Department concerning his request.

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- F** 10/26/2010: Planning Department acknowledged, in a letter, complainant's invoice and requested it be sent to the Board of Supervisors. In the letter, they apologized for their late response.
- F** 10/29/2010: Complainant sent another invoice for \$14,400 adding two more months of rent along with a complaint form to the Board of Supervisors.
- F** 11/3/2010: Complainant received a letter from County Counsel stating that complainant's claim was not presented within 6 months after the event and that no action would be taken.
- F** 11/16/2010: Complainant emailed his County Supervisor asking for help, claiming he had lost 2 clients because of the lack of action by the Planning Department.
- F** 11/16/2010: Complainant received a response from the County Supervisor stating he would help and that the response from County Counsel was unacceptable. Complainant requested a meeting with the County Supervisor. The grand jury does not know whether or not the requested meeting occurred with the County Supervisor.
- F** 3/11/2011: Complainant submitted a complaint form to the 2010-2011 Grand Jury.
- F** 5/20/2011: 2010-2011 Grand Jury Foreman acknowledged complaint in a letter to the complainant asking for more information as to what transpired between complainant and the County Supervisor. Grand Jury had insufficient time to respond to complaint, recommending that it be submitted to 2011-2012 Grand Jury.
- F** 09/20/2011: 2011-2012 Grand Jury receives complaint.
- F** 1/6/2012: 2011-2012 Grand Jury members visited the Planning Department to discuss the complaint. It was the opinion of the Planning Department that because the complainant and his client received a Conditional Use Permit in the Mountain Home Zone area for the client's church, that the matter was no longer relevant. This permit was for a second property the client rented because the Planning Department never replied regarding the property at 5180 Highway 140. The Planning Department would continue developing their General Plan/Zone Amendment 2011-24 in which churches, among other types of structures, would be allowed in the Mariposa Town Planning Area Specific Plan.

Conclusions

- C** The Mariposa Planning Department received a valid request from the complainant regarding a zoning issue. Even with numerous follow-up contacts by the complainant, the department's personnel never responded within an acceptable time period. Due primarily to this department's inaction, the complainant lost two potential clients.
- C** The monetary claim by complainant has validity. Inaction by the Planning Department made the building offered by the complainant unrentable to his clients.

Recommendations

It is a necessity that the Planning Department reply in a timely and responsible manner to all requests for their services.

Complaint 6

Date Received: 10/20/11

Complaint

Lake Don Pedro Community Services District

Section 1 of complaint alleges disrespect of public attendees by two named board members, and name calling of the public by one board member. According to complainant, said behavior violates district policy 4010.1.3. The alleged actions prompting this complaint took place at a public board meeting on September 19, 2011.

Section 2 of complaint alleges repeated "attacks," by one named board member toward other directors and public attendees of meetings, compounded by accusations of lying, violating district policy 4010.2.1. In addition, complainant alleges same board member refusing to work with several other directors.

Section 3 of complaint alleges "hostile responses" by two named board members to public attendees' questions and comments, as well as insults and slanderous responses, by one named board member, to those public attendees who disagree with that board member's "blog." In addition, complainant alleges that the hostility of aforementioned two board members has discouraged individuals from becoming district customers. Complainant further states that, because of the hostile attitude of said board members, qualified candidates are reluctant to run for the empty board seat.

Section 4 of complaint, alleges that the Board's behavior was at its "best" while two unidentified women were present taking notes. When the women left, two named board members became hostile and argumentative. The alleged actions prompting this complaint took place at a public board meeting on September 19, 2011.

Section 5 of complaint alleges that a named board member violated district policy 4070.1 "by ordering the staff...to do things without consulting the rest of the directors." When two public attendees at a board meeting suggested violation of policy, the board member responded with disrespect toward the public attendees and disregard for policy.

Authority for investigation

Penal Code, §925, §933.5

Assigned Committee

LDPCSD Committee

Avenues of Investigation:

1. Review of tapes and transcripts, district board meetings
2. Communication with employees

3. Communication with complainant
4. Review of district policies
5. Review of Rosenberg's Rules of Order

Findings

There are two members of the LDPCSD Board named in this complaint. The Grand Jury agrees with the complainant with some qualifications. Although it is clear that the two named board members have been known to shout and interrupt, the problem encountered by the District is not limited to these two board members, but has been ongoing for many years. Hostility within the district appears to be systemic. The allegations in the complaint appear to have violated the listed district policies.

Statements made by a board member to other members of the public that were objectionable to the complainant were not specified.

Conclusions

The difficulties encountered by this district have been exhibited for years. It began before the two individuals named were members of the Board. For many years, the LDPCSD has been the "problem child" district in Mariposa County and has been included in previous Grand Jury reports. However, many of the actions of the two named Board members are troubling. There is considerable evidence to support allegations that Board meetings are often out of order. The conduct that is displayed and allowed by the Board and the Board President is often unacceptable and discourages public input. District meetings consistently expose mutual disrespect between the public and the board. Because an authoritative presence at a meeting seems to improve the behavior of Board members, it is clear that those involved know how to behave in a civil manner.

These concerns are a portion of the issues affecting this district's ability to function effectively. They will be included in an assessment of this special district, addressed in the 2011-2012 Grand Jury Final Report.

Recommendations

This special district continues to have a reputation of being dysfunctional. A great deal of that reputation is based on the inappropriate actions of its Board of Directors. Conducting business using professional business decorum, respect, and civility would enhance the district's credibility and improve its operations.

Complaint 7

Date Received, 12/03/11

Complaint

Lake Don Pedro Community Services District

This complaint alleges that the President of the Board of Directors committed violations of the Brown Act. An additional allegation accuses a second member of the Board of Directors of slandering citizens.

Authority for Investigation

Penal Code, §925, §933.5

Assigned Committee

LDPCSD Committee

Avenues of Investigation

1. Telephone Interview with the complainant
2. Review; Tapes, District Board meetings
3. Review; district policies
4. Review; Brown Act, Government Code Sections 54950-54960.5
5. Review; Open Public Meeting Act
6. Review; Bagley-Keene Open Meeting Act
7. Review; Rosenberg's Rules of Order
8. Mariposa Sheriff's Department Report #MC1108541
9. Interviews; Mariposa County District Attorney.

Findings

This complaint specifies a Board meeting where the Board President talked about interactions he had with district staff regarding employee issues. Complainant believed his involvement with employees constituted violations of the Brown Act. Additionally, on November 7, 2011, a Sheriff's Department deputy responded to a board meeting. This was in response to a call by the Board President, when he wanted to expel a couple citizens from the meeting. A dispute arose because the Board President would not allow citizens time to speak. Ultimately, the deputy convinced the Board President that citizens must be allowed three minutes time.

The second allegation refers to blogs posted by a Board member. The blogs were frequent and often ridiculed citizens who had opposing views. Complainant submitted a blog excerpt in which the author crafted derogatory assumptions, based on a statement complainant made at a Board meeting.

Conclusions

The interactions between the Board President and district employees does not appear to be a violation of the Brown Act. However, many of the actions by the Board

President are troubling. There is considerable evidence to support allegations that Board meetings are often out of order. Frequently, the Board President displays or allows unacceptable behavior. This includes hindering public input and creating arguments. The overall tone set at meetings is an obvious contributor to the disharmony apparent within this district's affairs.

The blog posting by a second Board member is also a detriment to harmony within this district. This was a concern addressed by the previous Grand Jury. A continuation of this action indicates this Board member displays little desire to act appropriately. It is unknown if the blog postings meet the definition of slander. That could only be determined through a civil process, pursued through the courts by the complainant. Nevertheless, it is obvious the negative blogs ultimately undermine the credibility of this district's Board.

These listed concerns are a portion of the issues affecting this district's ability to function effectively. They will be included in an assessment of this district, reported in the 2011-2012 Grand Jury Final Report.

Recommendations

This special district continues to have a reputation of being dysfunctional. A great deal of that reputation is based upon the inappropriate actions of its Board of Directors. Conducting business while maintaining decorum would help to enhance this district's credibility.

Complaint 8

Date Received, 12/03/11

Complaint

Lake Don Pedro Community Services District

This complaint is essentially a continuation of concerns regarding a member of the Board of Directors. A complaint received this same date directed attention to blog postings created by the Board member. This complaint alleges these blogs, plus additional actions by the Board member indicate a lack of mental stability.

Authority for Investigation

Penal Code, §925, §933.5

Assigned Committee

LDPCSD Committee

Avenues of Investigation

1. Telephone Interview with complainant
2. Review of attachments submitted with complaint
3. Review of district policies
4. Interviews with Mariposa County District Attorney

Findings

This complaint includes excerpts from a Board member's blog postings. The excerpts contain a sketch depicting a saw that cut a corner off a block shown in place of a person's head. Additionally, a blog contains a photo of a chainsaw in position to cut across document labeled, "The Brown Act."

Conclusions

It appears the Board member addressed in this complaint was attempting to be creative in making a point. His included blog ramblings were about a misstatement complainant made at a Board meeting about "cutting corners." While the blog postings may be upsetting to the complainant, concerns seem to fall short of those expressed in this complaint. However, the ongoing blog postings of this Board member are viewed as a negative activity. It will be addressed in the 2011-2012 Grand Jury Final Report.

Recommendations

The previous Grand Jury recommendations addressed negative blog postings by Board members. It is obvious they are a source of discontent that discredits the reputation of the Board. Continuation such activities suggest additional scrutiny by the Grand Jury would be appropriate.

Complaint 9

Date Received 12/05/11

Complaint

Mariposa County A "Request for Investigation" was received at the County Business Office 11/21/11. This document was forwarded to the Human Services Department, then relayed to the Mariposa County District Attorney's Office 11/30/11. The document was then sent to the Grand Jury.

The document requests Mariposa County investigate a disposal/recycling service, to ascertain if it was operating in compliance with the law.

Assigned Committee

Human Services

Findings

This is not an issue appropriate for Grand Jury review.

Conclusion

This document was delivered to the Public Works Department. Greg Ollivier, Solid Waste and Recycling Manager indicated he would initiate necessary follow-up measures.

Recommendations

None

Complaint 10

Date Received 3/18/12

Conclusions: This complaint has considerable merit, requiring Grand Jury involvement.

Recommendations: We are requesting the succeeding 2012/2013 Grand Jury to accept this complaint and investigate to conclusion.

Complaint

The complaint document was submitted without an identifiable respondent. Allegations appeared appropriate for Grand Jury involvement.

Authority for Investigation

Penal Code, §925, §933.5

Assigned Committee

Special Districts

Findings

Preliminary investigation established validity of complaint allegations. Due to Grand Jury term constraints, further investigation was not possible.

Conclusion

This complaint has merit, requiring Grand Jury involvement.

Recommendations

We are requesting the succeeding 2012/2013 Grand Jury to accept this complaint and investigate to conclusion.

Complaint 11

Date Received: 3/18/12

Complaint

Lake Don Pedro Community Services District

This complaint addresses concerns regarding the Board of Directors of this Special District. It is an extensive accumulation of documents and conclusions that support the complainant's opinions that the District's Board lacks the ability to effectively manage the district.

Authority for investigation

Penal Code, §925, §933.5

Findings

Preliminary investigation established validity of complaint allegations. Several addressed concerns have been topics of previous complaints answered by this Grand Jury. Due to Grand Jury time constraints, further investigation was not possible.

Conclusions

This complaint has merit, requiring Grand Jury involvement.

Recommendations

We are requesting that the succeeding 2012/2013 Grand Jury accept this complaint and investigate it to conclusion.

Complaint 12

Date Received 3/18/12

Complaint

California State Personnel Board
The Complaint alleges criminal violations contained in California Penal Code, sections: 137(b), 140(a), 142. (4), 145, 146, 147, 148, 148.1, 149, 151, 153, 154, 155, 155.5, 165, 166, 181, 188, 401, 362, and 166. (4). It also alleges violation of California Civil Code §52.3 (a).

Authority for Investigation

None

Findings

The complaint addresses a State of California Government Agency. Attached civil documents indicate defendant as "California State Personnel Board." There are no documents or included information to indicate any connection to a government agency operating within Mariposa County.

Conclusions

This Grand Jury does not have investigative jurisdiction in this matter. California Penal Code §925-§933.6 limit oversight of government agencies whose jurisdiction encompasses all or part of the county where the Grand Jury is established.

Recommendations

No Mariposa County Grand Jury involvement is required in this matter.