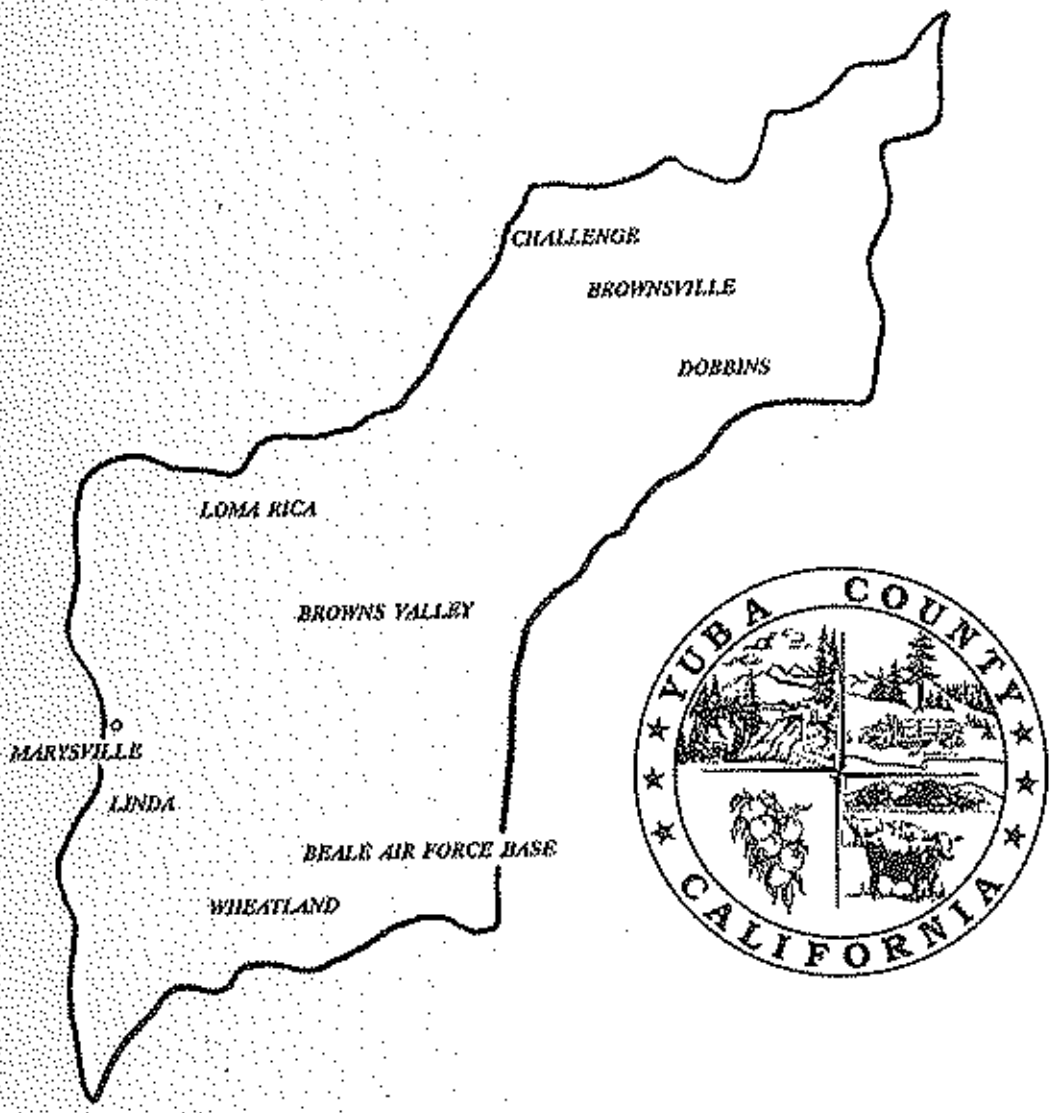
YUBA COUNTY GRAND JURY



1992-93 FINAL REPORTS

June 30, 1993

The Honorable Dennis J. Buckley
Presiding Judge
Yuba County Superior Court
938 14th Street
Marysville, CA 95901

Dear Judge Buckley:

The 1992-93 Yuba County Grand Jury, hereby submits its final report of findings and recommendations pertaining to County Government and fiscal matters as required by Penal Code Section 933.

Each report has been adopted by at least 12 members of the Grand Jury as required by Penal Code Sections 916 and 940, and are the result of extensive research and careful investigations. Each finding has been substantiated by current documentation and observations and/or interviews conducted by no less than two members of the Grand Jury as required by Penal Code Section 916. Additionally, the Grand Jury pursuant to Penal Code Section 916, when possible and when within its ability, has included suggested means for the resolution of problems identified, including financial, when applicable.

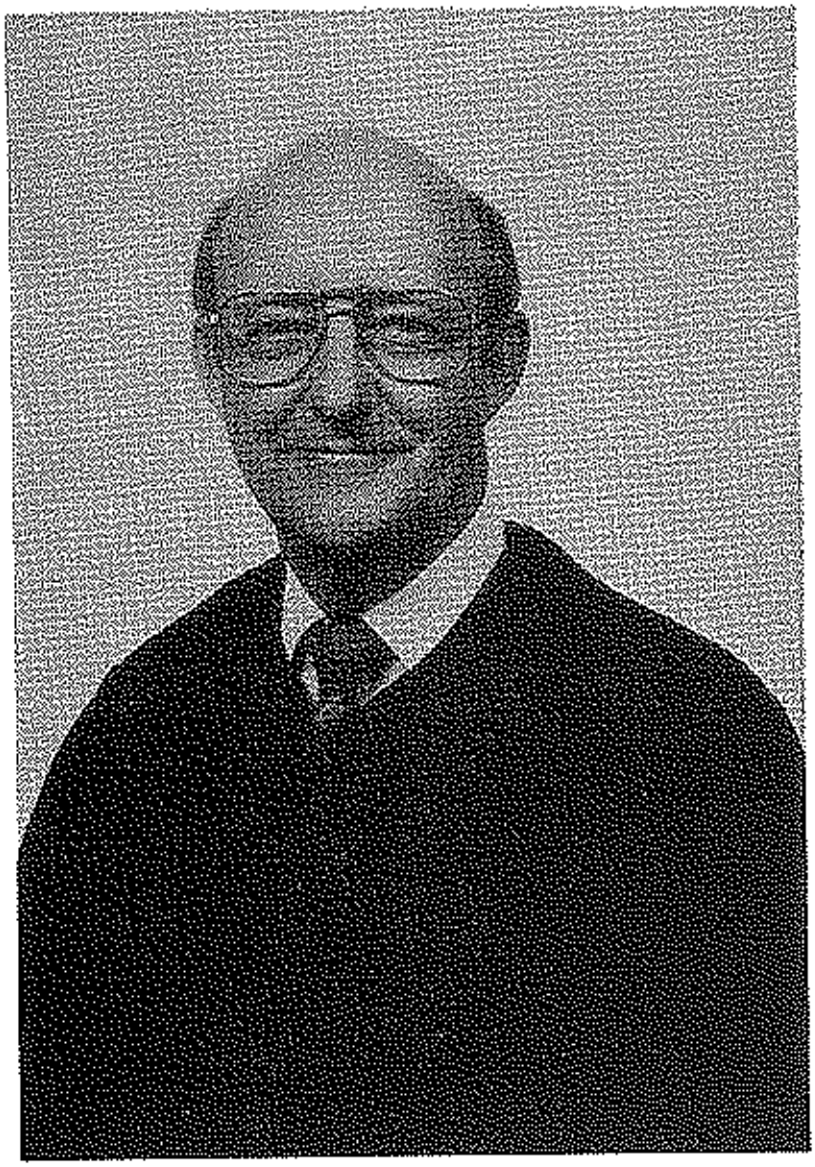
Throughout the year members of the Grand Jury have conducted all inquiries, interviews, observations and investigations with one thought in mind, "Can we assist in making the system more cost effective?" The ultimate goal of the Grand Jury was to, wherever possible, make recommendations to improve government functions and operations in the County, and to make public officials more responsive to the needs of the people.

Every member of the 1992-93 Grand Jury would like to express their appreciation for the assistance provided by the Court and its staff throughout the year. Your constant support of the Grand Jury, has served to strengthen the institution with a resultant future benefit to all of the citizens of the County.

"Thank You," for your help in resolving the many operational and legal problems, for your sage advice, and particularly for the many times you were available on short notice.

Respectfully submitted,

Alfonso Amaro
Foreman

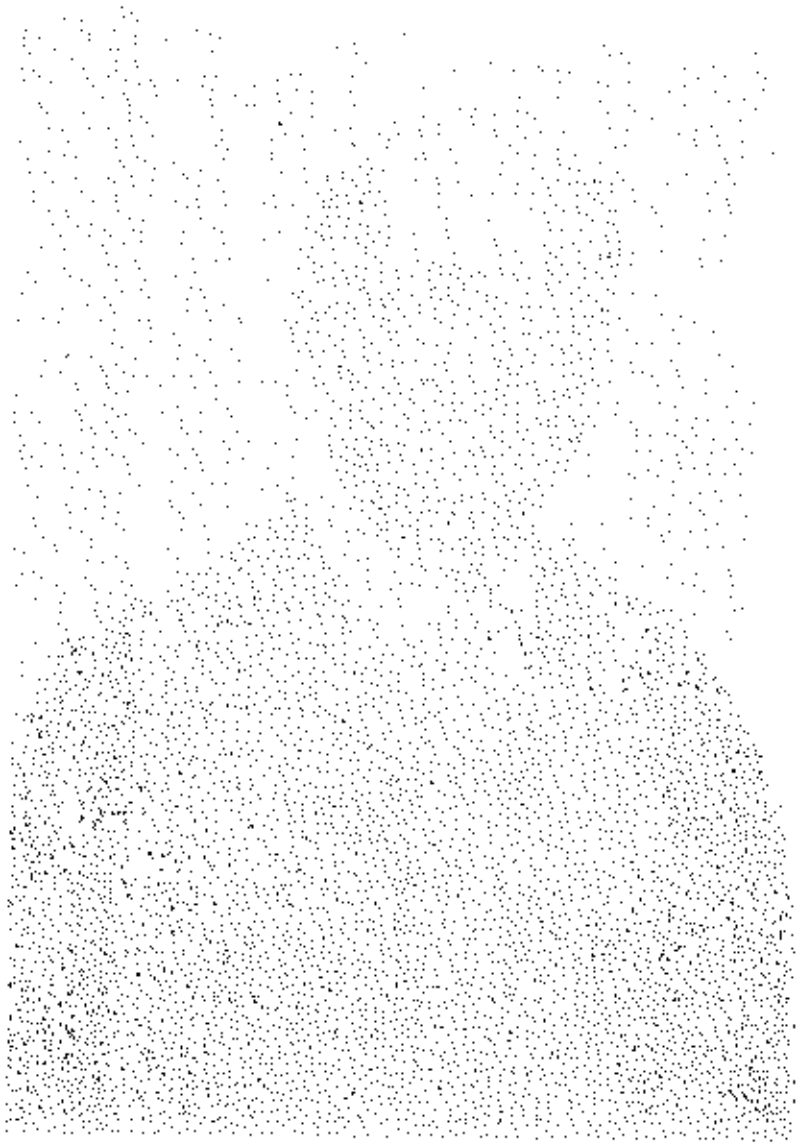


The Honorable

DENNIS J. BUCKLEY

PRESIDING JUDGE

YUBA COUNTY SUPERIOR COURT DEPT. 3



1992-93 Yuba County Grand Jury

MEMBERS

ALFONSO (Al) AMARO Foreman		LINDA
BARBARA BECK		WHEATLAND
NINA L. DONER		CHALLENGE
RICHARD N. ESSENWANGER		MARYSVILLE
LEWIS (LEW) J. FERRARI		MARYSVILLE
PETREA (PATTIE) M. GALLOWAY		BROWNSVILLE
MIGUEL A. LOPEZ		LINDA
GERALD (JERRY) MILLER Sergeant-At-Arms		LINDA
DIANA J. MONTES-WALKER		MARYSVILLE
JOHN E. PASK		MARYSVILLE
JACQUELINE (JACKIE) C. POGGI Correspondence Secretary		LOMA RICA
EUGENE (GENE) L. ROBERTS Foreman-Pro Tem		BROWNS VALLEY
CHARLES (CHUCK) V. SMITH		WHEATLAND
WARREN STONE		DOBBINS
FRANCIS M. SWAIM		WHEATLAND
RICKY (RICK) A. THOMPSON		BEALE AFB
CLAUDE (TOMMY) TOMPKINS		LINDA
NUBIA O. VARGAS Recording Secretary		LINDA
DAVID B. YOUNG		MARYSVILLE

TABLE OF CONTENTS

FOREMAN'S COMMENTS

First, the 1992-93 Grand Jury members wish to "Thank" all the citizens, County and City officials and employees for their assistance and professionalism exhibited in their response to Grand Jury requests.

Please understand the Grand Jury is aware of the hard fiscal times that you face and your struggle with reduced budgets. Grand Jury members sincerely hope that the findings and recommendations contained herein, are received as intended, that they be used to improve the system so as to better serve the people.

To that end, Grand Jury members approached each investigation and citizen's complaint not with the thought of finding fault, but to determine if methods or procedures in place were adequate to address the needs of the public. We have not hesitated to include findings that may be judged by some as harsh, however, all findings are factual and are included because people have a right to know how their instruments of government are functioning.

Members of the Grand Jury were unfailing in their duties. They put in long days studying and researching statutes, conducting interviews and investigations, and making presentations on the Grand Jury institution to civic organizations. Several members traveled in from Challenge, Brownsville and Dobbins to carry out these self imposed duties. In the interest of cost effectiveness Grand Jurors scheduled several meetings, interviews or investigations for the same day, thus saving on the $10.00 per diem paid jurors.

It is my belief that the 1992-93 Grand Jury was one of the best prepared juries in the history of the County. The Grand Jury started with a two and a half day orientation program planned and conducted by the outgoing members of the 1991-92 Grand Jury. To the members of the 1991-92 Grand Jury that participated in the conduct of the orientation, "Thanks" for your foresight and assistance. The two and a half day orientation, included presentations by appointed and elected officials on the workings of county government and on the organization and responsibilities of the different county departments and agencies. Members of this Grand Jury have prepared a similar orientation program for the 1993-94 Grand Jury, should they wish to avail themselves of this type of training.

Through the efforts of an Ad-Hoc committee, the Grand Jury was able to obtain sufficient funding from the Board of Supervisors to allow ten Jurors to attend the American Grand Jury Foundation Seminar (AGJF) in Sacramento. The seminar consisted of three day of forums and workshops on numerous subjects relating to the duties and responsibilities of Grand Jurors. We "Thank" the Board for making these funds available.

The 1992-93 Grand Jury was impaneled on July 1, 1992, and within two weeks had established its rules of proceeding as allowed by Penal Code Section 916. Additionally, committees were formed, including an Ad-Hoc committee to inquire into County budget procedures.

Seventeen members attended five evenings of hearings on a criminal matter brought before them by the District Attorney's Office, and one additional evening presenting the indictment to the Presiding Judge of the Superior Court.

The Grand Jury responded to 56 citizens' complaints, several of which are reported herein.

The Final Report does not begin to reflect the actual time and effort Grand Jurors devoted to Grand Jury service during this past year. What follows is statistical information compiled by the Foreman, and which hopefully provides a realistic picture of what future Grand Jurors may expect. This information is not offered to deter those that would consider serving as jurors. It is offered so that citizens may have a better understanding of the value they are getting for the tax dollars spent for the services of the 19 dedicated citizens who comprised the 1992-93 Grand Jury. Less than $1000.00 per Juror for a year of service.

Of the 19 members on the Grand Jury, 11 were employed full-time, 3 were employed part-time and five were retired. Most retired members belonged to or devoted time to non-profit civic organizations such as the American Grand Jury Foundation, Retired Military Service Organization, Kiwanis, Lions, S.I.R.S., Rotary, among others.

Total miles traveled by all members of the Grand Jury during the year. (Mileage shown is for one way travel only, and reimbursed at $0.15/mile). (Actual total miles traveled by members - 23,864)	11,932
Average miles traveled per juror for the year. (Round trip - 1256)	628
Total days in attendance by all Grand Jurors. (There were some days while in attendance that Grand Jurors attended more than one meeting.)	921
Average days in attendance per juror for the year.	48
Average days in attendance per juror per month.	4

To all the members of the 1992-93 Grand Jury, "Thank You" for all of your hard work and devotion to duty. I am proud to have served with you and to have been a member of your team. You are all commended for your dedicated service to your fellow citizens. Please convey to your spouses and families my sincere "Thanks" for their understanding and for their willingness to give up the time you would otherwise have spent with them.

YUBA COUNTY

ACCESS TO YUBA RIVER

COMMENTS REQUIRED ON FINDINGS:

Yuba County Board of Supervisors: Finding 1.

COMMENTS REQUIRED ON RECOMMENDATIONS:

Yuba County Board of Supervisors: Recommendation 1.

ACCESS TO YUBA RIVER

REASON FOR INVESTIGATION:

A Grand Jury investigation was prompted by a citizen's complaint concerning the lack of access to the shore line and public lands surrounding the Yuba River. The basis for the complaint is that access to the Yuba River shoreline in and around public lands over the years has become increasingly restricted. (The terms public and federal lands are used interchangeably in this report)

BACKGROUND:

There was a time in the past when citizens had ready access to both the north and south shoreline of the Yuba River, including in and around public lands, from the confluence of the Feather and Yuba Rivers upstream to Parks Bar bridge. Citizens, because of markings or lack of markings, believed all roads that accessed the shorelines and public lands to be public roads.

SCOPE:

Grand Jury members limited their investigation to determining how to access the Yuba River shoreline and public lands from the confluence of the Feather and Yuba River, upstream to Parks Bar bridge.

PROCEDURE:

Members of the Grand Jury researched applicable sections of the law, conducted interviews of employees of the County, State, and Bureau of Land Management. Grand Jury members also conducted field trips and visited the public lands and all known access points, past and present.

DISCUSSION:

There are federal lands located along the Yuba River between Daguerra Point Dam and Parks Bar bridge, but the land on the south shoreline is not accessible due to being landlocked by private property. There is no federal law granting public access to government lands over privately owned property. Public lands on the north shoreline may be accessed through Hammond Grove Park, sometimes referred to as Hammon Grove.

There was a time in the past that the general public could access the Yuba River over private roads and land, such as the Yuba gold fields. But due to: Personal liability of property owners; The public not cleaning up the area prior to leaving; The dumping of refuse, garbage, and other items; private access points were closed to the general public. Currently the only access entry points to the Yuba River is over county roads. At the present time there are five public access entry points to the Yuba River downstream of the Parks Bar bridge.

1. Parks Bar entry is located off Highway 20 on the downstream side of Parks Bar bridge and on the north shore of the river. At this time access and parking may be restricted due to construction of the new bridge.

2. There is an entry to the north shoreline at the end of Hallwood Blvd., off of Highway 20 in Hallwood. This entry point has a vehicle barrier set up, and provides limited parking and no sanitary facilities.

3. Shad Road entry is located off North Beale Road just prior to the on ramp to the "E" Street bridge. This is a vehicle drive-in area with adequate parking and no sanitary facilities.

4. Hammond Grove Park entry is located off Highway 20 between Marysville Rd and Peoria Rd. This undeveloped park was closed for a long period of time due to dumping of refuse, vandalism, safety concerns, and other problems. The Loma Rica/Browns Valley Volunteer Fire Department Auxiliary, recently arranged for a full time caretaker for the Park and has assumed responsibility for upkeep of this area. It is now open to the public for use with entry controlled by the Auxiliary. This area has off-road parking and access to the river is through federal lands. Sanitary facilities are available.

5. Davis Road entry is located off the North side of Simpson Lane and on the upstream side of the Simpson Lane bridge. There is a vehicle barricade just off the road with limited parking and no sanitary facilities.

Dumping of refuse continues to be a problem in areas that are out of public view especially along the river and some of the above mentioned access points. It has become increasingly cost prohibitive and time consuming for the County to police these areas for vandalism and dumping of refuse.

FINDINGS:

All findings must be substantiated by current documentation, and by interviews conducted by no less than two members of the grand jury, P.C. § 916.

1. There are only five public points of access to the Yuba River, between the Marysville "E" street bridge and Parks Bar bridge, for the general public; however,

   there are no points of access to the Yuba River south shoreline on or around public lands.

CONCLUSIONS:

The Grand Jury can only conclude that the lack of public access has limited the use of public lands to a select few.

RECOMMENDATIONS:

P.C. § 916, states in part: "...all problems identified in a final report are accompanied by suggested means for their resolution, including financial, when applicable."

1. Should the Board agree that the public have greater access to the Yuba River shoreline, that right-of-way be negotiated, with private land owners, and/or acquired and a plan developed to allow the public access to the Yuba River south shoreline on and around public lands.

COMMENTS REQUIRED ON FINDINGS:

Yuba County Board of Supervisors: Finding 1.

COMMENTS REQUIRED ON RECOMMENDATIONS:

Yuba County Board of Supervisors: Recommendation 1.

YUBA COUNTY

ANIMAL CONTROL

COMMENTS REQUIRED ON FINDINGS:

Yuba County Board of Supervisors: Finding 1.

COMMENTS REQUIRED ON RECOMMENDATIONS:

Yuba County Board of Supervisors: Recommendation 1.

ANIMAL CONTROL

REASON FOR INVESTIGATION:

A citizen's complaint prompted the Grand Jury members to select the Department of Animal Control as a subject area for specific investigation. The basis for the complaint was that a citizen's right to enjoy peace and quite and relief from barking dogs may not have been properly addressed by the appropriate County officials. An additional reason was to respond to the 1991/92 Grand Jury request for follow-up regarding implementation of recommendations.

BACKGROUND:

As defined by Yuba County Ordinance Code Section (§) 8.05.020 Animal Control Officer is defined to mean any person appointed by the Board Of Supervisors to enforce this Section (Chapter 8.05) and includes all duly sworn deputies. Yuba County Ordinance Code § 8.05.040 states: "Animal Control Officer; Authority. The duty and obligations of enforcing this chapter and of the Food and Agriculture Code of the state of California, and all other laws pertaining to care, treatment, or possession is vested in the Animal Control Officer, as a public officer pursuant to § 7 of the Food and Agriculture Code of the state of California."

The position of Director of the Yuba County Animal Control is an appointed position, thereby, subordinate to the Board of Supervisors. By the adoption of County ordinances, the Board of Supervisors establish the regulations and procedures that govern Animal Control.

SCOPE:

The Grand Jury limited the investigation to: (1) determining if existing animal control ordinances provide relief for an individual's whose right to an annoyance free neighborhood is being violated, (2) to determine if existing animal control ordinances are being enforced.

PROCEDURE:

Members of the Grand Jury reviewed the Yuba County Ordinance Code, Chapter 8.05 An interview was scheduled and conducted with the Director of Animal Control, at which time several issues were discussed, including the handling of citizen's complaints. Additionally an on site visitation of the complainant's residence was conducted by not less than two members of the Grand Jury in order to confirm the validity of the complaints.

DISCUSSION:

A citizen's complaint was received, reviewed and validated by the 1992/93 Grand Jury. The primary issue of concern was the individual's right to a noise and nuisance free environment. The complainant had exhausted all known avenues of recourse to remedy the problem prior to submitting

the complaint to the Grand Jury. Agencies/Departments previously contacted with which the complainant had filed his/her grievance are: (1) Yuba County Animal Control, (2) Yuba County Sheriff's Department, (3) Yuba County Environmental Health Department, (4) and the Yuba County Board of Supervisors. To date, none of the contacted departments have taken the necessary action to rectify the complaints, even though some of the personnel from the departments which were contacted have agreed that the complaint is valid.

After reviewing Chapter 8.05 of the Yuba County Ordinance Code, it appears the following ordinances are not being adequately enforced by the appropriate departments. Section (§) 8.05.290 (f) states in part: "It shall be unlawful.... for an owner or person having custody or control of any dog to suffer or permit the dog to habitually bark or act in such a manner as to disturb the peace of any neighborhood." § 8.05.290(m) states in part: "It shall be unlawful....no person shall harbor or own more than three (3) dogs under conditions or circumstances which are disturbing or offensive to other residents of the neighborhood, or which constitutes a public or private nuisance due to odor or noise." Section 8.20.250 Animals and Fowl states: "No person shall keep or maintain or permit the keeping of, upon any premises owned, occupied, or controlled by such person, any animal or fowl otherwise permitted to be kept which, by any sound, cry, or behavior, shall cause annoyance or discomfort to a reasonable person of normal sensitiveness in any residential neighborhood."

Grand Jury members additionally performed an on-site tour of the Yuba County Animal Control facility. It was noted that, although some of the previous Grand Jury recommendations regarding the facility maintenance had not been completed, a cost analysis for suggested repairs had been completed by the Director and the department is awaiting funding.

FINDINGS:

All findings have been substantiated by current documentation and by observation and interviews by no less than two members of the grand jury. P.C. § 916

1. Some of the existing Yuba County Ordinances pertaining to animal control are not being enforced by the appropriate County Departments and Agencies.

RECOMMENDATIONS:

P.C. § 916, states in part: "... All problems identified in a final report are accompanied by suggested means for their resolution, including financial when applicable."

1. That the Yuba County Board of Supervisors cause these ordinances to be enforced.

COMMENTS REQUIRED ON FINDINGS:

Yuba County Board of Supervisors: Finding 1.

COMMENTS REQUIRED ON RECOMMENDATIONS:

Yuba County Board of Supervisors: Recommendation 1.

YUBA COUNTY

CAPITAL IMPROVEMENT PROJECTS

COMMENTS REQUIRED ON FINDINGS:

Yuba County Board of Supervisors: Findings 1, 2, 3 & 4.

COMMENTS REQUIRED ON RECOMMENDATIONS:

Yuba County Board of Supervisors: Recommendations 1, 2, 3 & 4.

CAPITAL IMPROVEMENT PROJECTS

REASON FOR INVESTIGATION:

The Grand Jury received citizens' complaints regarding Capital Improvement Projects, focusing primarily on the 14th Street Annex remodeling, stating concerns about cost overruns, bidding procedures and a lack of financial monitoring.

BACKGROUND:

In early 1990 the Board of Supervisors approved an initial conceptual proposal for remodeling the 14th Street Annex for the purpose of satisfying the county's increased needs for space and to temporarily relocate some offices and personnel during the jail construction. The estimate for the Annex portion of the project at that time was $520,200.

The comprehensive plan, which was conceived in 1988, eventually evolved to include these phases:

BID PACKAGE I
- Phase 1 - construct new jail and its administrative quarters
- Phase 2 - remodel old jail

In order to continue with Phase 1 of Bid Package I some departments had to vacate the premisses, hence the North and South Annex remodeling began.

BID PACKAGE II
- East wing 5th Street remodeling

BID PACKAGE III
- Remodeling of courts - 2nd floor 5th Street.

SCOPE:

The Grand Jury limited the parameters of this investigation to determining what the established procedures are, and who is responsible for, the planning, implementation, and financial reporting of Capital Improvement Projects.

PROCEDURE:

The Grand Jury:

1. Made a comprehensive study of related codes and ordinances

2. Gathered and studied related county materials
   (a) job descriptions
   (b) budgets

(c) Capital Improvement Project records - i.e. bids, financial records, change orders, contracts, blue prints, related Board of Supervisor meeting minutes

3. Conducted extensive interviews with county personnel and with selected, involved contractors

DISCUSSION:

Related Sections of County Policy and of the Law

General Services Director

The General Services Director job description states that he/she:

"UNDER POLICY DIRECTION, PLANS, COORDINATES, ADMINISTERS, AND DIRECTS THE GENERAL SERVICES PROGRAM WHICH INCLUDES PURCHASING; BUILDING AND GROUNDS; MAINTENANCE AND REPAIR; FACILITY PLANNING AND CONSTRUCTION MANAGEMENT; INFORMATION SERVICES MANAGEMENT; CENTRAL DUPLICATING, PRINTING, AND MESSENGER SERVICE; A FEDERALLY SUBSIDIZED HOUSING PROGRAM, AND DOES OTHER RELATED WORK AS REQUIRED."

Examples of Duties, states in part:

"...CONFERS WITH COUNTY OFFICERS AND EMPLOYEES RELATIVE TO PURCHASING PROCEDURES AND BUILDINGS AND GROUNDS MAINTENANCE... PREPARES CAPITAL IMPROVEMENT BUDGETS AND PROGRAMS... COORDINATES COUNTY'S CONTRACT PROGRAM AND DEVELOPS BID PROCEDURES WHERE REQUIRED..."

County Administrator

Yuba County Ordinance, Chapter 2.47.050 (i) states:

"THE COUNTY ADMINISTRATOR SHALL EVALUATE THE ON-THE-JOB PERFORMANCE OF EACH DEPARTMENT HEAD AS DIRECTED BY BOARD POLICY. THE COUNTY ADMINISTRATOR SHALL DISCUSS THE DRAFT EVALUATION WITH THE DEPARTMENT HEAD. IF THE FINAL REPORT INDICATES UNSATISFACTORY PERFORMANCE, THE REPORT SHALL BE DISCUSSED WITH THE BOARD AND THE DEPARTMENT HEADS. THE COUNTY ADMINISTRATOR SHALL MAKE RECOMMENDATIONS TO THE BOARD OF SUPERVISORS ON MERIT INCREASES FOR DEPARTMENT HEADS IN WRITING WITH A COPY TO THE DEPARTMENT HEAD."

The Grand Jury asked county officials to provide them with a copy of the Board's policy for job performance evaluations and was told that the policy was "loose" and undergoing revision. The Grand Jury turned to the 1991-92 Grand Jury Final Report and related responses for edification, and found these recommendations and related responses under the report titled <u>County Administrator</u>:

Recommendations

2. "That, in the interim, performance evaluations for department heads be conducted under the present system on an annual basis as per the Board's response to the 1990-91 Grand Jury Final Report."

Response

2. "Agree. Performance evaluations are currently being conducted on an annual basis for each appointed department head in close proximity to their anniversary date."

Yuba County Ordinance, Chapter 2.47.050 (k) states:

"THE COUNTY ADMINISTRATOR SHALL COORDINATE THE PLANNING FOR THE DESIGN AND CONSTRUCTION OF PHYSICAL FACILITIES AND THE ASSIGNMENT OF SPACE REQUIRED FOR COUNTY SERVICES. HE OR SHE SHALL PREPARE, AND KEEP CURRENT, THE CAPITAL IMPROVEMENT PLAN, INCLUDING RECOMMENDED METHODS FOR FINANCING."

Competitive Bidding Requirements

Yuba County Ordinance, Chapter 2.50.110 (c) states in part:

"PUBLIC PROJECTS OF MORE THAN $75,000 SHALL...BE LET TO CONTRACT BY FORMAL BIDDING PROCEDURES AS SET FORTH IN SECTION 22037 OF THE PUBLIC CONTRACT CODE."

The Grand Jury determined that the change in General Service Director during a project of this scope may have had an adverse impact. It is perceived that the new director, who served form 4/91 - 9/92, lacked the experience necessary to carry out the task. Many digressions form the original scope of the project occurred. Adequate procedures were not in place to control personnel which resulted in unauthorized work and unauthorized requisition of materials.

Contributing to cost overruns were the unanticipated difficulties encountered as a natural result of remodeling very old structures. These additional problems were not fully anticipated in the original estimates made from within the department.

The fact that the Annex portion of the project incurred extensive cost overruns and was the only part of the project not estimated by an architect or awarded to a general contractor should not be ignored. Section 22037 of the Public Contract Code was revised in January of 1991 to read as stated above. The previous version of the code did allow for county employees to perform the work on the Annex project which began prior to January 1991.

The Grand Jury understands that Board policy regarding job performance evaluations was recently revised to include the Board's presence and input during such evaluations and that said evaluations now include planning, with the department head, of the upcoming year's projects and the county's expectations of that department head.

Additionally, there apparently has been a lack of communication between the General Services Department and the Space Allocation Committee (the liaison between the department and the Board

of Supervisors). This situation, if true, can cause a slow down or loss of information necessary for the Board to make informed decisions.

FINDINGS:

All findings have been substantiated by current documentation and interviews conducted by no less than two members of the grand jury, Penal Code § 916

1. A newly appointed General Services Department head served in that capacity for a period of seventeen months - during which time capital improvement projects of a high dollar value were in progress - yet did not receive one written job performance evaluation.

2. This is the third consecutive year that the lack of timeliness of job performance evaluations for Department Heads has been of concern to Grand Juries.

3. Costs for the 14th Street Annex Project were severely underestimated as the county did not avail itself of the services of a professional estimator or architect.

4. Some members of the Board of Supervisors have stated that they are still unclear about the financial reporting procedure on Capital Improvement Projects although proper records are now being made available from the Department of General Services.

CONCLUSIONS:

The Grand Jury suggests that the failure to conduct job performance evaluations in a timely manner directly contributed to the cost overruns.

RECOMMENDATIONS:

Penal Code Section 916, provides in part: "...all problems identified in a final report are accompanied by suggested means for their resolution, including financial, when applicable."

1. The adherence to Board policy requiring annual job performance evaluations is imperative. The Board of Supervisors should require evaluations more frequently when a new department head is assigned and especially if that department head is involved with projects requiring large financial expenditures.

2. The Grand Jury recommends the Board of Supervisors assign the responsibility of performing job performance evaluations to a board designated panel.

3. The Grand Jury recommends that when planning a Capital Improvement Project, the county hire an architect or professional estimator, and comply with the revised Public Contract Code 22037, in order to prevent future overruns.

4. The Grand Jury recommends that the Space Allocation Committee report to the Board of Supervisors on the financial status of all Capital Improvement Projects. The Space Allocation Committee should meet with the General Services department head and thoroughly analyze

the new financial reporting system to gain complete understanding in order that they may comprehensively report back to the full Board of Supervisors.

COMMENTS REQUIRED ON FINDINGS:

Yuba County Board of Supervisors: Findings 1, 2, 3 & 4.

COMMENTS REQUIRED ON RECOMMENDATIONS:

Yuba County Board of Supervisors: Recommendations 1, 2, 3 & 4.

YUBA COUNTY

CHILD PROTECTIVE SERVICES

COMMENTS REQUIRED ON FINDINGS:

Yuba County Board of Supervisors: Findings 1 & 2.

Yuba County District Attorney: Finding 3.

COMMENTS REQUIRED ON RECOMMENDATIONS:

Yuba County Board of Supervisors: Recommendations 1 & 2.

Yuba County District Attorney: Recommendation 3.

CHILD PROTECTIVE SERVICES (CPS)

REASON FOR INVESTIGATION:

This investigation was conducted in response to citizen's complaints regarding the level of protection provided for minors and their concern for the length of time required to resolve cases that have been duly filed. Investigations are pursuant to and in accordance with Penal Code Chapter 3, Article 2.

BACKGROUND:

The CPS Department is located at 6000 Lindhurst Avenue, Suite 504, Marysville, California. The Child Protective Services is charged with providing protection and security to minors and is required to take direct action on short notice. The issue of privacy and confidentiality of files is critical in juvenile cases and close accountability is maintained.

SCOPE:

This investigation was limited to evaluating a current case in an effort to determine why the case had not been resolved within a reasonable length of time. The areas researched were: (1) CPS worker case load, (2) Bi-lingual capabilities within the CPS department, (3) DA's office staffing and scheduling, (4) legal constraints imposed by the judicial process, (5) communication and cooperation between the involved agencies.

PROCEDURE:

Meetings with the CPS department head, case worker, district attorney, county counsel, director of social services, and superior court judge were required in order to properly investigate this issue. Extensive research by Grand Jury members relative to court rulings and attorney generals' opinions was required in order to gain access to files prior to initiating any direct action.

DISCUSSION:

The issue of privacy and confidentiality of files is critical in juvenile cases (see Welfare & Institutions Code 10850) and Social Security Act 42U.S.C. Section 602 (a)(9). In order to fully investigate the services provided by the CPS department, it was necessary to gain access to a selected file. This was accomplished through the court system based on 1992-93 Grand Jury research regarding Grand Jury access to CPS records. Review of these files revealed the many problems and delays encountered within the legal system. Some of the obstacles encountered resulted from adhering to strict compliance of the many laws that protect the minors individual rights and the laws relating to the right to personal privacy. The Grand Jury met with the CPS director, County Counsel, District Attorney, and the Presiding Judge of the Superior Court in order to determine the recommended course of action for jury members to take when investigating CPS cases. It was

determined that a court order would be the most expedient means to gain access to information regarding Grand Jury investigations. The Court requires that a declaration be presented to the Presiding Judge prior to any court orders being issued. The investigation revealed numerous delays in the legal processing of the case that was reviewed, which were the result of: inadequate bi-lingual personnel in the CPS department, heavy workload in the District Attorney's office, scheduling conflicts regarding parties directly involved with the case, time provided when attorneys were replaced (prosecuting and defense), availability of certified interpreters, and the scheduling required for a time frame on the court calendar. The CPS department responds quickly when first notified about an endangered or abused minor in order to immediately assure the minor's safety. Once the minor is in a safe environment, the case worker actively pursues the legal avenues to resolve the problem. When the legal counsels are informed and a case is duly filed, the law enforcement agencies and the DA's office proceed as required to verify and document the accusation. The ensuing legal process is tedious and must be done in a thorough and comprehensive manner. Any time a legal counsel is replaced, the process stops until the new counsel is able to become fully informed regarding the case. In the case that was examined, there were three different prosecuting attorneys and five or more defense attorneys. The modus operandi of a new counsel is to request a continuance from the court that would allow him time to become familiar with all aspects of the case, which is then granted by the court. Other reasons for court continuances are the absence of witnesses, certified interpreters, and when either counsel is otherwise engaged.

The District Attorney's office is responsible for the prosecution of all cases, and it is their responsibility to review all evidence in an effort to determine the validity of a case and whether or not the evidence is sufficient to obtain a conviction. The procedures currently in place are insufficient to allow the department's limited manpower to properly address all cases that are submitted to them in a timely manner. Those cases that are deemed sufficient to prosecute are often held in obeyance until a staff member becomes available.

Child Protective Services (CPS) works in conjunction with state and county law enforcement agencies. The CPS is charged with protecting minors with the ultimate goal of reunification of the family unit in a safe environment. In the last state audit of CPS programs, there were 13 counties investigated of which Yuba County was one. Of those 13 counties, only Yuba County and one other successfully passed the audit.

FINDINGS:

All findings have been substantiated by current documentation and by observations and interviews conducted by no less than two members of the grand jury. P.C. § 916

1. The selected case history revealed numerous delays and lengthy resolution of problems within the legal system. Even though cases may not be quickly resolved, the minors are being effectively protected.

2. Bi-lingual case workers were not readily available to handle non-English speaking clients in the CPS department.

3. The District Attorney's office is not able to address the routine case load in a timely manner and spends a disproportionate amount of time on high profile cases. This results in lengthy delays or failure to prosecute many cases that are of a more routine nature.

RECOMMENDATIONS:

P.C. § 916, states in part: ".... All problems identified in a final report are accompanied by suggested means for their resolution, including financial when applicable."

1. That the Yuba County Board of Supervisors cause the County Counsel and Director of Social Services to meet and confer with the Presiding Judge to develop improved procedures for expediting the resolution of CPS cases. The primary goal should be to minimize the delays incurred in case preparation and in court resolution.

2. That Yuba County establish personnel staffing practices to ensure that CPS clients do not encounter undue delays because of language barriers.

3. That the procedures currently employed by the District Attorney's office need to be reevaluated and revised to be commensurate with the department's staff and work load.

COMMENTS REQUIRED ON FINDINGS:

Yuba County Board of Supervisors: Findings 1 & 2.

Yuba County District Attorney: Finding 3.

COMMENTS REQUIRED ON RECOMMENDATIONS:

Yuba County Board of Supervisors: Recommendations 1 & 2.

Yuba County District Attorney: Recommendation 3.

YUBA COUNTY

CONSENT AGENDAS

COMMENTS REQUIRED ON FINDINGS:

All elected Governing Bodies in Yuba County. Finding No. 1.

COMMENTS REQUIRED ON RECOMMENDATIONS:

All elected Governing Bodies in Yuba County. Recommendation No. 1.

NOTE

"All elected Governing Bodies in Yuba County" - means all Boards, Councils and Commissions elected by the voters of Marysville, Wheatland or Yuba County.

CONSENT AGENDAS

REASON FOR INVESTIGATION:

Government Officials expressed their concern to the Grand Jury that "Open Meeting Laws" restricted members of governing bodies from obtaining or gaining full knowledge on matters on the "Consent Agenda" on which they often times were required to vote. Government officials felt that the Brown Act prevented them from discussing matters with committee members, prior to matters being presented and on which they were expected to vote at a scheduled meeting.

BACKGROUND:

The Ralph M. Brown Act

Section 54950 Policy declaration

In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instrument they have created.

Section 54952.6. Definition of action taken

As used in this chapter, "action taken" means a collective decision made by the majority of the members of a legislative body, a collective commitment or promise by a majority of the members of a legislative body to make a positive or a negative decision, or an actual vote by a majority of the members of the legislative body when sitting as a body or entity, upon a motion, proposal, resolution, order or ordinance. (Emphasis added.)

Section 54954.2 Agenda requirements; regular meetings

"(a) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public. No action shall be taken on any item not appearing on the posted agenda...." (Emphasis added)

OPEN MEETING LAWS

All references to "pamphlet" are to the "OPEN MEETING LAWS" pamphlet published by the State Attorney General.

The pamphlet published by the State Attorney General states in part; "Open meeting laws represent the Legislature's determination of how the balance should be struck between public access to the activities of a public body on the one hand and the need for secret candor, debate, and

information gathering on the other. As the rest of this pamphlet will indicate, the balance has been struck in favor of public access. ..."

"The purpose of the open meeting laws,... is to require that all aspects of the decision-making process by ... local legislative bodies be conducted in public. These laws have been interpreted to **mean that all of the deliberative processes by multi-member bodies, including discussion, debate and the acquisition of information, be open and available for public scrutiny.** (Sacramento Newspaper Guild v. Sacramento County Bd. of Suprs. (1968) 263 Cal. App. 2d 41; 42 Ops. Cal. Atty. Gen. 61, 63 (1963); 32 Ops. Cal. Atty. Gen. 240 (1958).) These laws only apply to multi-member bodies such as councils, boards, commissions, etc., since, unlike individual decision makers, such bodies are supposed to arrive at collaborative decisions through public discussion and debate."... (Emphasis added.)

The pamphlet on page 22, 23, 24 & 25. states in part: "....The Brown Act specifically defines "action taken" in Section 54952.6 as a vote, collective decision, commitment or promise by a majority of the body. **Thus an item which is merely discussed, with no decision as to how the matter should be resolved, would not constitute taking action.** Accordingly, the prohibition against taking action on matters which are not placed on the agenda suggests by negative implication, that matters on which action is not taken need not be placed on the agenda.

Yet, the first sentence (§ 54954.2) specifically requires that discussion items as well as matters to be transacted must appear on the agenda. (Code Section added for clarification)

To date, neither a court nor this office through formal opinion has resolved this issue. In light of the Brown Act's strong policy in favor of openness, and the specific wording of the first sentence of Section 54954.2, we think it is likely the future court rulings will conclude that the discussion items, as well as the taking of actions, are subject to the 72-hour agenda requirement. The obvious purpose of an agenda requirement is to make certain that interested members of the public are properly notified about the future business of their legislative body. To the extent that background information is provided, view points are exchanged, and perhaps ideas begin to crystalize in the minds of members of the legislative body without the participation of interested members of the public who did not receive notice of such discussions through the published agenda, the Brown Act's policy of involving members of the public in the information acquisition and deliberative phases of the decision-making process would have been defeated. **The right of the public to participate in all phases of the decision-making process has been repeatedly stated by the courts and this office.** (See Stockton Newspapers, Inc. v. Redevelopment Agency, supra, 171 Cal. App. 3d 95; Sacramento Newspaper Guild, v. Sacramento County Bd. of Suprs., supra, 263 Cal. App. 2d 41; 65 Ops. Cal. Atty. Gen. 63, 66 (1982); 63 Ops. Cal. Atty. Gen. 820 (1980).) Accordingly, we conclude that discussion as well as the taking of action is subject to the 72-hour agenda requirements...." (Emphasis added)

SCOPE:

The Grand Jury limited its investigation to determining how committee developed information relating to "Consent Agenda" items can be shared with a quorum of a governing body prior to a regularly scheduled meeting and yet be in compliance with the open meeting laws.

PROCEDURE:

The Grand Jury conducted a thorough review of the Open Meeting Laws (Brown Act), to ascertain, if the open meeting laws allowed the sharing of information between committees and legislative bodies at times other than at a regularly scheduled meeting. After concluding that the law did allow this sharing of information by committee and legislative members, if the public was included in the process, members of the Grand Jury began inquiries as to how, if any, legislative bodies in the State had addressed this matter.

DISCUSSION:

Local government legislative bodies in order to expedite their business and to avoid violations of the Brown Act, conduct studies and prepare recommendations through work by committees. The Brown Act does not apply to committees when less than a quorum of the members of a legislative body participate in the work of such a committee. Historically committees conduct studies and prepare recommendations, which are then presented to the legislative body through a "Consent Agenda" at a regularly agendized meeting. Legislative body members are then asked to consent (vote "Yes") on matters on which they may not be adequately informed. Voting members will often times vote affirmatively based strictly on their confidence that the committee members recommendations are made with the best interest of the public in mind.

In order to remain in compliance with the Brown Act there should not be any exchange of information by the committee members with a quorum of the legislative body, unless the information is also made available to the public, at the same time and for the same period of time it is made available to the legislative body members. This not sharing of information results in some members of the legislative body being asked to vote on matters on which they are not properly or fully informed. This method of voting on matters before the legislative body, which could have an impact on every member of the community, is perceived as a "you vote for mine and I'll vote for yours," system which may not always be in the best interest of the public.

The Grand Jury through its research, discovered that some legislative bodies had adopted a "For Your Information" method of addressing the sharing of information on how and why committees had arrived at their recommendations.

Under this method committees prepare a "For Your Information" (FYI) packet consisting of a written summary of the item to be placed on the Consent Agenda, including the related informative facts, sources of information and any related data the committee has accumulated.

Copies of the "FYI" packet are then distributed to each board member a few days prior to the meeting for which the item is agendized. The "FYI" packet, at the same time, is also placed in a designated location where it is readily accessible for public review, thereby remaining in compliance with the Brown Act.

FINDINGS:

All findings must be substantiated by current documentation, and by interviews conducted by no less than two members of the Grand Jury, Penal Code § 916.

1. Some governing bodies in the State have adopted a system which allows information acquired by a committee to be shared with a quorum of the governing body and maintains compliance with the Brown Act.

CONCLUSIONS:

The Grand Jury has concluded that "Open Meeting Laws" exist to make certain that the public's right to witness the information acquisition and deliberative processes of the legislative body, board or council, are not infringed upon. Members of legislative bodies in order to be better informed on matters on which to base their decision or vote, may avail themselves of the information gathered by their committees. They may do so as long as the same information is available to the public so they too may be better informed at the time the matter is brought to the decision making point.

This method of sharing information which has been adopted by other boards or councils enhances the decision making process in that voting members can base their decisions on a more knowledgeable understanding of the matter at hand. Additionally, matters can be decided more expeditiously thus reducing meeting time.

RECOMMENDATIONS:

1. That Governing bodies of the County adopt a method similar to the "FYI" method used by other governing bodies in the State whereby the board/council/commission members may receive the Committee's information and research data on subjects which will be presented on a Consent Agenda for discussion or vote.

Penal Code § 916 "....all problems identified in a final report are accompanied by suggested means for their resolution, including financial, when applicable."

A copy of a "FYI" procedure presently in use by other entities is available from the Yuba County Grand Jury.

COMMENTS REQUIRED ON FINDINGS:

All elected Governing Bodies in Yuba County: Finding 1.

COMMENTS REQUIRED ON RECOMMENDATIONS:

All elected Governing Bodies in Yuba County: Recommendation 1.

FINAL COMMENTS

"All elected Governing Bodies in Yuba County" - means all Boards, Councils and Commissions elected by the voters of Marysville, Wheatland or Yuba County.

YUBA COUNTY

COUNTY ADMINISTRATOR

COMMENTS REQUIRED ON FINDINGS:

Yuba County Board of Supervisors: Finding 1.

COMMENTS REQUIRED ON RECOMMENDATIONS:

Yuba County Board of Supervisors: Recommendation 1.

COUNTY ADMINISTRATOR

REASON FOR INVESTIGATION:

The Grand Jury, in conducting investigations into matters brought before it, discovered several areas that may not have been receiving the attention they deserved or that was required by law.

BACKGROUND:

California Government Code specifies the County Officers each County is required to have for the conduct of their business. The legislature intended that certain County Officers be elected by the people and allows certain officers that may be appointed by the Board of Supervisors (Board). The law further allows the Board to combine certain offices into one. The law is specific as to which offices may or may-not be combined.

The Board, as provided by the Government Code, by County Ordinance created the Office of the County Administrator and outlined the qualifications, responsibilities, and duties.

SCOPE:

The Grand Jury limited its investigation to primary and collateral duties and responsibilities assigned to the official presently assigned as the County Administrator (CA) and whether these duties and responsibilities are being performed in the best interest of the people.

PROCEDURE:

Grand Jury members researched existing State and County Codes and Ordinances, and various other documents by which responsibilities and duties were assigned to the CA. Jurors interviewed other county and local county officials as to how the various duties of county administrator are performed.

DISCUSSION:

Government Code

Yuba County Ordinance 804, Chapter 2.47 of the Ordinance Code outlines the qualifications, responsibilities and duties of the CA. The Ordinance assigns the following duties to the CA:

Act as the Administrative office for the Board.
Executive Officer of Local Agency Formation Commission (LAFCO)

The Board, by resolution, on March 17, 1987 combined the offices of County Administrator and the Clerk of the Board. By this resolution the Board abolished the position of County Administrator

and created the position of County Administrator/Clerk of the Board. The Board took no action to combine the two Ordinance Code Chapters that prescribed the duties of these two separate offices.

Yuba County Ordinance 736, Ordinance Code Chapter 2.53, outlines the qualifications, responsibilities and duties of the Clerk of the Board. The Ordinance assigns the following duties to the Clerk of the Board:

Clerk to the Board
Clerk of the Local Agency Formation Commission (LAFCO)
Clerk of the Yuba County Water Agency
Clerk of the Yuba County Board of Equalization
Clerk of the Yuba County Air Pollution Control Board
Clerk of the Yuba County Air Pollution Control Hearing Board
All other duties and responsibilities imposed by law on the Clerk of the Board of Supervisors or on the County Clerk as ex-officio Clerk of the Board.

The Board has by resolution or by written notice assigned the following additional duties to the CA:

Yuba County Airport Manager
Yuba County Industrial Development Director

The Board, by assigning all of the above positions with their inherent duties and responsibilities has placed an exorbitant demand on the time of the CA. This has resulted in some of the duties and responsibilities not receiving the attention and time demanded by statute.

County Ordinance 804, Chapter 2.47 of the Ordinance Code outlines the following qualifications, responsibilities and duties of the CA:

Section 2.47.020, states in part: "...ability to interpret, explain and apply applicable laws, rules and regulations....evaluate the work of others....coordinating the activities of administrative officials while encouraging their development and administrative ability...."

"Section 2.47.050 Powers and Duties.

The County Administrator shall act as the Administrative Office for the Board to enforce all the directives of the Board not otherwise delegated by the Board which it has the power to apply to elective and appointive County offices, departments and institutions.

(a) The County Administrator shall coordinate the work of all elective and appointive County offices, departments, and institutions in such matters which are the concern and responsibility of the Board.

He or she may make such duties and investigations which he or she believe are necessary or desirable shall make any study or investigation the Board requests....To enable the County Administrator to carry out such responsibilities, he or she may require reasonable and appropriate reports from any officer, department head, or institution head."

Section 2.47.050, states in part: "....enforce all of the directives of the Board not otherwise delegated by the Board which it has the power to apply to elective and appointive County offices, departments and institutions.

(a) ....
(b) ....

(c) The County Administrator shall maintain and direct administrative services which are approved and placed in his or her charge by the Board.
(d) The County Administrator shall recommend an annual budget, shall review departmental budget requests with the persons filing the requests, and shall enter recommendations for each departmental budget along with the request....
(e) ....shall review expenditures of all elective and appointive offices, departments and institutions.... shall periodically report to the Board concerning the financial needs or conditions of County government and the various institutions.
(f) ....
(g) ....
(h) ....
(i) ....shall evaluate the on-the-job performance of each department head as directed by Board policy....shall discuss the draft evaluation with the department heads. If the final report indicates unsatisfactory performance, the report shall be discussed with the Board and the department head....
(j) ....
(k) ....shall coordinate the planning for the design and construction of physical facilities....shall prepare, and keep current, the capital improvement plan, including recommended methods for financing.
(l) ....shall be responsible for services as Executive Officer of the Local Agency Formation Commission.
(m) ....
(n) ....shall coordinate the operations and management of County contracts and leases, and act as the chairman of the County's Contract Review Committee.
(o) ....
(p) ....shall review all documents prior to agendizing for any special and/or regular meeting of the Board of Supervisors....
(q) ....shall perform such other duties as may be assigned to him....from time to time by Board directive and may delegate functions to appropriate staff."

Section 2.47.070 states in part: "....No provision of this chapter is intended to vest in the County Administrator any duty, prerogative or discretion now conferred by law upon any other officer of the County."

On the subject of the Administrative advisor to the Board: The CA has recently not been able to devote sufficient time to properly advise the Board on specific sections of the Govt. Code wherein they may have been required to act. See Sections 25303 and 25305. Additionally Chapter 700 of the County Administrative Manual requires that specific acts be performed concerning the use of County vehicles, and which are not being acted upon. Code Section 2.47.050, requires that the CA enforce all the directives of the Board not otherwise delegated by the Board.

Each year the Board directs the CA to prepare a proposed budget, which eventually becomes the County's Final Budget. Each budget unit, over which the Board has budgetary authority, submits their estimated expenditures to the CA, who then may review, conduct hearings and make recommendations on the estimated expenditures submitted before submitting the proposed budget to the Board. Any differences between the CA's recommendations and the estimates as submitted with which the official or person who submitted the estimates does not concur, shall be clearly indicated in the recommendations of the CA. See § 2.47.050(d). The 1992-93 proposed budget prepared by the CA did not include the estimated expenditures submitted by individual budget units, therefor the proposed budget did not readily provide the Board with easily identifiable differences between the CA's recommendations and the estimated expenditures submitted. See § 2.47.050(d).

During the remodeling of the 14th Street South Annex a newly appointed General Services Department head served in that capacity for a period of seventeen months - during which time capital improvement projects of a high dollar value were in progress - yet did not receive one written job performance evaluation. This is the third consecutive year that the lack of or timeliness of job performance evaluations for Department Heads has been addressed in Grand Jury Final Reports. See § 2.47.050(i) and (e).

On Contract Review Committee: The CA is to act as chairman of the committee, as well as coordinate and manage all contracts and leases. When the Grand Jury inquired as to what the Contract Review Committee does, and if it had reviewed contracts for the recent remodeling and capital improvement building projects, the response was that the committee was "inactive" at this time. See 2.47.050(a).

The Grand Jury, because of other priorities was unable to investigate what other duties have been assigned the CA, duties which may be requiring more of the CA's time. The CA does sit on several County Committees, such as "Space Allocation, Data Processing, etc." which require some of his time.

FINDINGS:

All findings must be substantiated by current documentation, and by interviews conducted by no less than two members of the grand jury, P.C. § 916.

1. Some of the responsibilities of the County Administrator are not receiving the attention or the time required to best serve the needs of the County.

CONCLUSIONS:

The Grand Jury can only conclude that the duties and responsibilities prescribed by law - Code, Ordinance, and Resolution to the County Administrator are numerous and complex, and are not all being given the time and attention that each of them require or deserve. It is the opinion of the Grand Jury that the duties and responsibilities of this position be re-evaluated and re-directed or assigned in a more equitable distribution so as not to overburden any single individual. This conclusion is drawn and presented in the best interest of the public, with the intention that the business of the People be conducted with the utmost efficiency.

RECOMMENDATIONS:

P.C. § 916, states in part: "...all problems identified in a final report are accompanied by suggested means for their resolution, including financial, when applicable."

1. That the Board of Supervisors re-evaluate the assigned duties and responsibilities of the County Administrator and distribute them so as to assure that no single individual is overburdened and that these duties are being performed properly and in a timely manner.

COMMENTS REQUIRED ON FINDINGS:

Yuba County Board of Supervisors: Finding 1.

COMMENTS REQUIRED ON RECOMMENDATIONS:

Yuba County Board of Supervisors: Recommendation 1.

YUBA COUNTY

COUNTY ADMINISTRATOR/ CLERK OF THE BOARD

COMMENTS REQUIRED ON FINDINGS:

Yuba County Board of Supervisors: Finding 1.

COMMENTS REQUIRED ON RECOMMENDATIONS:

Yuba County Board of Supervisors: Recommendation 1.

COUNTY ADMINISTRATOR AND CLERK OF THE BOARD OF SUPERVISORS

REASON FOR INVESTIGATION:

The Grand Jury in attempting to determine why the minutes of the Board of Supervisors' (Board) meetings were taking up to eight weeks to be transcribed and presented to the Board for approval, discovered that the Board may have impermissibly combined the offices of the Clerk of the Board (Clerk) and the County Administrator (CA). The basis for the investigation was that there is no provision in the Government Code for consolidating these two offices.

BACKGROUND:

Government Code Section (§)24000, among others, designates which county officers may be elected or appointed. Code Section 24000, provides for the appointment of a County Administrator and Code Section 25100.5, provides for the separation of the County Clerk and the Clerk of the Board. The legislature in Govt. Code Section 24304, has specifically approved 23 combinations of county offices. None of these combinations provide for the consolidation of the Clerk of the Board and the County Administrator.

Government Code Sections 28020 through 28085, explain how counties are classed and the classification number given each county. Each of the 58 counties in California was last classified by the 1970 census population figures and was given a Govt. Code Sections 28022 through 28079, and a Class Number 1 through 58. Yuba County is a county of the thirty-fifth class and Shasta a county of the thirtieth class.

The California Third Appellate District Court, in an unpublished decision filed March 21, 1989, stated in part, ".....Accordingly, we hold that the Shasta County Board of Supervisors impermissibly consolidated the offices of county administrator and the clerk of the board of supervisors...."

SCOPE:

The Grand Jury limited its investigation to determine if the Board had in fact impermissibly consolidated the offices of the Clerk and CA and whether the consolidation of these two offices is in the best interest of the people.

PROCEDURE:

Grand Jury members researched applicable State statutes and made inquiries of other counties to determine if the consolidation of the office of the Clerk and the CA was common practice, and whether the legislature by statute allowed the consolidation of these two offices. Additionally, Grand Jury members inquired into how the consolidation of these two offices effects the overall efficiency of County government.

DISCUSSION:

Grand Jury members, in the process of looking into why it takes the Clerk of the Board, up to eight weeks to transcribe and have ready for approval the minutes of the Board meetings, learned that there is no provision in State statutes for combining the offices of the CA and the Clerk of the Board.

The concern of the Grand Jury members had to do with the limitation the Brown Act (Open Meeting Laws) places on the demand a citizen may make of the Board to cure or correct an alleged violation of the Brown Act.

Section 54960.1, of the Brown Act states in part: "....(a) Any interested person may commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that an action taken by a legislative body or local agency in violation of Section 54953, 54954.2, or 54956 is null and void under this section...The written demand shall be made within 30 days from the date the action was taken...."

With minutes not approved and made available to the public within the 30 day period required to make a demand to cure or correct an alleged violation, the availability of the transcribed minutes becomes moot.

Inquiries made by members of the Grand Jury of surrounding counties revealed that most counties transcribe minutes and present them to boards for approval by the following regular meeting, i.e., one week.

On the subject of the consolidation of the offices of CA and Clerk of the Board, the Govt. Code specifies the County Officers that each County is required to have for the conduct of their business. The legislature intended that certain County Officers be elected by the people and allows certain officers be appointed by the Board. The law further allows the Board to combine certain offices. The law is specific as to which offices may or may-not be combined.

Government Code Section 24304, provides in part: " Notwithstanding the provisions of Section 24300, in counties of the 13th to 57th classes, inclusive, the board of supervisors by ordinance may consolidate the duties of certain of the county offices in one or more of these combinations: ...."

None of the combinations listed in Section 24304, include the Clerk of the Board and the County Administrator.

Yuba County Ordinance 736, Ordinance Code Chapter 2.53, was adopted by the Board on October 16, 1979, and created the office of the Clerk of the Board.

Yuba County Ordinance 804, Chapter 2.47, of the Ordinance Code was adopted by the Board on March 17, 1981, and created the office of the County Administrator.

The Yuba County Board of Supervisors, on March 17, 1987, upon a motion by Supervisor Mathews, seconded by Supervisor Harper and unanimously carried, with Supervisor McGill absent, approved Resolution No. 1987-49, whereby the classification of County Administrator was deleted and the classification of County Administrator/Clerk of the Board was created. By this resolution the Board in essence consolidated the offices of County Administrator and Clerk of the Board. The Board took no action to amend the two Ordinance Code Chapters that prescribed the responsibilities

On February 9, 1988, the Shasta County Board of Supervisors (Board) enacted an ordinance which created the office of the Clerk of the Board, and then amended the provisions of the Shasta County Code that defined the general duties of the CA to read: "When so appointed by resolution, the County Administrator shall serve as ex-officio Clerk of the Board of Supervisors."

On the same day the Shasta County Board by resolution recited its desire to combine the two offices. When this action was challenged by a petitioner, the Shasta County Board then changed the title of the CA to Chief Executive Officer (CEO).

The Third Appellate District Court, after considering the above, in a ruling stated in part: "Accordingly, we hold that the Shasta County Board of Supervisors impermissibly consolidated the offices of county administrator and clerk of the board of supervisors..."

In view of the above, the Grand Jury, by letter dated May 11, 1993, apprised the Board that it may have impermissibly combined two offices for which there is no provision in the State Codes. On May 26, 1993, the Board, at a regular meeting, addressed the Grand Jury's letter. At that time Supervisor Mathews said the two offices were combined as a cost saving move and the consolidation of the offices was a win-win situation for the County. During the same meeting County Counsel was asked to prepare a legal opinion by the June 15, 1993, Board meeting.

The published agenda for the June 15, 1993, Board meeting contained the following item:

"COUNTY DEPARTMENTS, County Counsel: Receive information regarding County Administrator/Clerk of the Board of Supervisors offices. (308-93)"

At the beginning of the meeting the Chairman of the Board made the following announcement;

"Item "C" will be pulled and discussed in closed session because of proposed litigation and we will do that when we go into closed session later on."

Later during the same meeting and prior to going into closed session County Counsel made the following announcement;

"The record should reflect that the matter regarding the information I'm going to provide you may be heard in closed session, because research I did last week after the agenda was set and posted indicated the possibility the County may want to consider instituting suit, and that's a proper exception under the Brown Act."

As of June 24, 1993, no announcement has been made as to what action if any was taken by the Board during the closed session conducted on June 22, 1993.

On June 22, 1993, the Grand Jury received a copy of a legal opinion issued by the Yuba County Counsel wherein he stated that the same person could perform the duties of County Administrator and Clerk of the Board of Supervisors.

County Counsel, in his opinion No. 93-014, addresses the common-law of compatibility of two offices, and that the following two elements must be present. First, the official in question must hold two public offices. Second, there must be a potential conflict or overlap in the functions or responsibilities of the two offices.

The following are additional pertinent quotes from County Counsel's opinion 93-014:

"*...With respect to a conflict between the duties or functions of two offices, a clash between the two offices in the context of a particular decision need not be proved. It is apparently enough if there is a mere potential for a significant clash between the two offices at some point in the future. See 64 Ops. Cal. Atty.Gen. at 289 (1981)*

.... In Rapsey, supra, the court discussed the conflict between offices at page 641-642:

"*Two offices are said to be incompatible when the holder cannot in every instance discharge the duties of each. Incompatibility arises, therefor, from the nature of the duties of the offices, when there is inconsistency in the function of the two, where the functions of the two are inherently inconsistent... or where the nature and duties of the two offices are such as to render it improper from considerations of public policy for one person to retain both....*"

In reviewing the duties of the County Administrator and the Clerk of the Board as set forth in the Yuba County Ordinance Code... It is possible to find the existence of a supervisory power exercisable by the County Administrator over the Clerk of the Board in that the County Administrator is charged with performing annual department head performance reviews. Further, the County Administrator is charged with reviewing, approving or denying all department head claims for overnight travel and reporting disposition of such to the Board of Supervisors on a monthly basis. Having the same person hold the office of County Administrator and Clerk of the Board would eliminate meaningful department head review on a performance basis or overnight travel claim basis.

There may, then, be incompatibility;....

In light of the foregoing, we respectfully offer the following solution for consideration:

1. *Do nothing.*

2. *Repeal the ordinance establishing the office of the Clerk of the Board with the result that the County Clerk would then become the Clerk of the Board.*

3. *Assign the duties of the County Administrator to the Clerk of the Board pursuant to §25100.5 of the Govt. Code and make changes to the Ordinance Code as required.*

4. *File suit seeking a declaration from the Court regarding the legality of the current allocation of duties.*"

As indicated in the Yuba County 1992-93 Proposed Budget there are two full time positions allocated and budgeted under the Clerk of the Board budget unit, a Secretary and a Deputy Clerk of the Board. These two positions are also used at times to assist in the clerical duties of the office of the County Administrator. It may be that this additional work load is preventing the minutes of the Board from being transcribed and presented to the Board for approval in a more timely manner and thus creating a conflict in the performance of duties of these two offices.

Additionally the County Administrator as Clerk of the Board, by Ordinance Code, has been assigned the following duties:

Clerk of the Local Agency Formation Commission (LAFCO)
Clerk of the Yuba County Water Agency

Clerk of the Yuba County Board of Equalization
Clerk of the Yuba County Air Pollution Control Board
Clerk of the Yuba County Air Pollution Control Hearing Board
All other duties and responsibilities imposed by law on the Clerk of the Board of Supervisors or on the County Clerk as ex-officio Clerk of the Board.

A case can be made that incompatibility and/or a possible conflict of interest exists when the County Administrator as Executive Officer of the Local Agency Formation Commission (LAFCO) is also the Clerk of LAFCO. Furthermore, as Clerk of the other above listed Agency and Boards he is privy to information not normally available to the County Administrator were he not the Clerk of the Board.

FINDINGS:

All findings must be substantiated by current documentation, and by interviews conducted by no less than two members of the grand jury, Penal Code § 916.

1. The Yuba County Board, by resolution on March 17, 1987, consolidated the offices of Clerk of the Board and County Administrator, an act for which there is no provision in the Govt. Code.

CONCLUSIONS:

The Grand Jury concluded that the manner in which the offices were combined by Yuba and Shasta Counties differed slightly, but the end result was the same. There being no provision in state codes allowing this action, the Grand Jury can only conclude that the Board impermissibly combined the offices of the Clerk and the CA.

Additionally, the Grand Jury can only conclude that there is an incompatibility and/or a conflict of interest as a result of combining the two offices and that this combination does not serve the best interest of the people.

In support of - The separation of the County Administrator/ Clerk of the Board the Grand Jury offers the following. The position of the Clerk of the Board should be independent - as either a separate entity or as a part of the County Clerk as per Govt. Code Section 25100, which is independent inherently, as an elected position for the following reasons:

1. Separation of powers,

2. Checks and balances.

A clerk of the board which serves at the pleasure of the board may have a tendency to be more easily influenced or intimidated, by the board (or a member of the board) than an elected, independent, clerk. An independent clerk has no interest in presenting the minutes in any way other than in their original, accurate text. A Board member may have occasion to request an amendment to the minutes - prior to approval. It should be noted that the minutes of the Board of Supervisors meetings are not the Board's minutes, they are the Public's minutes. And as such they are to be guarded and kept pure for the public.

The agenda is another area of possible conflict of interest. The CA has too close an involvement with the business of the County to be a truly independent clerk, and he is therefore not the third party clerk, which was the intent of legislature. The CA reviews budgets and documents, about which he/she may have strong personal views. A particular department head may have such an item that they wish very much for the board to see - but may have their wishes to have this item placed on the agenda undermined by a Clerk of the Board/CA who may not be objective (even sub-consciously). An independent clerk will more likely place on the agenda items presented by department heads without regard to personal opinions on the items. The Board than has the discretion whether or not to act on these item, but it is in the interest of the public that such items do, at least, get on the agenda.

The Grand Jury has learned that discretion over the board agenda can be a powerful tool, and by having any department head act as Clerk of the Board, the possibility of conflict exists.

Finally, the Grand Jury in its responsibility and duty to investigate and report on the functions and operations of local governments can only conclude that any workings of governing bodies that are not in the best interest of the public can never be a "win-win" situation.

RECOMMENDATIONS:

P.C. § 916 "....all problems identified in a final report are accompanied by suggested means for their resolution, including financial, when applicable."

1. That the Board separate the offices of County Administrator and Clerk of the Board to be in compliance with State Codes and to assure that County offices are performing in the best interest of the people.

COMMENTS REQUIRED ON FINDINGS:

Yuba County Board of Supervisors: Finding 1.

COMMENTS REQUIRED ON RECOMMENDATIONS:

Yuba County Board of Supervisors: Recommendation 1.

YUBA COUNTY

COUNTY BUDGET PROCEDURES

COMMENTS REQUIRED ON FINDINGS:

Yuba County Board of Supervisors: Findings 1, 2, & 3.

COMMENTS REQUIRED ON RECOMMENDATIONS:

Yuba County Board of Supervisors: Recommendations 1, 2, & 3.

COUNTY BUDGET PROCEDURES

REASON FOR INVESTIGATION:

The 1992-93 Proposed Budget submitted by the County Administrator (CA) for the Board of Supervisors' (Board's) consideration and the Final Budget adopted by the Board did not include the estimated expenditures initially submitted by the Court nor did the budget provide sufficient monies to fund Grand Jury activities.

BACKGROUND:

Title 3, Division 3, Chapter 1. of the California Govt. Code requires that each year the Board of Supervisors cause that a proposed budget be prepared as a prerequisite to the Board adopting a final budget. In the proposed and final budget the budgetary requirements shall equal the available financing. In a court ruling in Nicely v. Madera County (1931) 296 P. 306, 111 C.A. 731., it states in part: "....the legislature had in contemplation a system which would provide for budgeting all the ordinary expenses of the county, and that all of the ordinary and usually anticipated expenses of each office of the county should be estimated and set forth in the budget."

Pertinent Sections of the Codes
(Code section denoted by §, sections denoted by §§)

Government Code

Section 29005, provides in part: "....Any county may add to the information required, or show it in more detail, providing that the financial information and the classifications or items required to be included in the budget are clearly and completely set forth...."

Section 29006, provides in part: "....Dependent on the stage of development of the budget, ...shall provide for the presentation of data and information to include, as a minimum, estimated or actual amounts of the following items:

(a) ....
(b) ....
(c) ....
For comparative purposes the amounts of financing uses shall be shown as follows:
(1) ....
(2) ....
(3) On an estimated basis for the budget year, as submitted by those officials or persons responsible therefor, or as recommended by the administrative officer designated by the board...."

Section 29040, provides in part: "... On or before June 10th of each year, as the board directs, each official or person in charge of any budget unit shall file with the auditor an itemized estimate of ..., financing requirements,... If the board directs, the estimates shall also be filed with the administrative officer."

Section 29042, provides in part: "....The estimates shall be submitted on worksheet forms prescribed by the auditor, or the administrative officer if designated by the board."

Section 29060, provides in part: "....From the estimates the auditor, or the administrative officer if designated by the board, shall prepare a tabulation on forms prescribed by the State Controller in the manner as prescribed by the provisions of this chapter.".

Section 29061, provides in part: "....The board may designate the administrative officer to review, hold hearings on, and recommend changes in the estimates before the tabulation is submitted to the board. Any differences between the recommendations and the estimates as submitted with which the official or person who submitted the estimates does not concur, shall be clearly indicated in the written recommendations or comments, or both."

Section 68091 provides: "....Except as otherwise provided by law, the board of supervisors in each county may specify by ordinance the compensation and mileage for members of the grand jury in the county."

Penal Code

Section 890, provides in part: "....Unless a higher fee or rate of mileage is otherwise provided by statute or county or city and county ordinance, the fees for grand jurors are ten dollars ($10.00) a day for each day's attendance as a grand juror, and fifteen cents ($0.15) a mile, in going only, for each mile actually traveled in attending court as a grand juror."

Section 914.5, provides in part: "....The grand jury shall not spend money or incur obligations in excess of the amount budgeted for its investigative activities pursuant to this chapter by the county board of supervisors unless the proposed expenditure is approved in advance by the presiding judge of the superior court after the board of supervisors has been advised of the request."

County Ordinance Code

Section 2.47.050(d) provides in part: "....The County Administrator shall recommend an annual budget, shall review departmental budget requests with the persons filing the requests, and shall enter recommendations for each departmental budget along with the request...."

SCOPE:

The Grand Jury limited its investigation to the procedures in place for arriving at a final yearly budget for Grand Jury activities.

PROCEDURE:

The Grand Jury at its first meeting elected to address the inadequate proposed Grand Jury budget that had been presented to the Board as part of the 1992-93 County Proposed Budget. Grand Jury members met and calculated what funds the Grand Jury would require for its 1992-93 activities and prepared additional justification for the monies to be requested. On July 22, 1992, Grand Jury members made a presentation to the Board, as allowed by Govt. Code Section 29063, in an attempt to better inform the Board of the ordinary expenses and the budgetary needs of the 1992-93 Grand Jury. During the hearing the Grand Jury made available to the Board the estimated

ordinary expenditures that had been previously submitted by the court. The Grand Jury also advised the Board of pertinent sections of the codes relating to grand jury fees, mileage and expenditures.

DISCUSSION:

Each year the Board directs the CA to prepare a proposed budget, which eventually becomes the County's Final Budget, wherein the budgetary requirements must equal the available financing. (§ 29009) The Board, as allowed by Govt. Code Section 29042, and by County Ordinance Code Section 2.47.050(d) designated the CA to each year prepare the proposed budget. Each budget unit, over which the Board has budgetary authority, submits their estimated expenditures to the CA, who then may review, conduct hearings and make recommendations on the estimated expenditures submitted before submitting the proposed budget to the Board. Any differences between the CA's recommendations and the estimates as submitted with which the official or person who submitted the estimates does not concur, shall be clearly indicated in the recommendations of the CA. See Govt. Code §§ 29040 & 29061 and Ordinance Code § 2.47.050(d). Upon receipt of the proposed budget the Board considers it and, and by law can make any revisions, reductions or additions therein that it deems advisable. Any official or person whose estimates have been revised, reduced or increased by the Board must be given the opportunity to be heard by the board prior to or during the Final Budget hearings and before the Final County Budget is approved and presented to the people.

The State Legislature by statute set the minimum rate of fees and mileage to be paid grand jurors, but also gave boards of supervisors discretionary power to set the fees and mileage at a higher rate through the adoption of a county ordinance. (§ 890) The payment of per diem and mileage of grand jurors are to be paid by the county treasurer out of the county upon warrants drawn by the county auditor upon the written order of the superior court judge.(§ 890.1)

The Legislature by statutes gives the courts that impanel grand juries, and only the courts, the discretionary power to approve and or disapprove Grand Jury expenditures.(Penal Code Sections 914.5, 926, 931, 936.5, 937, 938.2 & 938.3)

Though the Legislature gave grand juries broad powers in establishing their own rules of proceeding, Penal Code Section 916, control over grand juries is exercised through the courts who ensure grand juries do not exceed their statutory authority and jurisdiction.

The Grand Jury is fully aware of the problem of inadequate monies to fund all programs mandated by the state and the poor economic situation facing local governments. Grand juries are also fully aware that the Board by law (Govt. Code Section 29009) must adopt a balanced budget every year and that the Board has broad discretionary powers in establishing budgets. However, the Legislature, in order to assure the independence of the grand jury institution, has vested in the Superior Courts, and only in the Superior Courts, the discretionary power to approve or disapprove Grand Jury expenditures.(Penal Code Sections 914.5, 926, 931, 936.5, 937, 938.2 & 938.3)

It is of interest that 1991-92 grand jurors, during their term of service, were lead to believe that grand juror fees were to be paid only for attendance at full Grand Jury meetings and not for each day's attendance as a grand juror as required by law. The 1991-92 Grand Jury budget had been based on this assumption, consequently the 1991-92 budgets did not allocate sufficient monies to fund the required grand juror fees as provided by Penal Code Section 890. Up to and including 1991-92, mileage rates were based on the same rates paid county employees, but where county employees were paid for round trip travel grand jurors were paid for one way travel only. The Board, by resolution

on August 14,1989, set the mileage reimbursement rate to be paid County employees at the Internal Revenue Service (IRS) Non-Taxable Mileage Rate.

Members of the 1991-92 Grand Jury, after researching the applicable codes and reviewing the 1991-92 Grand Jury activities, prepared estimated expenditures for the 1992-93 Grand Jury based on the average number of days 1991-92 grand jurors were in attendance and on fees and mileage rates stipulated in Penal Code Section 890. At the hearings conducted in early April 1992, the 1992-93 Grand Jury estimated expenditures (proposed budget) were discussed between the Presiding Judge, Jury Commissioner, an Administrative Analyst designated by the CA as his representative, and a member of the Grand Jury. This panel supposedly arrived at the Grand Jury estimated expenditures to be submitted for the Board's consideration as required by Govt. Code Sections 29040 & 29061, and to which the Presiding Judge gave his tacit approval and notice to the Board as required by Penal Code Section 914.5.

The CA on April 30, 1992, returned the submitted estimated expenditures, which had tacit approval of the Presiding Judge, and directed the Jury Commissioner and the Grand Jury to resubmit estimated expenditure based on the previous year's budget and in principle directing the Grand Jury to maintain the present level of service. The Jury Commissioner submitted for the Grand Jury and the Court the revised estimated expenditures based on the previous year's budget as requested by the CA. The CA then entered these amounts in the proposed budget as his recommendation for the Board's consideration. During the final budget hearings on July 22, 1992, the CA by his comments indicated that the mileage rates by statute to be paid grand jurors was $0.28 per mile. The Board without benefit of being able to review the estimated expenditures as initially submitted and the statute on mileage rates referenced by the CA, subsequently approved these revised estimated expenditures, less 8%, as part of its Final Budget. The Grand Jury to date has found no current statute authorizing the $0.28 per mile rate be paid grand jurors.

The County budgets Grand Jury funds under four basic account numbers as follows;

1600 - JURY & WITNESS from which jury and witness fees and mileage have been paid.

2200 - OFFICE EXPENSES, from which printing, copying, postage and office supplies are paid.

2300 - PROFESSIONAL SERVICES, from which outside services such as auditors, court reporters and expert assistants are paid.

2900 - TRAVEL, from which grand juror travel to and from and attendance at training seminars have been paid.

The 1992-93 Budget Preparation Manual distributed by CA provided in part: "...Departmental Travel shall be budgeted in three separate Travel Accounts:

- Travel (2900) - which shall reflect all costs associated with employee attendance at training seminars, called meetings, conferences or seminars of professional organizations, or similar activities. A detailed description of items in this account must accompany the budget request;
- Travel-Operations (2901) - which shall reflect mileage costs for routine travel associated with department operations.

- Travel-Personal (2902) - which shall reflect reimbursement to employees using personal vehicles while conducting County business."

Up until 1992-93, funds in account number 2900, allowed for a maximum of four grand jurors to attend the American Grand Jury Foundation (AGJF) seminars. The Board uses four Bench-Mark counties in establishing employee salaries and in making other funding decisions. Some Bench-Mark counties make funds available for as many grand jurors wishing to do so to attend the AGJF seminars. Exhibit A depicts Grand Jury funding by County for 1991-92 and Exhibit B compares the Grand Jury budgets of the five counties. The 1992-93 Grand Jury at the final budget hearings requested and received Board approval for $3,319.00, sufficient funds to allow 10 Grand Jurors to attend the August 1992, AGJF seminar. As a result of the training received at the AGJF seminar Grand Jury members were able to conduct an investigation on the cost overruns of the 14th Street South Annex remodeling, which otherwise would have been contracted out to a professional management auditing firm, as allowed by Penal Code Section 926, at a cost of close to $16,000.00.

It is of interest to note the monies that were budgeted in 1992-93, to County departments for attendance at training seminars and conferences of professional organizations far exceeds those budgeted for the Grand Jury. See Exhibit C. The argument is been made that not all monies budgeted under account number 2900 by County departments are for training purpose. If that is the case, it follows then that County departments are not budgeting travel expenses under the appropriate account numbers.

Exhibit D and E, depict comparisons of the increase in budgets of various budget units over a five year period, 1989-93.

FINDINGS:

All findings have been validated by current documentation, and/or by interviews conducted by no less than two members of the grand jury as required by Penal Code § 916.

1. The 1992-93 proposed budget did not include the Grand Jury estimated expenditures in tabular format as submitted by the court to the CA, therefor the proposed budget did not readily provide the Board with easily identifiable differences between the CA's recommendations and the estimated expenditures as first submitted. (Govt.Code §§ 29060, 29061 & 29063, and Ordinance Code § 2.47.050(d))

2. The approval of Grand Jury expenditures by the Courts and notice to the Board pursuant to Penal Code Section 914.5, is not being forwarded to the Board by the CA.

3. The Board by ordinance (Govt. Code Section 68091 and Penal Code Section 890) may stipulate higher fees and mileage rates for grand jurors.

CONCLUSIONS:

The Courts have ruled that the legislature had in contemplation a system which would provide for budgeting all the ordinary expenses of the county, and that all of the ordinary and usually anticipated expenses of each office of the county should be estimated and set forth in the budget.

It is the opinion of the Grand Jury that when the estimated ordinary expenses of the Grand Jury, or any budget unit for that matter, are not included in the budget, the budget is not a true presentation to the people of the expenses and financing requirements of the County.

The Grand Jury can only conclude that the CA was not aware of the proper statutes which address the fees and mileage rates to be paid grand jurors and which require that all estimated expenditures submitted by budget units be included in the proposed budget for the Board's consideration.

Additionally, though the CA was carrying out the directions of the Board in preparing the proposed budget, i.e., that the proposed budget reflect a present level of service, he had no statutory authority to return the estimated expenditures which had tacit approval of the Court, and which was the Court's advance notice to the Board as required by Penal Code Section 914.5.

The Grand Jury is aware that the legislature has given the Board broad powers in establishing budgets. The Grand Jury is also aware that the legislature has given the Courts and only the Courts the discretionary power to approve or disapprove Grand Jury expenditures. Grand juries would prefer to start the year with an adequate budget to fund the ordinary expenses for the year and not have to avail itself of Penal Code Section 914.5, by which additional funds can be requested.

RECOMMENDATIONS:

1. That the Board cause the review of existing procedures and if required revise these procedures to ensure that estimated expenditures as submitted by budget units are included in the proposed budget as required by applicable sections of the Govt. Code.

2. That the Board review and if necessary revise the procedure by which the CA addresses the Grand Jury estimated expenditures and the Court's approval so that timely notice is received by the Board to ensure that the County Final Budget reflects the funds approved by the Court pursuant to Penal Code Section 914.5.

3. That the Board adopt an ordinance, establishing Grand Jury fees and mileage rates, similar to the ordinance now in effect for Trial Jurors, to avoid having to debate the subject with every Grand Jury.

Penal Code Section 916, provides in part: "...all problems identified in a final report are accompanied by suggested means for their resolution, including financial, when applicable."

The Grand Jury suggests, should the Board not agree with the Grand Jury interpretations of the code sections referenced and/or the Findings, Conclusions, and Recommendations, that the Board request Attorney General opinions on any code sections in question.

COMMENTS REQUIRED ON FINDINGS:

Yuba County Board of Supervisors: Findings 1, 2, & 3.

COMMENTS REQUIRED ON RECOMMENDATIONS:

Yuba County Board of Supervisors: Recommendations 1, 2, & 3.

EXHIBITS:

A - Survey of the Four Bench-Mark Counties

B - Grand Juries Budget Comparison

C - Department Travel (2900)

D - Budget Unit's Budget Increases 1987-1988 to 1992-93

E - Budget Unit's Salaries and Benefits Increases 1987-88 to 1992-93

Exhibit A

SURVEY OF THE FOUR BENCH-MARK COUNTIES

Grand Jury FEES, MILEAGE REIMBURSEMENT AND TRAINING 1991-92

	BUTTE	NEVADA	SUTTER	YOLO	AVERAGE	YUBA
			FEES			
Grand Jury Meetings	$ 20.00/Mtg	$ 15.00/Mtg	$ 10.00/Mtg	$ 10.00/Mtg	$ 13.75/Mtg	$ 10.00/Mtg
Committee Meetings	$ 20.00/Mtg	$ 15.00/Mtg*	$ 10.00/Mtg	$ 10.00/Mtg	$ 13.75/Mtg	$ 0.00/Mtg
Committee Investigations	$ 20.00/Inv	$ 15.00/Inv*	$ 10.00/Inv	$ 10.00/Inv	$ 13.75/Inv	$ 0.00/Inv
D.A. Indictments(Hearings)	$ 20.00/Hrg	$ 15.00/Hrg	$ 10.00/Hrg	$ 10.00/Hrg	$ 13.75/Hrg	$ 10.00/Hrg
			MILEAGE REIMBURSEMENT			
Mileage	$ 0.24/Mi Round Trip	$ 0.28/Mi Round Trip	$ 0.23/Mi One Way	$ 0.21/Mi One Way		$ 0.28/Mi One Way
			TRAINING			
Grand Jurors allowed to attend AGJF seminars	All	All	All	All		What budget will allow.
Attended 1991-92	0	13	9	13		4**
Other source of Grand Juror Training; (a) Orientation by outgoing jurors.	?	Yes	Yes	Yes		Yes***

* Fees paid for no more than six (6) Committee meetings (investigations considered as committee meetings) per month.

** Four Jurors attended the August, 1991, AGJF Seminar. The 1991-92 Grand Jury elected not to send anyone to the March, 1992, seminar. Attending the March seminar is not always in the best interest of the County as the seminar is to late in the juror's term. The March seminar is primarily for counties on a calendar year.

*** The 1991-92 Grand Jury developed and presented, for the first time in Yuba County, an Orientation Program for the new Grand Jury.

Exhibit B

BENCH-MARK COUNTIES
BUDGET COMPARISON

COUNTY	ACTUAL EXPENDITURES 1990-91	APPROVED BUDGETS 1990-91	POPULA-TION	PER CAPITA 1991-92	PER JUROR 1991-92
BUTTE	$ 36,575	$ 46,483	182,085	$ 0.26	$2,446
NEVADA	$ 62,460	$ 51,765	82,950	$0.62	$2,724
SUTTER	$ 24,858	$ 23,000	64.666	$ 0.36	$1,211
YOLO	$ 13,367	$ 13,350	139,176	$ 0.10	$ 703
TOTALS	$137,260	$134,598	468,877	$ 1.34	$7.084
AVERAGE	$ 34,315	$ 33,650	117,220	$ 0.34	$1,771
YUBA	$ 7,892	$ 11,000	58,862	$ 0.17	$ 579

These are the same Bench-Mark counties used by the Yuba County Board of Supervisors in approving salary increases as recommended by the Personnel Director in a letter to the Board dated June 17, 1991.

The Personnel Director stated in part: "In accord with your instructions, attached is a Resolution implementing salary increases for the Management and Confidential Units effective June 24, 1991. These increases were based on a salary survey conducted at your direction. Salaries are increased per your instruction with a $ 300/month maximum increase per employee. Any increase beyond the $ 300/month maximum necessary to bring employees to the mean identified in the aforementioned survey will be implemented effective June 24, 1992. In no event will increases inacted June 24, 1992 exceed $ 300/month unless expressly authorized by the Board of Supervisors."

Exhibit C

DEPARTMENT TRAVEL (2900)

- Travel (2900) - shall reflect all costs associated with employee attendance at training seminars, called meetings, conferences or seminars of professional organizations, or similar activities. A detailed description of items in this account must accompany the budget request. (This statement is from the Yuba County Budget Preparation Manual 1992-1993)

- This chart shows various departments staffing, CA recommended travel (2900) proposed budgets, and average amount budgeted per employee.

DEPARTMENT	STAFFING	BUDGETED	PER/EMPLY
CLERK-RECORDER	7	$700.00	$100.00
Grand Jury	19	$3,319.00	$174.68
COUNTY ADMINISTRATOR	7	$1,800.00	$257.14
PERSONNEL	8	$2,500.00	$312.50
CENTRAL SERVICES	7	$2,200.00	$314.29
ASSESSOR	16	$7,000.00	$437.50
BUILDING INSPECTION	10	$4,970.00	$497.00
PLANNING	12	$6,425.00	$535.42
INDSTRL DEVP/AIRPORT	9	$5,000.00	$555.56
CLERK/BOARD	2	$1,125.00	$562.50
COUNTY COUNSEL	6	$3,500.00	$583.33
AUDITOR-CNTRLR	12	$7,000.00	$583.33
OES	4	$2,644.00	$661.00
TREASURER-TAX COLLECTOR	6	$4,650.00	$775.00
ENVIRONMENTAL HEALTH	12	$11,500.00	$958.33
INFORMATION SRVCS	4	$4,575.00	$1,143.75
LAFCO	1	$1,200.00	$1,200.00
BOARD-SUPERVISORS	5	$16,000.00	$3,200.00
TOTALS/AVERAGE	147	$86,108.00	$585.77

Exhibit D

Budget Unit's Budget Increases 1987-88 to 1992-93

YEAR	BOARD	CA	CLRK BD	COUNSEL	PERS/RSK	Grand Jury	General Fund	CPI
1987-88 Budget	$127,836	$141,788	$52,090	$161,193	$97,853	$8,150	$47,815,926	4.4%
1988-89 Budget	$119,290	$134,531	$47,500	$161,100	$114,094	$9,500	$47,004,234	5.0%
Increase/Decrease	($8,546)	($7,257)	($4,590)	($93)	$16,241	$1,350	($811,692)	
% Change 1988-89	-7%	-5%	-9%	0%	17%	17%	-2%	
1989-90 Budget	$120,860	$137,124	$39,354	$177,181	$139,561	$9,500	$47,328,481	5.3%
Increase/Decrease	$1,570	$2,593	($8,146)	$16,081	$25,467	$0	$324,247	
% Change 89-90	1%	2%	-17%	10%	22%	0%	1%	
1990-91 Budget	$138,573	$164,304	$43,264	$236,849	$125,465	$10,200	$56,033,940	4.0%
Increase/Decrease	$17,713	$27,180	$3,910	$59,668	($14,096)	$700	$8,705,459	
% Change 90-91	15%	20%	10%	34%	-10%	7%	18%	
1991-92 Budget	$150,397	$222,748	$49,559	$315,670	$151,272	$11,000	$61,272,266	3.4%
Increase/Decrease	$11,824	$58,444	$6,295	$78,821	$25,807	$800	$5,238,326	
% Change 91-92	9%	36%	15%	33%	21%	8%	9%	
1992-93 Budget	$142,976	$261,515	$64,287	$309,271	$183,757	$10,100	$65,778,768	N. A.
Increase/Decrease	($7,421)	$38,767	$14,728	($6,399)	$32,485	($900)	$4,506,502	
% Change 92-93	-5%	17%	30%	-2%	21%	-8%	7%	
Total Increase/Decrease	$15,140	$119,727	$12,197	$148,078	$85,904	$1,950	$17,962,842	
Total % Change 88-93	11.84%	84.44%	23.42%	91.86%	87.79%	23.93%	37.57%	24.13%

All figures are from Yuba County Final Budgets as approved by the Board of Supervisors.

Consumer Price Index (CPI) figures are from the California State Office of Finance, and are for years ending in June 1988 and 1992.

Exhibit E

Budget Unit's Salaries and Benefits Increases 1987-88 to 1992-93

YEAR	BOARD	CA	CLRK BD	COUNSEL	PERS/RSK	Grand Jury	GENERAL FUND
1987-88 Budget	$101,664	$150,565	$42,625	$182,789	$157,818	$6,000	$47,815,926
1988-89 Budget	$99,530	$141,872	$43,130	$188,840	$173,975	$6,500	$47,004,234
Increase/Decrease	($2,134)	($8,693)	$505	$6,051	$16,157	$500	($811,692)
% Change 1988-89	-2%	-6%	1%	3%	10%	8%	-2%
1989-90 Budget	$100,510	$142,991	$40,520	$206,379	$196,272	$6,500	$47,328,481
Increase/Decrease	$980	$1,119	($2,610)	$17,539	$22,297	$0	$324,247
% Change 1989-90	1%	1%	-6%	9%	13%	0%	1%
1990-91 Budget	$109,788	$169,148	$44,563	$228,664	$220,398	$6,700	$56,033,940
Increase/Decrease	$9,278	$26,157	$4,043	$22,285	$24,126	$200	$8,705,459
% Change 1990-91	9%	18%	10%	11%	12%	3%	18%
1991-92 Budget	$115,607	$260,355	$27,120	$291,160	$241,177	$5,072	$61,272,266
Increase/Decrease	$5,819	$91,207	($17,443)	$62,496	$20,779	($1,628)	$5,238,326
% Change 1991-92	5%	54%	-39%	27%	9%	-24%	9%
1992-93 Budget	$121,817	$260,144	$53,969	$298,515	$282,346	$4,657	$65,778,768
Increase/Decrease	$6,210	($211)	$26,849	$7,355	$41,169	($415)	$4,506,502
% Change 1992-93	5%	0%	99%	3%	17%	-8%	7%
Total Increase/Decrease	$20,153	$109,579	$11,344	$115,726	$124,528	($1,343)	$17,962,842
Total % Change 1988-93	19.82%	72.78%	26.61%	63.31%	78.91%	-22.38%	37.57%

All figures are from Yuba County Final Budgets as approved by the Board of Supervisors.

Grand Jury figures are for Juror Fees and Mileage, Jurors receive no salary or benefits.

YUBA COUNTY

COUNTY JAIL

COMMENTS REQUIRED ON FINDINGS:

Yuba County Sheriff: Findings 1, 2, 3, & 4.

Yuba County Board of Supervisors: Findings 1, 2, 3, & 4.

COMMENTS REQUIRED ON RECOMMENDATIONS:

Yuba County Sheriff: Recommendations 1, 2, 3, & 4.

Yuba County Board of Supervisors: Recommendations 1, 2, 3, & 4.

COUNTY JAIL

REASON FOR INVESTIGATION:

Penal Code Section (P.C. §) 919(b), states, "The Grand Jury shall inquire into the condition and management of the public prisons within the county." In addition several complaints regarding various subject areas were received which required follow-up investigations.

BACKGROUND:

California Code of Regulations, Title 15, Division 1, Board of Corrections, states in part: "The Sheriff is legally responsible for the safe keeping of all persons in custody and in order to protect the rights of both inmates and employees, certain regulations are necessary." The Yuba County Jail was constructed in 1962 and expanded in 1986. The facility is located at 215 Fifth Street, Marysville, California. The current inmate capacity is 155 at any one time; however, an adjoining facility is being built which will accommodate up to 200 additional inmates.

SCOPE:

Investigation was limited to the departmental practices, policies and procedures, in accordance with Title 15 of the California Code of Regulations. The treatment of inmates, climate control, inmate visitation procedures, health care, budget and staffing, and the inmate grievance procedure were all included in the investigation.

PROCEDURE:

Members of the Grand Jury interviewed the Sheriff, Under-Sheriff and Jail Commander. A complete tour was made of the jail facility, including, but not limited, to the control room, cell blocks, exercise area, kitchen, medical dispensary and library. Follow-up interviews with jail personnel and inmates were conducted by Grand Jury members. California Board of Corrections, Title 15 statutes, Yuba County Sheriff's Department Information Booklet, California P.C. and applicable County ordinances were reviewed by the Grand Jury.

DISCUSSION:

The Grand Jury received many complaints regarding low temperatures in particular cell blocks. The State Board of Corrections Facility Planning and Design guidelines publication states: "Heating and Cooling. Provision shall be made to maintain a comfortable living environment in accordance with the heating, ventilating, and air conditioning requirements of parts 2 and 4, and the energy conservation requirements of Chapter 2-53, Title 24, California Code of Regulations. Suggested temperatures are 66 degrees to 78 degrees during summer months and 63 degrees to 73 degrees during winter months..."

A temperature check by hand-held thermometer was made at the request of inmates which recorded a 60 degree reading. This reading was taken on a winter afternoon in an area of the facility which was not the subject area of complaints. Both inmates and staff agreed that temperature control is a problem. The California State Board of Corrections recommends that additional clothing and/or blankets be issued as an interim measure, if the temperature falls below the suggested minimum.

The existing jail was designed to house approximately 150 inmates. At any one time the jail holds up to 155 inmates. Capacity for the Yuba County Jail was set at 145 inmates by the State Board of Corrections. If the jail continually exceeds the established capacity, some provision for removing inmates from the facility has to be implemented. The county has begun construction on a new facility which is designed to expand the housing capacity to approximately 350 inmates. The projected completion date for the new jail is August 6, 1993 and it should be ready for use by mid September. Additional housing requirements, i.e. separation of classes such as inmates sentenced, inmates awaiting trial, etc., are designated in P.C. § 4001, which states in part: "...Each county jail must contain a sufficient number of rooms to allow all persons belonging to either one of the following classes to be confined separately and distinctly from persons belonging to either of the other classes...", and further complicates the housing capacity situation.

Of the various complaints received by the Grand Jury on the subject of inmates, several related to visitation rights and regulations, and to loss of privileges. The Grand Jury determined that regulations governing visitation and loss of privileges, in place at the Yuba County Jail, meet or exceed those required by Title 15, California Code of Regulations. All inmates that are confined are provided with a copy of the Yuba County Sheriff's Department Information Booklet which contains the grievance procedure utilized in the jail facility. This grievance procedure outlines the complete process to be followed when filing any inmate complaints and includes the option of contacting the Grand Jury. The results of the Grand Jury investigation revealed that from 90 to 95% of the complaints are resolved within the internal grievance process.

The jail facility includes a kitchen, staffed by inmate trustees under the supervision of the staff cook, which provides meals that meet all code requirements for inmates at a cost of approximately $0.93 per meal. Additionally, the inmates are provided with exercise facilities, a law library and television privileges. The jail operates in accordance with guidelines established by the American Medical Association and transports inmates to local hospitals and other medical/dental etc. facilities when necessary, for additional medical attention.

The original plan and design for the new jail facility included allocation for 33 positions. Only 10 of these allocated positions are currently funded. This is based on the cost of $30,000 annually per position.

FINDINGS:

All findings have been substantiated by current documentation and by observation and interviews by no less than two members of the grand jury. P.C. § 916

1. The existing heating and air conditioning ventilating system (HVAC) is inadequate to maintain a comfortable temperature range as required by code, State Board of Corrections, Title 15.

2. The inmate populace, at times, exceeds the allowable maximum capacity for which the facility was designed. P.C. § 4001.

3. The Grand Jury received numerous letters of complaint regarding inmates, many of which could have been, or were, resolved through the internal grievance process.

4. There is insufficient funding currently allocated for the thirty-three positions authorized to staff the new jail facility.

RECOMMENDATIONS:

P.C. § 916, states in part: "... All problems identified in a final report are accompanied by suggested means for their resolution, including financial when applicable."

1. That the HVAC system installed at the new jail meet the requirements of the code and serve both the old and new facilities.

2. That in the event the entire new facility is not opened, adequate space in the new jail facility be staffed and utilized, to augment the existing facility, in order to ensure compliance with the requirements of P.C. § 4001.

3. That the Grand Jury complaint form be added to the inmate handbook. The Grand Jury is open to receiving complaints from the public, although no action will generally be taken until all other avenues available to that party have been addressed.

4. That the County re-evaluate allocation of the available funds, and continue to pursue outside financial sources, to ensure that the new jail facility can be opened and operated when construction is completed, commensurate with the current need.

COMMENTS REQUIRED ON FINDINGS:

Yuba County Sheriff: Findings 1, 2, 3, & 4.

Yuba County Board of Supervisors: Findings 1, 2, 3, & 4.

COMMENTS REQUIRED ON RECOMMENDATIONS:

Yuba County Sheriff: Recommendations 1, 2, 3, & 4.

Yuba County Board of Supervisors: Recommendations 1, 2, 3, & 4.

YUBA COUNTY

COUNTY VEHICLES

COMMENTS REQUIRED ON FINDINGS:

Yuba County Board of Supervisors: Findings 1 & 2.

COMMENTS REQUIRED ON RECOMMENDATIONS:

Yuba County Board of Supervisors: Recommendations 1 & 2.

COUNTY VEHICLES

REASON FOR INVESTIGATION:

Citizens' complaints were received which questioned how the use of County vehicles is regulated and monitored. The basis of one complaint was that a county employees who had a county assigned vehicle was also using the vehicle in the conduct of business for another county agency. Another complaint questioned how the use of county vehicles was regulated and permanent assignments justified.

BACKGROUND:

Government Code Section 25305 authorizes the Board of Supervisors (Board) to purchase vehicles for the use of county officers and county employees whose duties require frequent trips on county business. Section 25305 requires that the Board, if electing to purchase vehicles, by ordinance establish rules and regulations governing the use of the automobiles and the imposition of proper penalties upon any person driving, operating, or using the automobiles contrary to the rules and regulations of the board.

SCOPE:

The Grand Jury, because the Board had not adopted an ordinance but had by resolution adopted rules on the use of county vehicles, attempted to limit its investigation to determine if the adopted rules were being adhered to. The Grand Jury also attempted to determine if county vehicles were being used in a cost effective manner.

PROCEDURE:

Grand Jury members researched applicable codes and reviewed the procedures outlined in Chapter 7, of the Administrative Procedures Manual, which was adopted as a resolution by the Board in January 1980 and last revised in January 1992. Members of the Grand Jury interviewed county officials and various employees on how vehicle are controlled and the type of records kept.

The Grand Jury developed a 20 question Survey questionnaire with specific instructions on how to answer each question. The purpose of the survey was, if possible, to determine if the use of county vehicles was being regulated as required by law and operated in the most cost effective manner. The questionnaire was forwarded through the County Administrator's Office (CA) to all county departments, except the Sheriff, who have use of county vehicles. Answers to the questionnaire were analyzed and used in arriving at the findings, conclusions and recommendations of this report.

DISCUSSION:

Definitions

Definitions are from Black's Law Dictionary and State Codes

Shall and May - "Shall" is mandatory and "may" is permissive.

Ordinance - "A rule established by authority; a permanent rule of action; a law or statute. In its most common meaning, the term is used to designate the enactments of the legislative body of a municipal corporation. An ordinance is the equivalent of a municipal statute, passed by the city council, or equivalent body, and governing matters not already covered by federal or state law. Ordinances commonly govern zoning, building, safety, etc. matters of municipality.

The name has also been given to certain enactments, more general in their character than ordinary statutes, and serving as organic laws, yet not exactly to be called "constitutions...."

Resolution - As distinguished from ordinance: "... "**Resolution**" denotes something less formal than "ordinance"; generally, it is mere expression of opinion or mind of council concerning some matter of administration, within its official cognizance, and provides for disposition of particular item of administrative business of a municipality; it is not a law, and in substance there is no difference between resolution, order and motion. City of Salisbury v. Nagel, Mo. App., 420 S.W.2d 37,43."

Government Code

(§ signifies Section)

Section 25305, provides: "...

When in its judgement the public interest requires, the board may purchase automobiles for the use of county officers and county employees whose duties require frequent trips on county business. **By ordinance the board shall adopt rules and regulations governing the use of the automobiles and the imposition of proper penalties upon any person driving, operating, or using the automobiles contrary to the rules and regulations of the board.** The board may purchase necessary automobiles and assign them to county boards and commissions or members thereof whose duties require frequent and adequate transportation in and about the county on county business.

County business shall include the operation of county-owned or county-leased vehicles as commute vehicle in a carpool or vanpool program authorized by the county for county employees, provided that a daily, weekly, or monthly fee is charged that is adequate to reimburse the county for all cost of providing, operating, and maintaining vehicles for such purpose. The board of supervisors shall establish rules, regulations and procedures to be used in the operation of county-owned or county-leased vehicles in a county carpool or vanpool program for county employees.

The use of automobiles provided by the county pursuant to this section is in lieu of any other mileage allowed by law. The board may allow officers and employees using county automobiles their actual and necessary expenses when traveling on county business." Emphasis added.

This section of the code was added in 1947, and amended in 1949, 1965, and 1976.

County Ordinance Code Chapter 2.47
County Administrator

Section 2.47.050 provides: "The County Administrator shall act as the Administrative Office for the Board to enforce all the directives of the Board not otherwise delegated by the Board which it has the power to apply to elective and appointive County offices, departments, and institutions."

Yuba County Administrative Procedures Manual
Chapter 7 Automotive Transportation

The purpose of this chapter is to provide the Board's general policy on the use and assignment of county vehicles. The following quotes from this chapter are pertinent to this report:

"It is County policy to provide County employees with essential transportation that is safe, reliable, responsive, and economic for use on County business. The use of personal cars on a reimbursable basis may be authorized when County vehicles are unavailable or when otherwise justified." § 700.

"The Public Works Director is assigned primary responsibility for providing essential County transportation subject to policy and fiscal control of the Board...." § 710.1.

"All department heads are responsible for determining and budgeting their transportation requirements, and for utilizing the most efficient transportation means available. Where long-term assignments of vehicles are justified and approved by the Board of Supervisors department heads will insure efficient utilization ...." § 710.2.

"Justification for continuing assignment of a specific vehicle to an individual or department should be based on at least one of the following:

On the job utilization for at least 1,000 miles per month.

The need to transport specialized equipment not easily transferred between vehicles.

The need to garage the vehicles at home for one of the following reasons:

The need to respond to an average of six or more after-hour emergency calls per month, requiring a vehicle.

The need to report directly to the field or depart very late from the field at least 4 days per week or the need to respond during off hours or days on an emergency basis.

The need for a specially equipped vehicle for after-hours emergency calls." §§ 711.2 through 711.53

"Vehicle assignment will be reviewed annually by the Board of Supervisors. Assignment shall be rejustified in accordance with the above, for continued assignment." § 712.

"Vehicles will be garaged at private residences only with previous Board approval. Continuing authorization shall be granted and reviewed in accordance with Section 712 of these procedures .... Vehicles should not be left on the street overnight. Safe off-street areas shall be used whenever possible." § 730.

"A vehicle owned or maintained for the use or service of the County shall not be used for any purpose other than a County purpose or in or about the performance of a duty of a County official or employee." § 740.

"The use of a private vehicle to perform County business shall be reimbursed by the County of Yuba to the County employee on a monthly basis at an established rate adopted by the Board of Supervisors" § 780.

"Each request for reimbursement shall be accompanied by a written statement explaining the who, where, when and why of each incident and other general information." § 780.1.

The Grand Jury, after researching the codes and not finding a County Ordinance on the use of county vehicles, by letter to the CA confirmed that the Board had not adopted an ordinance on this subject. The CA's response to the Grand Jury stated in part; "...The County Counsel's Office has advised us that Chapter 7 of the Administrative procedure Manual satisfies the intent of the Law, and that the County's lack of an ordinance is not a substantive problem. Nevertheless, to correct this apparent oversight, an ordinance to formalize our current procedures is being prepared. We anticipate presenting the ordinance to the Board within the next several weeks...."

At this point the definition of "Ordinance" and "Resolution" are of importance. An ordinance is a law or statute which may assess proper penalties wherein a resolution is not a law and carries no penalties for non-compliance. The legislature, in requiring that by ordinance Boards adopt rules and regulations and imposition of proper penalties, intended that the use of vehicles be closely controlled.

Though Chapter 7, of the Administrative Procedures Manual (a resolution) may meet the intent of the law, Govt. Code Section 25305, specifically states, ".... By ordinance the Board **shall** adopt rules and regulations.....". It is a cannon of Law that "**Shall**" is mandatory and not "permissive." Additionally, Chapter 7, of the Administrative Procedures Manual does not address the requirement of Govt. Code § 25305, which states in part; ".... the imposition of proper penalties upon any person driving, operating, or using the automobiles contrary to the rules of the board...."

The Grand Jury, through the Survey conducted, expected to identify those areas whereby recommendations could be made to more cost effectively utilize County vehicles. However, the answers received did not assist in this effort. The lack of record keeping by County department caused that many of the questions posed, such as, Number of miles vehicle was driven last year; How many times did employee respond to an after hours emergency during the last year; Under what authority is employee allowed to drive vehicle to an from home and work, went unanswered.

Though Section 712, of the Administrative Procedures Manual requires annual re-justification for permanently assigned vehicles, the Grand Jury learned of only two vehicles that have been approved by the Board within the last year. The assignment of one vehicle was made without documented financial justification to show the cost effectiveness of the assignment or the pay back of the investment.

Section 780.1, requires that each request for reimbursement, for the use of a personal vehicle for County business, be accompanied explaining the who, where and why of each incident and other general information.

Grand Jury members, because of lack of documentation and the method in place to record mileage of permanently assigned county vehicles and the use of personal vehicles, were unable to

validate the complaint that a County vehicle was being used for conduct of business of another County agency.

FINDINGS:

All findings have been substantiated by current documentation, and/or by interviews or observations conducted by no less than two members of the Grand Jury, Penal Code § 916.

1. The Board of Supervisors as of June 16, 1993, had not adopted by ordinance, as required by Govt. Code Section 25305, rules and regulations governing the use of county vehicles and the imposition of proper penalties upon any person driving, operating, or using the automobiles contrary to the rules and regulations of the Board.

2. The policies of the Board as outlined in Chapter 7, of the County Administrative Procedure Manual are not being adhered to, nor are they being enforced as required by Section 2.47.050 of the County Ordinance Code.

CONCLUSIONS:

The Grand Jury can only conclude that the Board may not have been properly advised by its Administrative and Legal advisors that the Board had a requirement under Govt. Code Section 25305 to adopt an ordinance for regulating the use of County vehicles.

Additionally, the Grand Jury can only conclude that the Administrative Procedures Manual, adopted by resolution does not meet the intent of Govt. Code Section 25305. A resolution does not allow for proper penalties for non-compliance. Furthermore, there can be no question that the Legislature intended that the abuse of use of County vehicles provide for proper penalties. The Legislature was clear in this intent by the statement "....**By ordinance the board shall adopt rules and regulations governing the use of the automobiles and the imposition of proper penalties upon any person driving, operating, or using the automobiles contrary to the rules and regulations of the board....**"

RECOMMENDATIONS:

P.C. § 916, states in part: "....all problems identified in a final report are accompanied by suggested means for their resolution, including financial, when applicable."

1. That the Board of Supervisors cause an ordinance be prepared and adopted in order to be in compliance with Govt. Code Section 25305.

2. That until an ordinance is adopted, the Board, in order to assure the people that County vehicles are being operated and used in the most cost effective method, insist that the Board's policy outlined in Chapter 7 of the Administrative Procedures Manual is being adhered to and being enforced.

COMMENTS REQUIRED ON FINDINGS:

Yuba County Board of Supervisors: Findings 1 & 2.

COMMENTS REQUIRED ON RECOMMENDATIONS:

Yuba County Board of Supervisors: Recommendations 1 & 2.

YUBA COUNTY

OBSERVERS OF ELECTION PROCEDURES

COMMENTS REQUIRED ON FINDINGS:

Yuba County Election Board: Finding 1.

Yuba County Election Official: Finding 1.

COMMENTS REQUIRED ON RECOMMENDATION:

Yuba County Election Board: Recommendation 1.

Yuba County Election Official: Recommendation 1.

OBSERVERS OF ELECTION PROCEDURES

REASON FOR INVESTIGATION:

The 1992-93 Grand Jury received a citizen's complaint and a letter from a political party central committee stating that the Election Official would not allow a citizen, who was also the party's designated election observer, to observe the election-night ballot counting proceedings. The complaints were based on the Election Official's refusal to honor the political party's written request that a specific individual be the party's designated observer of the conduct of the ballot counting process. Members of the political party questioned the conduct of elections in the County because their representative was denied permission to observe the ballot counting process.

BACKGROUND:

Observers

The legislature, to ensure that the people are assured of a question free election process, has provided in State statutes for the public and certain designated individuals free access to those places where the ballot processing and counting procedures are conducted.

Yuba County Election Official

The office of the Election Official is located at the 14th Street North Annex, 935 14th St. Marysville, Ca. All records pertaining to county registered voters, application for absent voter ballots, precinct elections and election results are on file in the office of the County Election Official. The processing and tabulation of all cast ballots are conducted at the office of the Election Official.

Unless otherwise stated, all references to the Code
are to the California Election Code. (§ signifies Section)

Definitions from the Election Code

Shall and May - "Shall" is mandatory and "may" is permissive.

Election Board - means the board of supervisors of each county, the city council or other governing body of a city, or any board or officer to whom similar powers and duties are given by any charter.

Election Official - means any county clerk, city clerk, registrar of voters, elections supervisor, or governing board having jurisdiction over elections.

Vote Tabulating Device - means any piece of equipment, other than a voting machine, which compiles a total of votes cast by means of ballot card sorting, ballot card reading, paper ballot scanning, electronic data processing, or a combination of such equipment.

SCOPE:

The Grand Jury limited the scope of its investigation to the rights of members of major political parties to observe the ballot processing and counting procedures.

PROCEDURE:

Grand Jury members reviewed pertinent sections of the Election Code, interviewed knowledgeable persons and scheduled a total of eight Grand Jury members to witness the processing of absent voter ballots on the day of the election. Grand Jury members were in attendance at the Election Official's office and witnessed the processing of absent voter ballots almost continuously from 8:00 am to 10:00 pm on election day.

Grand Jury members met after observing the Election Day proceedings to review their findings, conduct additional research of the code, prepare additional questions and schedule follow-up interviews.

DISCUSSION:

The Grand Jury received correspondence or copies of correspondence from a major political party and a member of that party expressing concerns about the method by which observers of ballot processing and counting procedures are selected. The political party submitted the name of this particular member as the party's representative to observe the ballot processing and counting procedures during the 1992 elections. This member was found by the Election Official to be unacceptable as the member did not meet the qualifications of Code Section 15266, under which the nomination was made and which requires that the political party present proper credentials to certify the designated observer as a specialist in data-processing equipment. The political party did not submit name(s) for an alternate(s) nor did the political party submit the proper credentials.

The Grand Jury did observe the political party member to be present for a short time at the time absent voter ballots were being counted the night of the election. Since the member did qualify under different sections of the code, he was allowed access to a suitable location and had a clear view of the proceedings. Grand Jury members noted that this political party member was not present during the day when absent voter ballots were being processed.

The Election Code provides for members of the public, grand juries and major political parties to be present during all or specific phases of the ballot processing procedures. Political parties may employ qualified personnel to perform some checks of the tabulating devices.

It has been the practice of the Election Official to accommodate those persons desiring to attend to do so. The Election Official, by law, may restrict observers to specific areas and does so to ensure that the ballot counting process is conducted with a minimum of interruptions.

The following sections of the code specifically address the subject of who shall/may observe and who shall/may authorize those to be present during different phases of the ballot counting process.

Section 1404, provides in part: "...The opening, processing, and counting of absent voter ballots shall be open to the public, both prior to and after the election.

(b) Any member of the county grand jury, and at least one member each of the Republican county central committee, the Democratic county central committee, and of any other party with a candidate on the ballot, and any other interested organization, shall be permitted to observe and challenge the manner in which the absent voter ballots are processed, from the opening through the counting and disposition of the ballots.

(c) The county clerk shall notify absentee voter observers and the public at least 48 hours in advance of the dates, times, and places where absentee ballots will be opened, processed, and counted.

(d) Absentee voter observers shall be allowed close enough access to enable them to observe and challenge whether those individuals handling absentee ballots are following established procedures, ..."

Section 15265, provides in part: "....All proceedings at the central counting place shall be open to the view of the public, but no person except one employed and designated for the purpose by the elections official, or his authorized deputy shall touch any ballot container. Access to the area where electronic data-processing equipment is being operated may be restricted to those persons authorized by the elections official."

Section 15266, provides in part: "....The county central committee of each qualified political party may employ, and may have present at the central counting place or places, not more than two qualified data-processing specialists or engineers to check and review the preparation and operation of the tabulating devices, their programming and testing, and have such specialists or engineers in attendance at any or all phases of the election."

The above sections of the Election Code clearly define who may observe election procedures and under what circumstances they may do so. The code sections do not outline a specific procedure for the selection of observers, but do allow the Election Official some discretion in making the selection.

FINDINGS:

All findings have been substantiated by current documentation, and by interviews or observations conducted by no less than two members of the Grand Jury, Penal Code § 916.

1. Neither the Election Board nor the Election Official have adopted written procedures to supplement the code on a method of selecting citizens requesting to observe election procedures.

CONCLUSIONS:

The political party's designated election observer arrived at the time absent voter ballots were being counted, was not present during the day when the ballots were being processed as required by § 1404, nor was this section referenced or mentioned in their correspondence. Therefore, members of the Grand Jury can only conclude that the political party was not interested in the processing of absent voter ballots or knew of their right under this section to designate an observer. Furthermore, if the counting of absent and precinct voted ballots was what the political party's representative was to observe, Grand Jury members are confident that the party's representative was allowed access to a suitable location and had a clear view of the proceedings.

Failure by the political party to present the proper credentials to certify the designated observer as a specialists in data-processing equipment, the Grand Jury can only conclude that the Election Official acted properly and in accordance with § 15266, in denying the political party's designated election observer access to the area around the vote tabulating device.

The lack of any written established procedures in the method of selecting observers leads to confusion and the perception by some of intentionally being excluded from a very important process. An established method of selecting observers would erase any question that the election procedures are being conducted in any way but in the best interest of the people and in accordance with the Election Code.

RECOMMENDATIONS:

1. That the County Election Board and Election Official formulate and adopt written procedures for the method of selecting election procedure observers. Reference Election Code §§ 1404, 15265, and 15266.

Penal Code Section 916, states in part: "...all problems identified in a final report are accompanied by suggested means for their resolution, including financial, when applicable."

The Grand Jury therefore suggests that, as a minimum, any adopted procedure provide for how and when observers will be selected, that identification badges or credentials be prepared, and a short informational session to acquaint observers with the election procedures be provided. The Grand Jury is confident that the minimal cost of establishing such a procedure would be more than offset by the gain of citizen confidence in the way elections are conducted by the County.

COMMENTS REQUIRED ON FINDINGS:

Yuba County Election Board: Finding 1.

Yuba County Election Official: Finding 1.

COMMENTS REQUIRED ON RECOMMENDATION:

Yuba County Election Board: Recommendation 1.

Yuba County Election Official: Recommendation 1.

YUBA COUNTY

PROCESSING OF ABSENT VOTER BALLOTS

COMMENTS REQUIRED ON FINDINGS:

Yuba County Election Board: Finding 2.

Yuba County Election Official: Findings 1, 2, 3, 4, 5, & 6.

COMMENTS REQUIRED ON RECOMMENDATIONS:

Yuba County Election Board: Recommendation 2.

Yuba County Election Official: Recommendations 1, 2, 3, 4, 5, & 6.

PROCESSING OF ABSENT VOTER BALLOTS

REASON FOR INVESTIGATION:

The 1992-93 Grand Jury received a citizen's complaint that the procedures for the processing of absent voter ballots allowed for the possible identification of how an absent voter may have voted. The basis for the complaint was the type of envelopes used for the return of absent voter ballots, and that individuals processing the received voted ballots could easily determine how a specific voter had voted.

BACKGROUND:

Voting By Mail

If the privilege to vote is genuinely to be made available to all citizens, state law must take into account the fact that some voters may find it impossible or impractical to vote at their polling places. The California Legislature, to make the opportunity to vote available to more citizens, has taken the necessary steps to broaden the availability of the absentee ballot.

Yuba County Election Official

The office of the Election Official, is located at the 14th Street North Annex, 935 14th St. Marysville, Ca. These offices were moved to their present location from the Yuba County Courthouse, 215 5th St., Marysville in April 1991. All records pertaining to county registered voters, application for absent voter ballots, precinct elections and election results are on file in the office of the County Election Official. The processing and tabulation of all cast ballots are conducted at the office of the Election Official.

All references to the Code are to the California Election Code unless otherwise stated. (§ signifies Section)

Definitions from the Election Code

Shall and May - "Shall" is mandatory and "May" is permissive.

Election Board - means the board of supervisors of each county, the city council or other governing body of a city, or any board or officer to whom similar powers and duties are given by any charter.

Absent Voter - means any voter casting a ballot in any way other than at the polling place.

Election Official - means any county clerk, city clerk, registrar of voters, elections supervisor, or governing board having jurisdiction over elections.

SCOPE:

The Grand Jury limited the scope of its investigation to the procedures in place for the requesting, voting, returning, processing and counting of absent voter ballots.

PROCEDURE:

Members of the Grand Jury researched the Election Code, prepared its first set of questions, and scheduled a meeting with election officials to validate the complaint.

The Grand Jury scheduled members to witness the processing of absent voter ballots on the day of the election. Grand Jury members were in attendance at the Registrar of Voters office and witnessed the processing of absent voter ballots almost continuously from 8:00 am to 10:00 pm on election day.

Grand Jury members, after observing the Election Day proceedings and after meeting to review and compare observations, decided to conduct additional research of the code, prepared additional questions and scheduled follow-up meetings with Election Officials.

DISCUSSION:

History of the Election Code

Past Law:

At its first session in 1850, at San Jose, the Legislature enacted a complete act to regulate elections. The first act covered eleven printed pages of official 1850 Statutes. It prescribed the dates of elections, the qualifications of electors repeating the provisions of the Constitution, provided for election precincts and precinct boards, the opening of the polls and voting.

On November 3, 1914, an initiative act appeared on the ballot which would allow a voter absent from home on election day to cast his ballot at any polling place at least ten miles away from his own polling place and then mail his ballot, so voted, to the county clerk. In 1929 the Legislature proposed to people to go the whole way and permit it to allow absent voting privileges to all. In 1959 the legislature provided for voting by absentee ballot by a voter who "resides more that 10 miles from the nearest polling place by the most direct route of public travel."

In 1929 the legislature created the California Code Commission to codify, without substantive change, the California statute law. The Commission with the aid of Legislative Counsel prepared and submitted a number of codes to the legislature. In 1939 it submitted, and the legislature adopted an Election Code.

In 1976 the statutes were changed to include Division 2, ABSENTEE VOTING AND NEW RESIDENT VOTING. Chapter 1, wherein Section 1003, stated in part, "...The absentee ballot shall be available to any registered voter who is unable to appear at his polling place for one of the following reasons: (a) Illness, (b) Physical handicap, (c) Conflicting religious commitments, and (d) The voter resides more than 10 miles from his polling place. The absentee ballot shall also be available to any registered voter who resides within a precinct which is wholly on federally owned or controlled land."

Present Law:

The state legislature in order to make the opportunity to vote available to more citizens in 1978 once again amended the code and deleted the specific reasons mentioned above in order to make the absentee ballot available to more citizens. Section 1003 was amended to read in part, "...The absentee ballot shall be available to any registered voter." This easy availability of absent voter ballots resulted in almost twice as many absent voter ballots being requested during the 1992 election.

Additionally special interest groups now use this easy availability of absent voter ballots to get more people to vote. There were a total of 4,346 Absent Voter Ballots processed during the 1992 election at a cost of $13,689.90, approximately double the cost of previous elections when the average number of absent ballots voted was 2,400 ballots.

The legislature, by the above 1978 change to the code which required an absentee ballot be made available to any voter, intended to reimburse counties for expenses incurred in providing these ballots. However, because of the 1992-93 State Budget situation, the legislature has for fiscal year 1992-93, suspended the program and will no longer reimburse counties for expenses in providing absentee ballots to "any voter" as opposed to only those who need one due to specified circumstances (law prior to 1978).

In the interest of reducing future election costs and because Yuba County is subject to the preclearance provisions of Section 5 of the United States Voting Rights Act, the Registrar of voters has requested approval from the U.S. Dept. of Justice to restrict voting by absentee ballot to persons who meet the eligibility criteria defined in the law prior to 1978.

The following sections of the code are pertinent to the findings and recommendations in this report and specifically address the subject of how "Absent Voter Ballots" are processed, from requesting a ballot to the counting of the voted ballot .

Section 1011, provides in part: "....The official shall keep a record of each absent voter ballot sent to and received from a voter and shall verify, prior to counting any duplicate ballot, that the voter has not attempted to vote twice. If it is determined that a voter has attempted to vote twice, both ballots shall be void."

Section 1013, provides in part: "....However, an absent voter who, because of illness or other physical disability, is unable to return the ballot, may designate his or her spouse, child, parent, grandparent, grandchild, brother, or sister to return the ballot to the official from whom it came or to the precinct board at any polling place within the jurisdiction. The ballot must, however, be received by either the official from whom it came or the precinct board before the close of the polls on election day.

The official shall establish procedures to insure the secrecy of any ballot returned to a precinct polling place.

The provisions of this section are mandatory, not directory, and no ballot shall be counted if it is not delivered in compliance with this section."

Section 1014, provides in part: "....Any voter using an absentee ballot may, prior to the close of the polls on election day, vote the ballot at the office of the election official. The voter shall vote the ballot in the presence of an officer of the official or in a voting booth, at the discretion of the official, but in no case is his vote to be observed. Where voting machines are used the official may provide one voting machine for each ballot type used within the jurisdiction."

Section 1400, provides in part: "....Any county having the necessary computer capability may start to process absent voter ballots on the seventh day prior to the election. This process may be completed to the point of putting the information on computer tape, but under no circumstances, shall a vote count be made until 8 p.m. on the day of the election."

Section 1404, provides in part: "....The opening, processing, and counting of absent voter ballots shall be open to the public, both prior to and after the election.

(b) Any member of the county grand jury, ..., shall be permitted to observe and challenge the

manner in which the absent voter ballots are processed, from the opening through the counting and disposition of the ballots.

(c) The county clerk shall notify absentee voter observers and the public at least 48 hours in advance of the dates, times, and places where absentee ballots will be opened, processed, and counted...."

Section 15203, provides in part: "...Prior to each election the election official shall instruct the precinct board inspector and as many other board members as possible in the use of the voting equipment and in their other duties."

FINDINGS:

All findings have been substantiated by current documentation, and by interviews or observations conducted by no less than two members of the grand jury, P.C. § 916.

1. Identification envelopes (the envelope in which absent voted ballots are returned) were slit open on November 2, 1992, the day before the agreed ballot processing date scheduled by telephone conversation and confirming Grand Jury letter to the Election Official. See Sections 1400 and 1404.

2. On the morning of Tuesday, November 3, 1992, the slit-open identification envelopes were observed by Grand Jury members to have been stored over night on a table, in the corner of the Election Official's office. See Section 1013.

3. The processing of returned absent voter ballots was interrupted by one of the election office clerks, because the manner in which ballots were being removed from the identification envelopes allowed for the opportunity to identify the voter who had voted the ballots. See Sections 1404 and 15203.

4. During the processing of the voted absent ballots, one ballot was found to have a note requesting that a previously voted ballot be canceled. Because the voter could not be identified the ballot being processed was voided. See Section 1011.

5. On election day a voter walked into the Election Official's office asked for and was given an absentee ballot, went out to his car, marked and returned the ballot to the clerk. See Section 1014.

6. Some persons who returned voted ballots to the elections office were not asked to show identification to prove they were the person who had voted the ballot or authorized to return the ballot by the person who had voted the ballot. See Section 1013.

CONCLUSIONS:

The Grand Jury members did not observe any instance where the confidentiality of any absent voter ballot was compromised. However, there was ample opportunity for any person having access to the office where ballots were stored, to learn how any of those ballots were voted and by whom. Members of the Grand Jury are confident that the type of envelopes presently used are adequate. In the interest of cost effectiveness, the procedures for processing absent voter ballots can be revised to ensure the confidentiality of the voted ballots.

RECOMMENDATIONS:

1. That the Election Official review and if necessary revise existing procedures for processing absent voter ballots to ensure that observers are given the opportunity to be present during the entire process as described in Section 1404.

2. That the Election Official provide a more secure type of storage for the voted absent voter ballots to ensure they are not in plain view or easily accessible. See Sections 1013 and 1404.

3. That the Election Official review and as necessary revise existing procedures for processing absent voter ballots and the training of precinct workers, to ensure voter confidentiality. See Sections 1404 and 15203.

4. That the Election Official review and revise existing recording procedures to ensure that no voter has received two ballots or is allowed to vote twice. See Section 1011.

5. That the Election Official review and if necessary revise existing procedures to ensure that eligible voters who vote absent voter ballots at the office of the election official do so in accordance with Section 1014.

6. That the Election Official review and if necessary revise existing procedures to ensure that the person delivering the voted absent voter ballot to the election office is authorized to do so. See Section 1013.

Penal Code Section 916, states in part: "... all problems identified in a final report are accompanied by suggested means for their resolution, including financial, when applicable."

On the above recommendations the Grand Jury suggests the following:

1. That in the future a schedule be developed on the processing of absent voter ballots and adhered to so that observers have an opportunity to observe the entire process.

2. A locking metal cabinet with an approximate cost of $350.00 would provide adequate storage.

3. That the procedure for processing absent voter ballots ensures that the precinct workers who remove the voted ballots from the gray inside envelope are not able to associate the voted ballots with the identification envelope which has the name of the voter.

4. Self explanatory.

5. That an area be designated or marked off at the elections office where absent voter ballots may be voted and that office clerks be instructed on the purpose of this area.

6. That all election office employees be instructed on Election Code Section 1013, to ensure that all persons delivering voted ballots are authorized to do so.

COMMENTS REQUIRED ON FINDINGS:

Yuba County Election Board: Finding 2.

Yuba County Election Official: Findings 1, 2, 3, 4, 5, & 6.

COMMENTS REQUIRED ON RECOMMENDATIONS:

Yuba County Election Board: Recommendation 2.

Yuba County Election Official: Recommendations 1, 2, 3, 4, 5, & 6.

YUBA COUNTY

GENERAL PLAN

COMMENTS REQUIRED ON FINDINGS:

Yuba County Board of Supervisors: Findings 1 & 2.

COMMENTS REQUIRED ON RECOMMENDATIONS:

Yuba County Board of Supervisors: Recommendations 1 & 2.

GENERAL PLAN

REASON FOR INVESTIGATION:

The Grand Jury received complaints alleging that Yuba County may have approved specific plans while knowing that the General Plan of Yuba County did not meet the minimum requirements of the law.

BACKGROUND:

The State of California requires that each county write and maintain a general plan in accordance with the State's General Plan Guidelines and applicable Govt. Codes.

California's General Plan Guidelines explains what a general plan is and what it is required to do. "....AN ADEQUATE general plan is one that serves as a useful guide for local decision making. It must meet the minimum requirements of state law: addressing each issue prescribed by state law as it applies to the community; addressing each issue through data and analysis, policy, and an implementing program; and maintaining internal consistency among its components. The general plan is a comprehensive long-term document, covering all territory within the jurisdiction and any adjacent related lands, while reflecting the needs of the region population.

There is also a "common sense" standard of adequacy which requires that the general plan focus on the issues of greatest local concern. It must be organized and written so as to serve as a clear and useful guide for decision makers and citizens. Further, the general plan should be available to all those concerned with the community's development....The role of each community's general plan is to act as a "constitution" for development, the foundation upon which all land use decisions are to be based. It expresses community development goals and embodies public policy to the distribution of future land use, both public and private...."

In addition to general plans, the county may develop area plans, also called specific plans, for the purpose of developing specific areas within the jurisdiction of the general plan. The State guidelines previously quoted says this, in part, on the subject of area, or specific, plans. "....The general plan must contain a discussion of the role of area plans and their relationship to the general plan. Similarly, each area plan should discuss its specific relationship to the general plan...."

SCOPE:

The Grand Jury undertook the task of determining whether the Yuba County General Plan meets the requirements of the law, and, if it appeared not to, to discover if any specific plans had been adopted under it.

PROCEDURE:

The Grand Jury studied the County's General Plan, the draft for the proposed new general plan, the planning and zoning portion of the Govt. Code, the state General Plan Guidelines, and conducted several interviews on the subject.

DISCUSSION:

General Plans

The Yuba County General Plan was last revised in 1982. Although it has undergone some amendments since then, it is admittedly outdated, rendering it not sufficient nor specific enough to meet the needs of the county, and is therefore in the process of a full revision by contract to QUAD company in Sacramento and sub-contract to K.D. Anderson at a cost of $270,000. This contract is for the full revision including the present draft and all updates to follow, which are to take place after public input, Citizen Advisory Committee review, and County review.

Chapter 1, California General Plan Guidelines, states in part:

"...THE GENERAL PLAN IS INTERNALLY CONSISTENT

The concept of internal consistency, as used in California Planning Law, means that no policy conflicts exist, either textual or diagrammatic, between the components of an otherwise complete and adequate general plan.

In 1975, the Legislature reaffirmed the unitary nature of the general plan by instituting the internal consistency doctrine as part of the basic general plan law..." Reference, Govt. Code Section (§) 65300.5.

Definition

Having reviewed court cases involving the question of consistency and conformity, the State Attorney General opined that, "Apparently, the term 'consistent with' is used interchangeably with 'conformity with.' The courts have held that the phrase 'consistent with' means 'agreement with; harmonious with.' Webster defines 'conformity with' as meaning harmony, agreement when used with 'with.' The term 'conformity' means in harmony therewith or agreeable to." (See Ops.Cal.Atty.Gen.21,25(1975)

A county's general plan must also be adequate, that is, comply with the minimum state requirements to, among other requirements, contain seven elements:

1. Housing, 2. Noise, 3. Seismic & Safety, 4. Circulation, 5. Land Use 6. Conservation, and 7. Open Space. General plans (and individual elements therein) are required to be updated and/or reviewed in accordance with code designated timeframes. Ca. General Plan Guidelines, Ch.1 pgs 13,14 and Govt. Code § 65302.

The General Plan Guidelines states in part:...."The general plan should be reviewed regularly regardless of its horizon, and revised as new information becomes available and as community needs and values change. Unless it is periodically updated, a plan will become obsolete in the face of community change. A general plan based upon outdated information and projections is not a sound basis for day-to-day decision making and may be legally inadequate....As a general rule, major general plan revisions should occur at least every four to five years...."

Specific Plans

For the county to legally approve any specific plan, that specific plan must be adopted under the umbrella of a consistent and adequate general plan, and must also be consistent with that general plan.

"No specific plan may be adopted or amended unless the proposed plan or amendment is consistent with the general plan." Govt. Code § 65454.

The California General Plan Guidelines quotes this opinion and ruling:

"A finding of consistency with an inadequate general plan is a legal impossibility" (adapted from 58 Ops.Cal.Atty.Gen.21,24 (1975) and Neighborhood Action Group v. County of Calaveras (1984) 156 Cal.App.3d 1176, 1184).

The Grand Jury is of the opinion that the county would not be investing $270,000 for the purpose of revising and updating the general plan if that current general plan met the criteria of consistency and adequacy as designated by law. The fact that any specific plan adopted must be consistent with an adequate and consistent county general plan, combined with the knowledge that Yuba County's General Plan is undergoing revision to bring it into compliance, should halt the passing of any specific plans until the general plan is made adequate and consistent.

FINDINGS:

All findings must be substantiated by current documentation, and by interviews conducted by no less than two members of the grand jury, P.C. § 916.

1. The Yuba County General Plan is currently in the revision process to bring it into compliance with state requirements and Govt. Code.

2. The Board of Supervisors approved a specific plan - namely The Spring Valley Plan (Resolution #92-24) - in February of 1992 while the Yuba County General Plan was inconsistent, outdated, and inadequate.

RECOMMENDATIONS:

P.C. § 916, states in part: "....all problems identified in a final report are accompanied by suggested means for their resolution, including financial when applicable."

1. That the Board of Supervisors follow-up to ensure that the new General Plan meet the criteria of the state guidelines and of the Govt. Code as it pertains to general plans.

2. That the Board of Supervisors discontinue further approval of any specific plan or major development until such time that the general plan is brought into compliance with present standards as required by state guidelines and Govt. Code.

COMMENTS REQUIRED ON FINDINGS:

Yuba County Board of Supervisors: Findings 1 & 2.

COMMENTS REQUIRED ON RECOMMENDATIONS:

Yuba County Board of Supervisors: Recommendations 1 & 2.

YUBA COUNTY

GRAND JURY FINAL REPORTS AND COMMENTS BY GOVERNING BODIES

COMMENTS REQUIRED ON FINDINGS:

All elected Governing Bodies and elected Officials in Yuba County:
Findings 1 & 2.

COMMENTS REQUIRED ON RECOMMENDATIONS:

All elected Governing Bodies and elected Officials in Yuba County:
Recommendations 1 & 2.

NOTE:

"All elected Governing Bodies and elected Officials in Yuba County" - means all Officers, Boards, Councils and Commissions elected by the voters of Marysville, Wheatland or Yuba County, and especially those elected officers whose conduct the Board of Supervisors has a responsibility to supervise pursuant to Government Code section 25303.

GRAND JURY FINAL REPORTS AND COMMENTS BY GOVERNING BODIES

REASON FOR INVESTIGATION:

Penal Code Section 933.(c), requires that the currently impaneled Grand Jury keep in its control a five year file of Grand Jury final reports and the comments submitted as responses by local governing bodies and elected officials. In attempting to comply with the code, the Grand Jury discovered several instances of non-compliance by local government officials in the reporting requirements of Penal Code Section 933.

BACKGROUND:

Penal Code Section 933

Penal Code Section 933, states in part:

"....(a) No later than the end of each fiscal or calendar year of a county, each grand jury impaneled during that fiscal or calendar year shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters....

(c) No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elective county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All such comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years."

SCOPE:

The Grand Jury extended its investigation to determine: (a) whether those required to comment on the Grand Jury findings and recommendations were in fact in compliance with the Code, and (b) who is the "county clerk" mentioned in Penal Code Section 933, that is responsible to keep on file Grand Jury Final Reports and Responses. The report attempts to answer the following questions:

1. Do governing bodies and elected officials have the authority to disregard Penal Code Section 933.(c), i.e., to comment on the Grand Jury findings and recommendations?

2. Do the governing bodies and elected officials have the authority to delegate their duty to comment on the Grand Jury findings and recommendations to non-elective government officials?

3. If the governing bodies do have the authority to delegate their duty to comment on the findings and recommendations, should this duty be delegated to the same officials that are scrutinized by the Grand Jury report?

4. May governing bodies prepare the response to Grand Jury reports without allowing the public to participate in the discussion and approval of the responses to be submitted to the court?

5. Who is responsible to ensure that the comments submitted as responses to Grand Jury findings and recommendations are submitted in a timely manner and to maintain a file of final reports and responses as required by the Code?

PROCEDURE:

Grand Jury members commenced their investigation by ensuring that the Grand Jury had on file the last five years of Grand Jury Final Reports and Responses as required by the Code. Grand Jury members then researched codes and court decisions and conducted informal interviews with the jury's legal advisors. Grand juries from other counties were contacted to for information on the importance given to and how Grand Jury final reports and responses are addressed by grand juries and the courts. Grand Jury members then created an index of local governments, local agencies, districts and county departments that had been investigated during the last five years.

DISCUSSION:

The Grand Jury realizes that Grand Jury final reports and comments thereto have sometimes become sensitive and controversial subjects. It is not the intent of this Grand Jury to exacerbate this problem, but rather to ensure that Grand Jury Reports and Responses are addressed as required by Penal Code Section 933, and that Grand Jury Final Reports and Responses be given the attention required to make the Grand Jury an effective tool in ensuring that local governments are operating in the best interest of the people.

The Grand Jury found that not all governing bodies were responding, and some of those that did respond, did not comment as prescribed by Penal Code Section 933.

Penal Code Section 933.(c), distinguishes between findings and recommendations and requires that the governing body of the public agency and elected officials <u>comment</u> on the findings and recommendations of the Grand Jury final report.

In order to avoid any confusion or misunderstandings, the legal definition of the terms "Governing Body", "Comment" and "File" are used as defined in "Black's Legal Dictionary."

Governing Body - "Governing body of institution, organization or territory means that body which has ultimate power to determine its policies and control its activities."

Comment - "The expression of the judgement passed upon certain alleged facts by a person who has applied his mind to them and who, while so commenting, assumes that such allegations of fact are true. The assertion of a fact is not a "comment." (Emphasis added)

File - "A record of the court. A paper is said to be filed when it is delivered to the proper officer, and by him received to be kept on file as a matter of record and reference. But, in general, "file," or "the files," is used loosely to denote the official custody of the court or in the offices of the court where the records and papers are kept."

It is a well settled principle that a board of supervisors may not delegate to others powers and duties which require the exercise of reason, judgment, and discretion. *Scollay v. County of Butte, 67 Cal. 249, 254-255 (1885); Stowe v. Maxey, 81 Cal. App. 532, 547 (1927); 54 Ops. Cal. Atty. Gen. 154, 156 (1971); Cf. Egan v. San Francisco, 165 Cal. 576, 584 (1913); Irwin v. City of Manhattan Beach, 65 Cal. 2d 13, 23-24 (1966).*

In House v. Los Angeles County (1894) 37 P. 796, 104 C. 73, the court said: "....the board of supervisors, in the absence of positive law authorizing it so to do, cannot, in any case, appoint an agent to exercise powers which it cannot itself exercise. In the exercise of powers conferred upon it, it may appoint agents to discharge ministerial duties not calling for the exercise of reason or discretion, but cannot go beyond this, and delegate to others duties, the discharge of which, calling for the use of reason and discretion, are regarded as public trusts."

The Office of the Attorney General in 1989 issued a publication titled "OPEN MEETING LAWS" which is a compilation and discussion of the laws, court decisions and Attorney General opinions concerning the requirements for open meetings of governmental bodies in California.

The publication in paragraphs 6, & 7, page i., states in part: "....

6. Under recent legislation, local bodies are required to take steps to insure public participation in meetings....

7. Under recent legislation, local bodies may have their actions taken in violation of the open meeting laws declared null and void by a court. Suits may be initiated by interested persons within limited time frames...."

The publication on page 7., states in part: "....

Open meeting laws represent the Legislature's determination of how the balance should be struck between public access to the activities of a public body on the one hand and the need for secret candor, debate, and information gathering on the other. As the rest of this pamphlet will indicate, the balance has been struck in favor of public access....

The purpose of the open meeting laws,... is to require that all aspects of the decision-making process by ... local legislative bodies be conducted in public. These laws have been interpreted to mean that all of the deliberative processes by multi-member bodies, including discussion, debate and the acquisition of information, be open and available for public scrutiny. (Sacramento Newspaper Guild v. Sacramento County Bd. of Suprs. (1968) 263 Cal. App. 2d41; 42 Ops. Cal. Atty. Gen. 61, 63 (1963); 32 Ops. Cal. Atty. Gen. 240 (1958).) These laws only apply to multi-member bodies such as councils, boards, commissions, etc., since, unlike individual decision makers, such bodies are supposed to arrive at collaborative decisions through public discussion and debate...." (Emphasis added)

Current practice is for governing bodies (Boards-Councils) and elected officials to refer the Grand Jury Final Report to staff or appointed officials for report back. The staff or appointed officials use up the 60 or 90 day time period creating a deadline constraint. The governing bodies, because of a pinch for time, adopt the staff report as their own comments and approve them as a consent agenda item, and transmit the report to the Presiding Judge. The Court makes no comment.

The responses are filed as received. The public knows little if anything of the substance or dynamics of the final report or the responses.

The Presiding Judge of the Yuba County Superior Court, effective September 1, 1989, as provided by Govt. Code Section 69898, separated the office of the Clerk of the Superior Court from the office of the County Clerk. By its action the Yuba County Superior Court assigned the responsibility to keep on file Grand Jury reports and responses to the Superior Court Clerk and not to the "county clerk" referred to in Penal Code Section 933.(c).

FINDINGS:

All findings have been validated and substantiated by current documentation, and by interviews or observations conducted by no less than two members of the Grand Jury as required by Penal Code Section 916.

1. Penal Code Section 933.(c), requires that governing bodies and elected officials themselves comment on Grand Jury final report findings and recommendations.

2. The laws have been interpreted to mean that all of the deliberative processes by multi-member bodies, including discussion, debate and the acquisition of information, be open and available for public scrutiny. (Sacramento Newspaper Guild v. Sacramento County Bd. of Suprs. (1968) 263 Cal. App. 2d 41; 42 Ops. Cal. Atty. Gen. 61, 63 (1963)

CONCLUSIONS:

Based on the above, the Grand Jury has concluded that it is the nondelegable duty of governing bodies and elected officials themselves to comment on the **Findings and Recommendations** of the Grand Jury Final Report. In-as-much as boards/councils are made up of several individuals, it follows that there should be an open workshop discussion to jointly consider the merits of and the comments to be made on the findings and recommendations of the Grand Jury report. The purpose of the workshop would be in keeping with the open meeting laws, whose purpose is to require that all aspects of the decision-making process by local legislative bodies be conducted in public. These laws have been interpreted to mean that all of the deliberative processes by multi-member bodies, including discussion, debate and the acquisition of information, be open and available for public scrutiny. Grand Jury members have also concluded that governing bodies do not have the authority to merely forward the responses, of non-elective officials, as their own, because they do not have the authority or the discretionary power to delegate their lawfully mandated duty to exercise their powers of reason and judgement in formulating their comments.

The Grand Jury has further concluded, since both the currently impaneled Grand Jury and the Superior Court Clerk are an arm of the Court and both are required to keep on file Grand Jury reports and responses, that it would be in best interest of both the Jury and the Clerk to adopt a

procedure, similar to that depicted in "Exhibit A" of this report, to ensure final report responses are received and filed in a timely manner.

RECOMMENDATIONS:

1. That governing bodies and elected officials review existing procedures and if necessary revise them to ensure that all comments submitted as responses to Grand Jury findings and recommendations are in fact their own comments and not those of appointed officials or staff.

2. That the deliberative processes by multi-member bodies in assembling comments to Grand Jury findings and recommendations as responses to the Grand Jury final report be open and available for public scrutiny.

Penal Code Section 916, states in part: "...all problems identified in a final report are accompanied by suggested means for their resolution, including financial, when applicable."

On the above recommendations the Grand Jury suggests the following:

1. That governing bodies and elected officials who are required to comment on Grand Jury findings and recommendations as a minimum consider the following:

As to each FINDING: the response shall indicate one of the following:

A. THE GOVERNING BODY OR ELECTED OFFICIAL AGREES WITH THE FINDING.

B. THE GOVERNING BODY OR ELECTED OFFICIAL DISAGREES WHOLLY OR PARTIALLY WITH THE FINDING. The response shall specify the portion of the finding that is disputed and include an explanation of the reasons.

As to each RECOMMENDATION, the response shall indicate one of the following actions:

A. THE RECOMMENDATION HAS BEEN IMPLEMENTED. A summary of significant detail shall be included.

B. THE RECOMMENDATION HAS NOT BEEN IMPLEMENTED, BUT IT IS THE INTENT OF THE GOVERNING BODY/ELECTED OFFICIAL TO IMPLEMENT IT. A time frame for implementation shall be included.

C. THE RECOMMENDATION REQUIRES FURTHER ANALYSIS. A detailed explanation shall be included stating the scope and parameters of the study with a time frame as to when the matter will be prepared for discussion by the respondent governing body or public officer. This time shall not exceed six months from the date of publication of the Grand Jury Report.

D. THE RECOMMENDATION WILL NOT BE IMPLEMENTED, BECAUSE IT IS NOT WARRANTED OR IS NOT FEASIBLE. An explanation shall be included.

2. That open workshops for the deliberative processes by multi-member bodies, including discussion, debate and the acquisition of information in assembling comments to Grand Jury reports, be open and available for public scrutiny, and scheduled in a binding agenda similar to other workshops, e.g., Budget Workshops.

COMMENTS REQUIRED ON FINDINGS:

All elected Governing Bodies and elected Officials in Yuba County: Findings 1 & 2.

COMMENTS REQUIRED ON RECOMMENDATIONS:

All elected Governing Bodies and elected Officials in Yuba County: Recommendations 1 & 2.

FINAL COMMENTS

"All elected Governing Bodies and elected Officials in Yuba County" - means all Officers, Boards, Councils and Commissions elected by the voters of Marysville, Wheatland or Yuba County, and especially those elected officers whose conduct the Board of Supervisors has a responsibility to supervise pursuant to Govt. Code Section 25303.

MONITORING THE RESPONSE TO THE G. J. FINAL REPORT

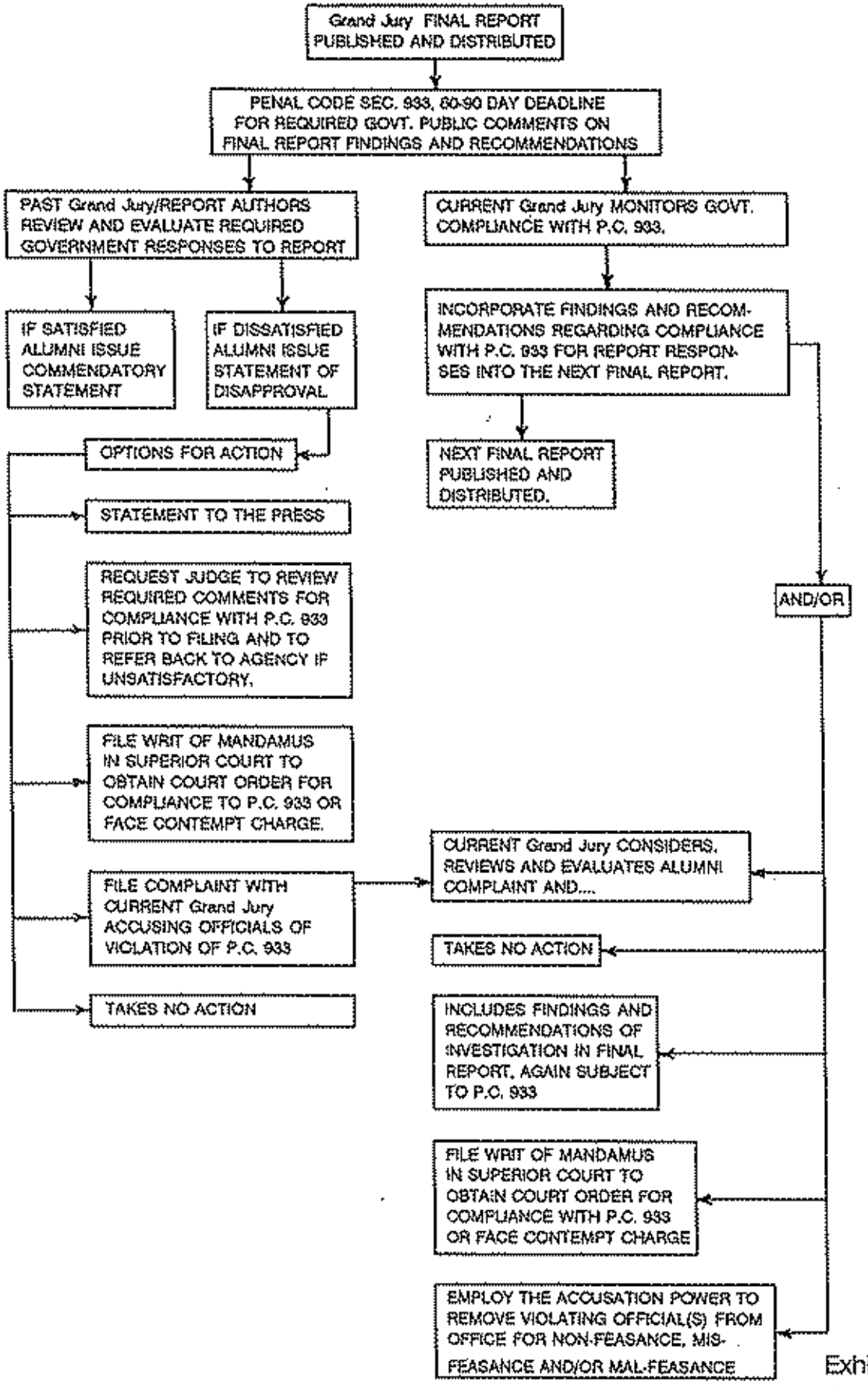


Exhibit A

YUBA COUNTY

PEACH TREE CLINIC

COMMENTS REQUIRED ON FINDINGS:

The Yuba County Board of Supervisors: Findings 1 & 2.

COMMENTS REQUIRED ON RECOMMENDATIONS:

The Yuba County Board of Supervisors: Recommendations 1 & 2.

PEACH TREE CLINIC

REASON FOR INVESTIGATION:

Investigated as a recommended follow up in the 1991-92 Grand Jury Report for the purpose of determining; (1) level of medical services, (2) current financial status, (3) patient access regardless of ability to pay, (4) review operations pursuant to the newly initiated contract with United Community Medical Services (UCMS), a private sector medical corporation. Investigations are pursuant to and in accordance with Penal Code Chapter 3, Article 2.

BACKGROUND:

The Peach Tree Clinic has been located at 6000 Lindhurst Avenue, Suite 601-A, Marysville, California, for the past few years where medical services are provided to the residents of Yuba County. Yuba County has operated the Clinic in an effort to meet the medical needs of all residents regardless of their ability to pay. In July of 1992 the county contracted with (UCMS) to form a joint venture medical facility with private management and UCMS/Yuba Co. shared funding.

SCOPE:

The scope of the investigation was limited to the following: (1) Number and type of medical staff (2) Number and positions of clerical staff (3) Level of medical services provided (4) Timeliness of services (5) Professionalism of staff (6) Compliance with safety standards (7) Financial status (8) Operations and personnel under the newly contracted organization.

PROCEDURE:

1. On-site Visitation
   A. Toured facility
   B. Interviewed the director and clinic manager
2. Reviewed the following documents
   A. Policy and Procedures Manual
   B. Fire Inspection Reports
   C. Clinic Facility Layout Map
3. Surprise visit to check available services from patient's perspective

DISCUSSION:

Adequate medical services are available to all residents of Yuba County regardless of their financial status. In early January, the clinic expanded it's normal hours of 8:00 to 5:00 to be open from 8:00 till 8:00 on monday through Thursday and in March they began providing services on Saturdays. Medical services are available by appointment or on a walk-in basis. Patients with appointments are treated in a timely manner while walk-in patients are served on a time available

basis. No patient is subjected to unreasonable waiting periods and emergencies are addressed based on their urgency. The Clinic's medical staff consist of three physicians (MD's), two physician's assistants (PA's), one nurse practitioner, and five nurses. The clerical staff is comprised of four 5 registration clerks, two medical records clerks, three business office personnel, one lab technician, and one radiology technician. Prior difficulties in obtaining staffing has been addressed and is currently not a problem. From July 1992 through September 1992 the medical staff treated an average of 102 patients per day for a wide variety of ailments. During October and November, the daily average increased to 108 cases per day. The Clinic provides initial medical treatment, x-ray facilities, urgent care, and treatment of routine illnesses. The Clinic does not provide extended care; however, the attending physician will admit patients that require more intensive care to the Rideout Hospital where he will be able to provide the medical services commenserate with the patients needs. In a cost-saving effort the Clinic closed its pharmacy and made arrangements with a nearby pharmacy to provide for their patients needs. The new management concept with UCMS has fostered a close working relationship between the Clinic and Rideout Hospital, a UCMS medical facility. This has resulted in better meeting the medical needs of Yuba County residents. The Clinic is operated under a well structured policies and procedures manual and is managed by a seven member advisory board, consisting of three UCMS members, two Yuba County members, The Yuba County CA, and one member who is selected at large. This seven member board establishes policy and oversee clinic operations. Medical services are commensurate with the patient's needs and are provided in a timely manner. This contractual arrangement with UCMS establishes the distribution of responsibility relative to operating cost; wherein the UCMS pays the first $250,000 and the County is obligated for the remainder. The total projected costs for the fiscal year, July 1992 through July 1993, is $556,000. Of this amount the County is responsible for $306,000, which is approximately 1/3 of the cost paid by the County in 1991/92. There is no current inspection report on file from the state fire marshall's office, but fire safety practices are addressed and evacuation plans are in the process of being written. The patient's perception of the Clinic has continued to improve during the last year.

FINDINGS:

All findings have been substantiated by current documentation and by observation and interviews conducted by no less than two members of the grand jury. P.C. § 916

1. The current fire inspection report is not available.

2. The Yuba County/UCMS contract has been in effect for less than one year, therefore new approaches and practices are still being evaluated. Operational guidelines and a thorough financial analysis are still in the initial stages of review.

RECOMMENDATIONS:

P.C. § 916, states in part: ".... All problems identified in a final report are accompanied by suggested means for their resolution, including financial when applicable."

1. That the Fire marshall's safety inspection and evacuation procedure be implemented at the earliest possible time.

2. That a thorough review of operations and services be conducted after the first year of the new Clinic's operation (Yuba County/UCMS).

COMMENTS REQUIRED ON FINDINGS:

Yuba County Board of Supervisors: Findings 1 & 2.

COMMENTS REQUIRED ON RECOMMENDATIONS:

Yuba County Board of Supervisors: Recommendations 1 & 2.

YUBA COUNTY

PUBLIC LANDS
YUBA GOLD FIELDS

COMMENTS REQUIRED ON FINDINGS:

Yuba County Board of Supervisors: Findings 1, 2, & 3.

COMMENTS REQUIRED ON RECOMMENDATIONS:

Yuba County Board of Supervisors: Recommendations 1, 2, & 3.

PUBLIC LANDS
YUBA GOLD FIELDS

REASON FOR INVESTIGATION:

The 1992-93 Grand Jury received a citizen's complaint that questioned the ownership and access to public and private lands commonly referred to as the Yuba gold fields. The basis for the complaint is that the true ownership of these lands is in question.

BACKGROUND:

The area known as the Yuba gold fields has historically been a deep bucket gold dredging operation with no apparent problem with the legal title to the lands. A few years ago after some lands in the Yuba gold fields changed management and because of other internal matters some lands were surveyed. During this survey it was found that there was a disparity over clear title to portions of the lands within the Yuba gold fields. Pockets of lands were never patented and legally still belong to The Federal Government.

Penal Code

Section 920 Investigation of ownership, transfer or sale of realty subject to escheat; order directing institution of proceedings

The grand jury may investigate and inquire into all sales and transfers of land, and into the ownership of land, which, under the state laws, might or should escheat to the State of California. For this purpose, the grand jury may summon witnesses before it and examine them and the records.The grand jury shall direct that proper escheat proceedings be commenced when, in the opinion of the grand jury, the evidence justifies such proceedings.

Yuba County Ordinance Code

Section 11.20.010, states in part: "...This chapter is adopted pursuant to the requirements of the Surface Mining and Reclamation Act of 1975, as set forth in §§ 2710 et seq. of the Public Resources Code of the State of California, which require local public agencies to establish procedures for the review and approval of Reclamation Plans and issuance of permits to conduct surface mining operations...."

SCOPE:

The Grand Jury limited its investigation to determine, if possible, the ownership of the properties normally referred to as the Yuba gold fields and. The Grand Jury also asked these questions: Could the County be losing property tax revenue? Could these lands, under state law, might or should, escheat to the State? Is the use of these properties in compliance with existing County Codes?

PROCEDURES:

Members of the Grand Jury met with the following Yuba County Officials; Director of Public Works, Director of Yuba County Water Agency, Planning Department, Assistant Assessor, and reviewed public documents. Members of the Grand Jury made a field trip to the gold fields and spoke with numerous interested county citizens. The Grand Jury communicated with officials of the Bureau of Land Management (BLM), and attended a meeting on a proposed land swap by the BLM on lands they have acquired, and lands they may acquire title to in the future, within the Yuba gold fields.

DISCUSSION:

The question as to legal ownership of properties located in the Yuba gold fields is a rather confusing issue. It seems The Federal Government (BLM), the State of California, and several other entities have or claim legal property rights within this area. Historical background information is required to understand the problems that have arisen over true legal ownership of different parcels of land in the Yuba gold fields. The State of California has claims based on the changes of the Yuba River, due to mining operations, and the other entities claims are based on titles and deeds. There was a land survey made in recent years, initiated by some property owners in the gold fields, to divide the land. At this time it was found that legal ownership of some of the lands was in dispute. The State of California is trying to resolve these claims through the judicial system.

The Federal Government (BLM) claims that some of the land was not legally patented but were only mining claims. The BLM has initiated a federal land survey to finalize legal ownership. The BLM states that 461.41 acres of the area is public domain land and has stated that they anticipate this acreage will probably double once the survey plats are completed and approved. Once clear titles are made the BLM will make a decision on whether to keep control or how to dispose of the acreage that is declared public domain.

A reclamation plan for some operations in the Yuba gold fields has been filed with the Yuba County Planning Department under the provisions of Yuba County Ordinance Code Section 11.20.110.

FINDINGS:

All findings must be substantiated by current documentation, and by interviews conducted by no less than two members of the grand jury, Penal Code § 916.

1. It has not been clearly determined which lands within the Yuba gold fields are mining claims and which are privately owned properties.

2. The BLM is presently conducting a cadastral survey to determine the legal boundaries of public domain lands and the State is attempting to reach final resolution on its claims through the courts.

3. The Reclamation Plan filed has not been strictly adhered to or complied with, nor has the County enforced compliance.

CONCLUSIONS:

The Grand Jury can only conclude that the title to some lands within the Yuba gold fields are in question, and that the County may be losing tax revenue. Additionally, there is a possibility of Yuba County obtaining some of these lands for Yuba County citizens. It must be recognized that once these lands are swapped or sold it will be a loss to the citizens of Yuba County.

RECOMMENDATIONS:

P.C. § 916, states in part: "....all problems identified in a final report are accompanied by suggested means for their resolution, including financial, when applicable."

1. That the Board of Supervisors cause an investigation be conducted, to determine the true ownership of all properties within the area commonly referred to as the Yuba gold fields, to assure that the County is collecting the correct property taxes.

2. That the Yuba County Board of Supervisors stay closely abreast of the actions of the BLM and State judicial proceedings and particularly the completion of the BLM land survey and finalization of the official plats. And, that the Board make every effort to acquire for the citizens of Yuba County any land that may become available.

3. That the requirements of Yuba County Ordinance Code Chapter 11.20, be enforced within the Yuba gold fields. That the reclamation plan and addendum which was submitted to the county be monitored for compliance.

COMMENTS REQUIRED ON FINDINGS:

Yuba County Board of Supervisors: Findings 1, 2, & 3.

COMMENTS REQUIRED ON RECOMMENDATIONS:

Yuba County Board of Supervisors: Recommendations 1, 2, & 3.

YUBA COUNTY

14TH STREET SOUTH ANNEX SAFETY AND SECURITY

COMMENTS REQUIRED ON FINDINGS:

Yuba County Board of Supervisors: Findings 1, 2, 3, 4, 5, 6, & 7.

COMMENTS REQUIRED ON RECOMMENDATIONS:

Yuba County Board of Supervisor: Recommendations 1, 2, 3, 4, 5, 6, & 7.

14TH STREET SOUTH ANNEX
SAFETY AND SECURITY

REASON FOR INVESTIGATION:

As a result of a citizen's complaint, an inquiry was conducted into the safety and security of the 14th Street South Annex. Additionally, the Grand Jury took this opportunity to address recommendation number two, on page 30 of the 1991-92 Grand Jury Final Report that the 1992-93 Grand Jury follow-up on the implementation of the County's "Injury and Illness Prevention Program."

BACKGROUND:

The 14th Street South Annex, located at 938 14th Street, Marysville, California is a World War II vintage building that is currently undergoing close to a million dollars remodeling to extend its usefulness to house various county offices and as temporary courtrooms while the Yuba County Courthouse is undergoing remodeling.

There are several laws and regulations governing the safety and security of county owned or operated facilities. These are aimed at the physical safety of county personnel and the general public, as well as their security in and adjacent to these facilities. Laws considered particularly germane to the 14th Street South Annex and immediate area are as follows:

Senate Bill 198
(B. Greene Bill)

Regulates self-insurance of employers requiring them to meet set safety standards for employees' work environment to be eligible for a Certificate of Consent to self-insure.

Uniform Fire Code

Establishes the requirements for fire prevention and suppression. Section 10.505, among others, addresses the requirements for portable fire extinguishers and fire extinguishing systems.

Title 19 - State Fire Marshal

In Section 597, addresses the inspection requirements of fire extinguishing equipment.

National Fire Protection Association

In Chapter 3, addresses the minimum number of fire extinguishers required, their location and distribution.

Uniform Building Code

The Uniform Building Code addresses the construction requirements for various types of buildings. In Chapter 33, the code addresses the requirement of "Exits, the type, location, size, and construction for various types, size, and use of buildings.

SCOPE:

The Grand Jury confined its investigation primarily to the safety and security of employees, real and perceived. The investigation did expand to a minor degree into other areas which can impact on the morale and perceived security of employees with questions focusing on working conditions, harassment, use of profanity and telling of off-color stories.

PROCEDURES:

Members of the Grand Jury conducted research of applicable codes, rules and regulations, walk through observations with emphasis on work place safety, interviewed employees, department heads, and those persons considered to be experts in the fields of work place safety and security.

DISCUSSION:

Yuba County is a "self-insuring" agency as it pertains to employee safety requirements of Senate Bill 198 (Greene Bill). Eligibility for a certificate of consent to self-insure requires that the county provide a safe environment for its employees. Included in the requirement is the maintenance of certain standards of safety, and the establishment, implementation, and maintenance of effective written injury prevention programs.

Walk Through Observations

The initial walk through was conducted with the City Fire Chief and representatives from the Sheriff and General Services Departments. During this walk through several conditions were noted. The emergency exit from Court Room A exits into the custody area where passage is blocked by a chain link fence, with a locked gate hinged to swing inward instead of outward. Also, some interior hallways were used for storage of flammable boxes and other items. In one instance a fire extinguisher cabinet door was partially blocked by supply boxes. Finally, the fire hydrants around the building are of a non-standard type and obsolete design with non-standard thread connections at a height that was also non-standard. Together these factors would cause significant delays in coupling fire hoses during emergency conditions. Thread adapters would have to be attached and the wrenches could not swing freely during the process. There may also be a problem of inadequate water volume and pressure to deal with a major fire. (See Exhibit A)

Parking Lots and Lighting

Most of the comments concerning poor lighting referenced the south parking lot, and the dappled shadows made by lights shining through leaves and branches of the deciduous trees. Several employees commented that exterior lights were sometimes inoperative for extended periods.

A number of employees commented that they feel much safer since a security fence was erected around the south parking lot. However, it was pointed out that they still felt unsafe especially after dark, because of the amount of pedestrian traffic between the river bottom and Marysville proper. Installation of an appropriate cyclone gate on 14th Street at the levee, and its closure during hours of darkness would eliminate unnecessary traffic and increase perceived safety.

The lack of a sidewalk to the south parking lot forces pedestrians onto the rough and uneven grassy area, and there are some low spots/pot holes in the parking lot proper.

The one hour lot at the northeast corner of the Annex has a low, black asphalt curb. Because the asphalt curb is almost indistinguishable from the black asphalt parking lot itself, a person could be injured.

Building and Safety

Wooden ramps leading up to entrances to various parts of the building are slippery when wet, and more so when wet and covered with leaves.

Carpeting/rugs were installed over flooring which had holes in the flooring believed to be electrical ports abandoned during the remodeling process. High heels have punched through the floor covering. Some throw rugs have been used to reinforce these walk areas.

It was noted in some instances that working space was crowded, noisy, and in general, not conducive to a good working environment. These conditions were exacerbated during periods when the climate control system did not function properly (too hot or too cold), and employees were forbidden to use personal fans for cooling. They wore coats to keep warm in cold weather. Such conditions may contribute to lowered employee morale and lead to high turnover rates. Crowded and noisy work areas which are visible to the public can also create a feeling that the work being done may lack in quality; while rarely true, such a perception is easily created.

Over half the employees interviewed did not know if an evacuation plan was posted in their working area, or where it was posted if there was one. Well over half said that an evacuation plan had never been explained to them, and there was considerable doubt as to the proper action to be taken in the event of fire, earthquake, bomb-threat, or other disaster.

A significant number of employees felt that another exit is necessary for their safety in the event of a disaster or an emergency. This was particularly important to employees of the Superior Court and Veterans Services Office. It is important to note here that these departments deal on a daily basis with the public, and that neither of them has an emergency exit. This condition could have serious consequences given hostile and/or emergency situations requiring a rapid exit. The tragic event at a local school has made us more aware of what just one threatening or irate person who may be angry at the system or the office is capable of doing. Employees in the departments cited deal with people in all types of crises and emotional states. Prudence suggests that alternate exits be provided before a sudden emergency can claim a victim(s).

Several employees commented about the lack of a burglar alarm system in the building. Their concern was not only for their own safety, particularly at night and on weekends, but because of the sensitivity of some of the records and files maintained in the building. Due to the building's proximity to the river bottoms, and the amount of traffic which occurs during hours of darkness, the use of some sort of alarm, security, or protection system appears needed.

Fire Safety

Twenty-one of the thirty-seven employees interviewed did not know if a fire extinguisher was readily available.

Over half of the employees interviewed stated that they had not been shown how to use the particular type of fire extinguishers installed.

Only about 20% of those interviewed knew what type of fire extinguisher to use on the different types of fires (electrical, inflammable liquids, and wood/paper). Training of employees in the proper use of fire extinguishers is of significant importance to prevent heavy property damage and/or injury. The increasing usage of electrical and electronic equipment greatly increases the fire potential.

Reporting Criminal Activity

Not all the employees interviewed knew which law enforcement agency had jurisdiction in the Annex area. Therefore, in the event of a criminal act there was confusion about whether they should call the Sheriff or the Police. Similarly, the role of court Bailiffs was not clearly understood, and they have been called upon for law enforcement assistance by departments throughout the building complex.

Working Conditions

Generally, employees seem well satisfied with working atmosphere and the professional climate throughout the Annex. There are exceptions, of course, principally those involving crowded or noisy work areas as previously mentioned. There was no suggestion that any supervisor/administrator had ever made a suggestive comment or gesture, and the majority emphatically stated that they would report any such incident. There was general agreement that they either did or could get morning and afternoon breaks.

Dealing With the Public

All of the organizations/offices in which we interviewed employees deal at least occasionally with the public. Twenty-six of the employees interviewed stated that they deal with the public frequently or daily; thirteen of these stated that individuals are often upset or angry. Most of those interviewed were unsure how to deal with a belligerent or angry person, and usually called a co-worker or supervisor if they thought they might need help in dealing with an uncomfortable situation.

FINDINGS:

All findings have been substantiated by current documentation, and by observation and interviews conducted by no less than two members of the Grand Jury, P.C. § 916.

1. Some employees are concerned about inadequate outside lighting and unsafe walking surfaces (interior and exterior).

2. Some employees were not aware of the location or how to use emergency and safety equipment or the procedure on how to address safety or security situations such as dealing with an irate citizen.

3. Some areas did not have an evacuation plan posted as required by code.

4. There is no security alarm system installed, nor is there a specialized roving security patrol for either the north or south annexes.

5. Exterior fire hydrants are antiquated and of non-standard design throughout the north and south annexes, and it is suspected that the fire main water pressure and volume may be insufficient to provide an adequate level of protection.

6. Neither the Veteran's Services office nor the Superior Court Clerk's office has an emergency exit.

7. Existing law permits the State Director of Industrial Relations to revoke a certificate of consent to self-insure under the worker's compensation law at any time for good cause after a hearing. See S.B. 198.

RECOMMENDATIONS:

P.C. § 916, states in part: "... All problems identified in a final report are accompanied by suggested means for their resolution, including financial when applicable."

1. That the Board of Supervisors cause an inspection to be conducted of the interior and exterior of the south annex complex to identify all existing safety and security deficiencies, and that a program be implemented to correct all deficiencies at the earliest.

2. That the Board of Supervisors cause a review of the County's Injury and Illness Prevention Program to ensure that employees are trained in the location and use of safety equipment, and in procedures for addressing safety or security related situations.

3. That evacuation plans for each office or organization be reviewed, updated as necessary, explained to every employee, and be prominently posted in each working area.

4. That a burglar alarm or other suitable security system be provided for the protection of individuals who work at night and on the weekends, as well as for the security of the property itself.

5. That the appropriate modification kits be installed to bring all exterior fire hydrants to current standards and that tests be conducted to determine if the fire main pressure and volume are of acceptable levels to ensure adequate fire protection for the north and south annexes. See Exhibit A.

6. That an alternate exit door be installed in the Veteran's Services office and the Superior Court Clerk's office.

7. That the county take advantage of existing law which requires the Division of Occupational Safety and Health to, upon request, provide a full range of occupational safety and health consulting services which include on site inspections.

On the above recommendations the Grand Jury suggests the following:

That lighting of parking lots be increased to provide full and adequate coverage during hours of darkness. That the feasibility of installing lowered lights under the canopies of deciduous trees in the area be determined. That all exterior lights in regular use be maintained in operating condition. That sidewalks be provided along the narrow south drive of the parking lot. That the surfaces of the parking lot be maintained in a smooth, well drained condition. That curbs in parking lots be painted with reflective paint so as to be readily visible during hours of darkness. That wooden ramps be covered with a non-slip walking surface and that leaves be removed from ramps daily or as needed. That sub-flooring of all areas covered by carpeting or rugs be inspected for presence of holes, cracks or other openings and that any such conditions be corrected.

That the roles of city police, Sheriff's department and Bailiffs be explained to employees. That a training course be developed and presented to employees who deal with the public on a frequent basis, and that it include action to be taken if an individual becomes belligerent, angry, or otherwise acts in a threatening manner.

That the County contemplate a system that would alert either the Marysville Police or the Sheriff's department of a physical compromise of the north or south annexes and surrounding county buildings. Estimation of costs for a system of this nature is beyond the expertise of Grand Jurors.

That fire hydrant connection threads be brought to acceptable standards by installing and tack welding an adaptor at a cost of about $70.00 per hydrant. Fire hydrant height could be easily brought up to an acceptable height by installing readily available modification kits at a cost of approximately $270.00 per hydrant. That the proper calculations be performed to determine the pressure and volume of water required to fight a worst case scenario fire and that tests be conducted of the existing system and if necessary the system be modified to assure that the system provides the proper level of protection. Estimation of costs to modify the existing fire main system is beyond the expertise of Grand Jurors.

COMMENTS REQUIRED ON FINDINGS:

Yuba County Board of Supervisors: Findings 1, 2, 3, 4, 5, 6, & 7.

COMMENTS REQUIRED ON RECOMMENDATIONS:

Yuba County Board of Supervisor: Recommendations 1, 2, 3, 4, 5, 6, & 7.

FINAL COMMENTS:

The members of the Grand Jury were very impressed by the complete openness, honest straightforward answers, and generally pleasant professionalism on the part of each employee interviewed. There were many indicators of "happy" organizations, staffed by loyal, intelligent, efficient personnel. The appreciation of the Grand Jury goes to each of those who participated in the interviews of this investigation.

****** It is noted that some of the items mentioned in this report have already been addressed by the County.**

107 9th Street • Marysville, California 95901 • (916) 741-6622

RICK L. TYE
FIRE CHIEF

August 11, 1992

Mr. Warren Funk
Director of General Services
County of Yuba
938 14th Street
Marysville, CA 95901

Dear Warren:

I have reviewed the manual fire flow requirements for the temporary Superior Courts and remodeling of current structures. The plans that I have been sent do not show the entire county complex so the assumptions made for fire flow are on an estimation of the total square footage of the complex. Also, the fire water distribution system is serviced by a single 6" dead end line.

Based on the information we have available, at least 3,500 gallons per minute are required to provide minimal fire suppression water should it be required. We estimate there to be about 2,000 gallons per minute available; however, this will have to be confirmed by flow testing.

Therefore, until we can meet and determine exact flow requirements for all structures and conduct a flow test of county hydrants, the City Fire Department cannot insure an adequate level of fire protection to the 14th Street County Complex. Please contact me at your earliest convenience to resolve this potential life safety issue.

Sincerely,

Rick L. Tye, Fire Chief
Marysville Fire Department

RLT:sb

cc: Liz Wood

Prev92-860

YUBA COUNTY

DEPARTMENT OF SOCIAL SERVICES

COMMENTS REQUIRED ON FINDINGS:

Yuba County Board of Supervisors: Findings 1, 2A, 2B, 3A, 3B, 4, & 5.

COMMENTS REQUIRED ON RECOMMENDATION:

Yuba County Board of Supervisors: Recommendations 1, 2A, 2B, 3A, 3B, 4, & 5.

DEPARTMENT OF SOCIAL SERVICES

REASON FOR INVESTIGATION:

The investigation was prompted by citizens complaints and was conducted pursuant to Penal Code Chapter 3, Article 2. Due to the current economic climate, the Department of Social Services general operation was also selected for review in the interest in examining potential means of cost savings.

BACKGROUND:

The State Department of Social Services is governed by numerous regulations, statutes, codes, and resolutions. Those regulations which apply to this investigation are the California State Welfare and Institutions Code (W&I) Sections 17000, 10850 and 18100, Federal Social Security Act Title IV-B Section 427, State Penal Code State Department of Social Services Policies and Procedures Manual Division 21, Yuba County Welfare Codes, and various county resolutions. The intent of this department is to provide mandated services to the residents of Yuba County in compliance with all state and federal regulations. In 1991 all agencies of this department were consolidated into one facility which is located at 6000 Lindhurst Avenue, Suite 504, Marysville, California. Only about 14% of the cost of the facility is born by county funds with the remaining 86% paid by state and federal agencies. The net result is that the new location cost the county approximately 9 cents per square foot which is far less than the facility cost of any other county department. The concern for cost effective economics and compliance with governing regulations has become increasingly important over the past couple of years. Violations in the operation of programs or poor accounting practices can result in fines or penalties and can even cause removal of entire programs. The Grand Jury feels that the Department of Social Services is an important agency of Yuba County for both financial and human services reasons and as such must be kept healthy and above reproach.

SCOPE:

The scope of the investigation was limited to general department operations in the following areas:

A. Personnel Management
B. Operational Structure
C. Financial Accounting
D. Program Operations
   1. Implementation
   2. Services Provided
   3. Compliance Review

In order to evaluate the subject areas, the following were reviewed:

A. The fiscal accountability of those areas which are appreciably impacted by County funds.

B. Employment and employee promotional practices.
C. Training of personnel for current and future job assignments.
D. Overall employee morale within divisions and department wide.
E. Operational compliance with all relevant regulations and codes.
F. Maximum utilization of the facility and the efficiency of operations.
G. County General Relief for compliance with governing resolutions.
H. Child Protective Services (CPS) case to evaluate the protection and services being provided to the residents of Yuba County.

PROCEDURE:

1. Members of the Grand Jury met with the Director of Social Services and the department heads.
2. Members of the Grand Jury interviewed the House Committee which is comprised of employees from various divisions who serve as a feedback source to upper management.
3. Documents and reports obtained for evaluation:
   A. Welfare Institutions Code 10850, 17006, 18109, 18110
   B. State Penal and Evidence Codes Section 925 & 1040
   C. Department Budget
   D. State Policies and Procedures Manual Section 19-001---19-004.11
   E. Social Services Department Employee Manual
   F. Social Services Department Accounting Procedures Manual May 1992
   G. State Attorney General's opinion 84-308 (In-home Care)
   H. Social Services Department (Mail Handbook)
   I. Uniform Fire Code (Compliance with public building safety)
   J. California Building Code Chapters 7, 10, & 14 (Class B Structure)
   K. Social Services Department Fire Safety Plan
   L. Social Services Department list of programs and caseloads
   M. Social Services Department Job Titles and Descriptions
   N. Yuba County Resolution 1976-131 & 1983-18 and relevant amendments
   O. Social Services Department General Relief Procedures Manual
   P. State Department of Social Services Civil Rights Compliance Review 1992
   Q. State Department of Social Services 1992 Report on Child Welfare Services Program Review
   R. Selected case from court files on current CPS case (on-site review)
   S. Social Services Department Employee Opinion Survey March 1992 conducted by the Center for Human Services Training And Development of the University of California at Davis.
4. Members of the Grand Jury were given a tour of the complete facility and invited to discuss any issues with employees.

DISCUSSION:

The 1992-93 total budget for the Social Services Department was 38.2 million of which only 3.4 million was funded by Yuba County. Of the 3.4 million, the county received 1.5 million in revenue, leaving only 1.9 million funded from the county tax base. The primary programs provided by the Social Services Department are:

1. Aide to Families with Dependent Children (AFDC)

2. Greater Avenues for Independence (GAIN)
3. Job Development and Training Department (JTPA)
4. Medi-cal
5. Food Stamps
6. Adult Services
7. General Relief (GR)
8. Indigent Burial
9. Child Protective Services (CPS)

Operation of the above programs normally requires 228 management and clerical positions. Due to current budget constraints the county has eliminated more than 30 positions while the case load continues to grow at a rate of 2 to 3% per year. The total cost of personnel is approximately 8 million annually, therefore, over 30 million is distributed in cash or services to eligible Yuba County residents. In an effort to reduce costs Yuba County initiated a four-day work week (four 10-hour days), which has resulted in a 25% increase to the daily case load. The current caseload is 135 cases per worker for AFDC and Food Stamp, and 280 cases per worker for Medi-cal. The 17 current GR cases must requalify monthly and are counted for under the AFDC caseload. Eligibility for AFDC does not require a permanent address. The case workers, eligibility workers and assistants are now helping one another as needed in order to provide the required services. Current budget reductions have resulted in the following:

A. In home services have been reduced by 12%.
B. AFDC funds have been reduced by approximately 10%.

The Social Services Department averages approximately 13 to 14% employee attrition rate which is reflective of the high job stresses and mobility of the area residents.

Historically, employee morale has been a problem which has been addressed through various avenues. The department at large has an average attrition rate of approximately 30 employees per year. Surveys from outside agencies (procedures section item 3.P and 3.S), formation of the House Committee (procedure section item 2), expanded employee training and various types of personnel management procedures have all contributed to minimizing the issue of employee morale while improving the overall efficiency of the department.

Compliance with all of the federal, state, and county regulations requires constant monitoring and updating as changes occur. The Yuba County Social Services Department has done an exemplary job in keeping abreast of all changes and maintaining ongoing compliance as shown by the latest State audit in which Yuba Co. and only one other county passed, out of the thirteen counties that were audited. All regulatory information is recorded, existing information updated, and issued to relevant personnel for follow up. Reports and audits from a variety of outside agencies have confirmed the high standards maintained by this department. The latest audit report from the State Department of Social Services Civil Rights revealed two infractions: (1) There is a shortage of bi-lingual staff available to serve the public and there was a lack of forms and literature available in the required languages, and (2) the main building complex did not have an external sign identifying it to be the Offices of the Public Welfare Department.

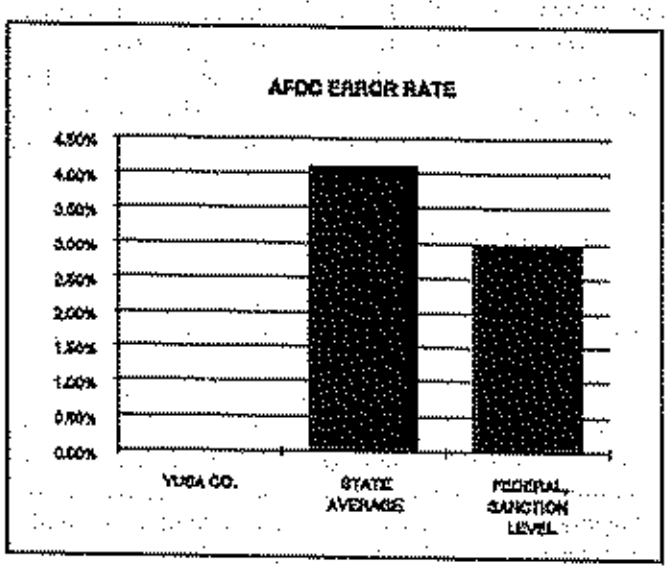
Employee and clients safety is also considered a priority item by the department staff. A minimum of two fire alarm drills are conducted annually and all employees are encouraged to report any safety related issues as soon as they are noticed. The last Fire Marshall's inspection was completed in February of 1992; another inspection has been requested and is being scheduled by the Fire Marshall. During one of the State audits, it was noted that there was no fire alarm in place for

the hearing impaired. A strobe light type of alarm was immediately ordered but as yet it has not been installed.

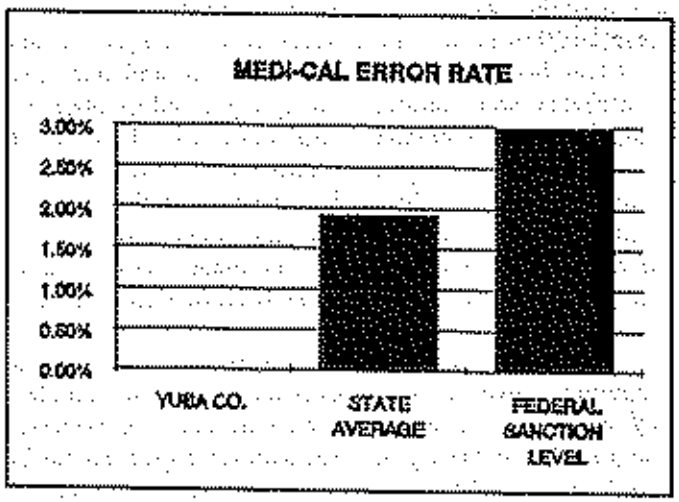
An examination of the General Relief Program, and the regulations which govern it, revealed that it was established via County Resolution 1976-131 in 1976 and that all rules and regulations which govern its operation, eligibility requirements, fee schedule, etc. are contained therein. In 1983 the County passed a new Resolution (1983-18) which updated all elements of the program and established new eligibility criteria. Since that time several amendments have been adopted; however, they are all referenced to the original 1976 Resolution (1976-131) and are therefore non-applicable to the current program. The County administration acknowledged the error and explained that there was no procedure to identify resolutions that had been superseded. The Grand Jury was assured in February that the County administration would correct the oversight but as yet the Grand Jury has not been informed about any action on this issue.

Analysis of Program Operations

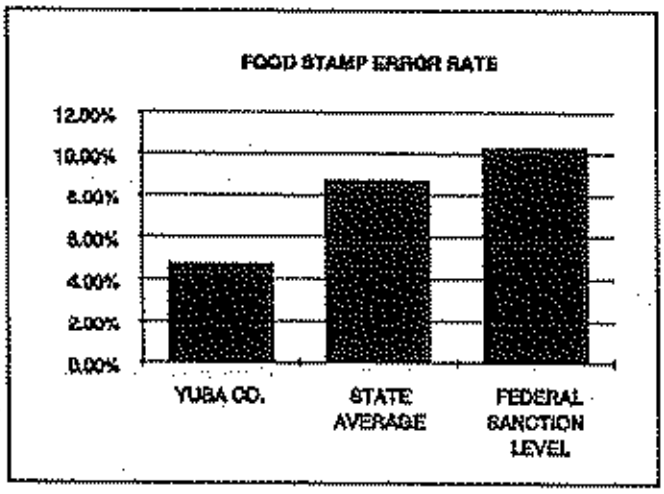
A. The AFDC department has an error rate of effectively 0%, which is the lowest error rate since 1984, yet it is the highest dollar program administered through Social Services.



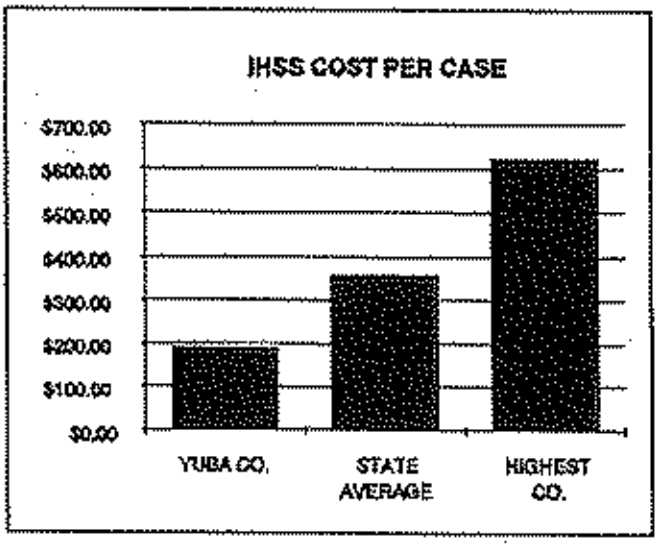
B. The Medi-cal Program has maintained a 0% error rate consistently since 1987. The state maintains an error rate of less than 2% and federal sanctions are imposed at the 3% level.



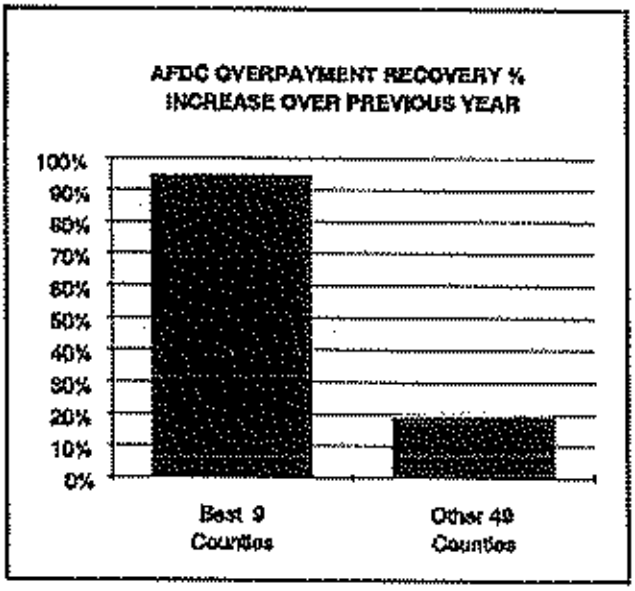
C. The Food Stamp Program has maintained the lowest error rate (4.73%) in the State over the past two years and has a cost per case that is below state average. The state average error rate is 8.7% and federal sanctions are imposed at the 10.31% error level.



D. The In-home Supportive Services (IHSS) has the lowest monthly average cost per case ($190.51) in the state albeit the largest adult service program in Yuba County. The state average is $357.78 while the highest county (Nevada) is averaging $622.50 per case.



E. Recovery of AFDC overpayment in Yuba County has increased by over 90% as compared to the recovery of funds in 1991-92. The counties of Yuba, Lake, Tehama, Monterey, Napa, Imperial, Merced, Sacramento, and San Joaquin all improved from 20 to 95%. All other 49 counties improved from 0 to 19%.



F. Fraud Programs recoup $2.15 for each $1.00 of program cost which places Yuba County among the top ten in the state. This resulted in an estimated savings in 1991/92 amounting to $1,022,290.

G. The 1991/92 GAIN Program reported 578 clients that found gainful employment of which 156 were able to discontinue their AFDC dependency. This success rate ranks 15th in the entire state.

FINDINGS:

All findings have been substantiated by current documentation and by observation and interviews conducted by no less than two members of the grand jury. P.C. § 916

1. The last Fire Marshall's inspection was completed February 1992.

2. The State Department of Social Services Civil Rights Audit's latest report found two minor infractions.
   A. Adequate bilingual staff and forms in the required language are an ongoing problem because of bilingual staffing problems and dependency on state furnished literature.
   B. There is no external sign marking the building as the offices of the Public Welfare Department, which is a violation of DHHS Code Part 5 Section 4563.
3. Employee morale and productivity are considered to be critical to the operation of the Department of Social Services, therefore:
   A. Upper management has initiated a policy of employee training which works in conjunction with training seminars provided by UC Davis as well as other professional training agencies.
   B. A committee of employee representatives provides a conduit for communications among all levels of employees.

4. The lack of a fire alarm for the hearing impaired was noted by the State Department of Social Services, so a strobe light was ordered but as yet has not been installed.

5. General Relief resolutions have improperly assigned amendments which result in making compliance impossible.

RECOMMENDATIONS:

P.C. § 916, states in part: "... All problems identified in a final report are accompanied by suggested means for their resolution, including financial when applicable."

1. That a facility inspection be requested from the State Fire Marshall to assure complete compliance with the fire safety regulations for public buildings.

2A. That the employee hiring policies be expanded to add emphasis in bi-lingual skills and implement a work assignment procedure to better utilize the employee's bilingual abilities.

2B. That Yuba County obtain the required external signs that are mandatory per DHHS Code Part 5 Section 4563.

3A. That Social Services continue to upgrade the employee training programs which are currently in place to assure that all employees have training available to them.

3B. That Social Services monitor and enhance the avenues of employee feed-back in all departmental units and encourage management/employee conferences (single & group).

4. That Yuba County assure that the fire safety procedures account for both hearing or vision impaired employees and clients.

5. That Yuba County correct the resolutions governing the General Relief Program.

COMMENTS REQUIRED ON FINDINGS:

Yuba County Board of Supervisors: Findings 1, 2A, 2B, 3A, 3B, 4, & 5.

COMMENTS REQUIRED ON RECOMMENDATION:

Yuba County Board of Supervisors: Recommendations 1, 2A, 2B, 3A, 3B, 4, & 5.

CLOSING COMMENTS:

The staff and department personnel conducted themselves in a professional manner and were very helpful in assisting the Grand Jury in any area that was addressed. All areas of research were documented and fully explained regarding policies, regulations, and adopted practices. The cooperative attitude expressed by the personnel toward the Grand Jury is reflective of the general spirit that exists throughout Social Services in the day to day operations.

CITY OF MARYSVILLE

POLICE DEPARTMENT

COMMENTS REQUIRED ON FINDINGS:

City of Marysville, City Council: Findings 1, 2, & 3.

City of Marysville, Mayor: Findings 1, 2, & 3.

COMMENTS REQUIRED ON RECOMMENDATIONS:

City of Marysville, City Council: Recommendations 1, 2, & 3.

City of Marysville, Mayor: Recommendations 1, 2, & 3.

CITY OF MARYSVILLE
POLICE DEPARTMENT

REASON FOR INVESTIGATION:

1. Follow up on 1991/92 Grand Jury report.
2. Review of affects as a result of newly imposed budget constraints.
   (a) Employee moral
   (b) Level of protection for community.
   (c) Level of maintenance of facilities and equipment.
3. Evaluate the types and level of local criminal activity.
4. Feasibility of the consolidation for dispatch of emergency response agencies.

BACKGROUND:

The position of Chief of the Marysville Police Department is subordinate to the Marysville City Council. The City Council establishes the budget, reviews for approval all major expenditures, and funds the manpower positions as deemed necessary. It is the Chief's responsibility to assign the available manpower and equipment to best serve the communities needs.

SCOPE:

The scope is limited to departmental practices, policies and procedures.

PROCEDURE:

The Grand Jury reviewed the pertinent sections of the California Penal Code and applicable City Ordinances. An interview was scheduled and conducted with the Department Chief. An on site visitation and partial tour of the facility was performed by Grand Jury members.

DISCUSSION:

The Police Department is responsible to provide the highest level of 24 hour protection possible for the residents of Marysville. As a result of the current State wide budget crisis, the Police Department has encountered significant funding reductions. Operating policies have been revised to meet the current budgetary restrictions by: establishing a priority for the urgency of responses, limiting overtime, charging user fees, and expanding utilization of civilian personnel.

During the course of the interview with the Department Chief, it was concluded that a direct relationship exists between local drug problems and the numbers and types of crime occurring in the local area. It was noted that during 1992, 90 to 95 percent of all arrests were in some way drug related.

The Police Department has been required to review the types of law enforcement activity they have historically provided in order to operate under the current budget crisis. The primary areas affected are the reduction in available manpower and the response to various misdemeanors and infractions. Types of misdemeanors which are not currently being routinely investigated are; (1) minor non-injury accidents, (2) incidental vandalism with no known suspect and (3) limited support to local businesses in regard to recovery for bad checks.

The passage of S.B. 2557 allows the County to charge a fee for the booking of arrested parties. As a result the County now charges $43.50 per booking to all non-county agencies, which includes the Marysville Police Department. Due to this increased cost the amount of misdemeanor arrests has decreased from 2,219 (1992) to 1,478 (1992).

The effect of the budget cutbacks on employee moral and the working rapport with other State and local law enforcement agencies were also issues which were examined during the interview. These issues have not been adversely affected as yet, however further reductions could cause serious repercussions in these areas. A cooperative relationship with nearby law enforcement agencies is vital in order to provide the level of services needed for the community, whereby assistance is available for special circumstances.

The subject of consolidating the local dispatch services was addressed as a possible avenue to cutting costs. Consolidation has been considered several times in the past; however, there are still serious reservations about the level of services which may result. The quality of service and cost effectiveness continues to be a subject of controversy among the departments which would be directly affected. Past studies have not proven conclusive as to which method of dispatch would best serve the local area.

Personnel training and longevity have increased over the past few years during which time the turnover of personnel has continued to decrease thereby enhancing overall operating efficiency. The department provides ongoing training for both sworn and non-sworn personnel thereby maintaining a high level of employee performance. Effective utilization of the reserve force is critical to overall department operations, so they are also included in the personnel training program.

The Marysville Police Department has historically accounted for approximately 1/3 of the total City budget; however, fifty percent of the 1992-93 City budget reductions came from the Police Department. Although serious funding reductions have caused cutbacks in many areas, the training of both full time and reserve personnel is one area that must not be sacrificed.

FINDINGS:

All findings have been substantiated by current documentation and by observation and interviews by no less than two members of the grand jury. P.C. § 916

1. Reasonable law enforcement services are being provided to the local community albeit with financial cut backs and manpower reductions.

2. Total arrests during 1992 dropped from 2,592 in 1991 to 1,861 in 1992; however, felony arrests increased from 373 in 1991 to 383 in 1992.

3. Currently the Police Department is augmented by a ten man reserve force, of which the majority meets POST/Skill level II criteria.

CONCLUSION:

Although the Marysville Police Department has sustained significant reductions in budget and personnel the department continues to operate smoothly and efficiently and continues to provide local residents with adequate law enforcement services.

RECOMMENDATIONS:

P.C. § 916, states in part: "... All problems identified in a final report are accompanied by suggested means for their resolution, including financial when applicable."

1. That the City Council must closely examine their future budget allocations to ensure that the Police services are not further reduced. The City Council should meet with the Chief for the purpose of evaluating the expanded implementation of user fees.

2. That the City Council is to monitor the effect of reduced arrests regarding misdemeanor crimes and take the required action to assure that the community is not adversely affected.

3. That adequate funding be provided for training of the reserve force in order to assure that the required skill levels are achieved thereby allowing for the best utilization of manpower.

COMMENTS REQUIRED ON FINDINGS:

City of Marysville, City Council: Findings 1, 2, & 3.

City of Marysville, Mayor: Findings 1, 2, & 3.

COMMENTS REQUIRED ON RECOMMENDATIONS:

City of Marysville, City Council: Recommendations 1, 2, & 3.

City of Marysville, Mayor: Recommendations 1, 2, & 3.

CITY OF MARYSVILLE

REDEVELOPMENT

COMMENTS REQUIRED ON FINDINGS:

City of Marysville Development Agency: Findings 1, 2, & 3.

Marysville Joint Unified School District Board of Trustees: Finding 3.

Yuba College Board of Trustees: Finding 3.

COMMENTS REQUIRED ON RECOMMENDATIONS:

City of Marysville Development Agency: Recommendations 1, 2, & 3.

Marydville Joint Unified School District Board of Trustees: Recommendation 3.

Yuba College Board of Trustees: Recommendation 3.

REDEVELOPMENT
CITY OF MARYSVILLE

REASON FOR INVESTIGATION:

The Grand Jury, because of a citizen's complaint, the recent attention given to this subject by the media and the apparent concerns of citizens of the City of Marysville (City), elected to look into this area. The basis of the complaint was that the Marysville Development Agency (Agency) may have attempted the development of an area of the City under Community Redevelopment Law (CRL).

BACKGROUND:

The Ralph M. Brown Act

Government Code Section 54950, states: "Policy declaration

In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instrument they have created."

The Redevelopment Law
All references are to the California
Health and Safety Code unless otherwise stated.

The Community Redevelopment Law Act was enacted by the California Legislature with the objective of redeveloping those areas found in many communities which for a variety of causes have suffered from unsafe, unfit, deteriorated, and economically dislocated buildings and properties. The California Constitution Article XVI, Section 16, and the Health and Safety Code beginning with Section 33000 provide funding from local property taxes (Tax Increment Revenue) in order to promote the sound redevelopment of blighted areas.

Tax Increment Revenue

Since all redevelopment agency project plans may be accomplished without increasing tax rates, **redevelopment areas are to be a painless way of accumulating large amounts of money for community use.** After a redevelopment agency is established, the law makes available to a redevelopment agency a method of obtaining funds called "Tax Increment Revenues". At the time a project area is established, the value of all taxable property is the "Base-Year Assessed Value". A portion of the taxes collected on the base-year assessed value is allocated to the school districts. In the following years, the assessed value of the property within the project areas may increase by the annual adjustment for inflation of two percent of the prior year's value. If the property is sold or if new construction occurs, taxes generated by the increased value of the area is the "Tax Increment Revenue". This tax revenue is then transferred to the redevelopment agency to fund their projects.

Normally the school districts would have received the revenue from increased taxes. Thus, the tax increment revenue and base-year assessed property taxes are distributed between a redevelopment agency and the school districts.

Sharing Tax Increment Revenue

The Health and Safety Code establishes various methods by which a redevelopment agency may share their tax increment revenue with school districts and community colleges. For example, when property in a project area is exempt from taxes because it is owned by the redevelopment agency, Section 33401 (a) permits a redevelopment agency to pay school districts an amount of money in lieu of the taxes the school districts would otherwise have received if the redevelopment plan had not been adopted. Also, Section 33401(b) permits a redevelopment agency to enter into agreements with school districts, or otherwise pay them, to alleviate any financial burden or detriment caused by redevelopment.

In addition, Health and Safety Code Section 33676 allows school districts to receive a portion of a project area's tax increment revenues. School districts and community college districts are directed by law to elect to receive by allocation all or a portion of the tax revenues. Those attributable to increases in the rate of tax and to inflation-caused increases in base-year assessed value of property, are not to exceed two percent per year, unless the property is sold, transferred or improved.

Under the existing Community Redevelopment Law, not less than 20 percent of all tax increment revenues which are allocated to a redevelopment agency are required to be held in a separate Low and Moderate Income Housing Fund (LMI Fund). The LMI fund will be used by the agency for the purpose of increasing, improving, and preserving the community's supply of low and moderate income housing available at affordable cost to persons and families of low and moderate incomes.

General Summary of Redevelopment Agencies
by Citizen Advocates, Inc.

California redevelopment is authorized by state law. Cities and counties implement the State Community Redevelopment Agency (CRA) at the local level. The city's CRA then acts as an administrative arm of the state and once activated, local government control by city or county taxpayers is lost.

Voter approval is not needed for the implementation of the general powers of the (State) Redevelopment Agency. These basic general powers could:

- Sell bonds, borrow and invest money and siphon off property tax dollars that would otherwise go to pay for government services.
- Evict you out of your home or business by condemnation (eminent domain) and then turn around and sell or give your property to your neighbor competitor.
- Completely change the physical character of your community virtually overnight.
- Erode the tax base of your city.
- Expand or extend a CRA project.

- Give your city council or CRA appointees the complete power to control or condemn all private property within a CRA Project Area.

- Effect a lien on all private property within certain CRA project areas.

There are many detrimental effects of the California State Redevelopment Law. Three of the worst areas of abuse are financial, the loss of a constitutional form of government and the infringements on private property rights.

History

The field of redevelopment has attracted controversy since its inception in California in 1952. There have been major reform movements resulting in some changes to the law in 1976, 1984 and 1989.

When redevelopment agencies were initially approved in 1952, they were not required to plan for residential units, make deposits into a separate Low and Moderate Income Housing Fund, or replace residential units destroyed by a redevelopment agency's activities. In response to the destruction of thousands of lower income housing units, in 1976 the legislature required all new project areas to set aside 20 percent of the annual tax increment revenue allocations into a separate Low and Moderate Income Housing Fund (LMI Housing Fund) for the development of affordable housing.

According to the California Local Government Fiscal Affairs Office, there are currently 372 redevelopment agencies and 594 project areas in the state.

In Marysville there is one Development Agency and three (3) project areas. See map, page 101, showing the original project 1, 2, 3A, 3B, and 3C.

SCOPE:

The 1992-93 Grand Jury limited its investigation to the existing Marysville Development Agency, its projects, and the laws that govern the Agency.

PROCEDURE:

Members of the Grand Jury reviewed existing redevelopment laws, Court cases, various studies conducted by other grand juries, official documents on expenditures prepared by the Marysville Development Agency and proposed future plans for redevelopment.

Grand Jury members met with Marysville Development Agency Officials, members of Marysville Action Committee (MAC) and conferred with Citizen Advocates, Inc., consultants on Redevelopment. Grand Jury members also met several specialists in this field and with the Commission on Fraud, Waste and Abuse in Government.

DISCUSSION:

In order to understand the intent of the legislature in enacting the Community Redevelopment Law Act, the meanings of and distinction between the terms **"Redevelopment"** and **"Development"** must be clearly understood.

In App. 139 Cal. Rptr. 196, hereafter referred to as **Regus vs. City of Baldwin**, a case of a redevelopment project very similar to the most recent City of Marysville project, the Court in this case stated in part: "....We conclude that the record at bench contains no substantial evidence to show that Project area is a blighted area and hence eligible for **redevelopment**. We believe the County correctly characterized this Project as **development** rather than **redevelopment**. ...." (Emphasis added)

In most cities, as in Marysville, the city council members are also the governing board of the Development Agency. This Agency has the responsibility to ensure that development and redevelopment within the City limits is performed in accordance with State and local law. The council and agency, however, are two separate, distinct entities. The powers granted to these agencies by redevelopment law enable them to define and designate an area as blighted; then to buy, sell, or trade properties within that area; use any number of financing methods; and to enter into contracts with developers to achieve virtually any type of desired development, reconstruction or rehabilitation including, but not limited to, residential, commercial, industrial or retail buildings. Each redevelopment agency may execute redevelopment activities within one or more of its project areas.

In Regus vs. City of Baldwin: "Without evidence of blight there is no justification for community redevelopment, since it compels taxpayers in one section of community to subsidize cost of redevelopment of another section by carrying disproportionate share of cost of local government and since unrestricted redevelopment fosters speculative competition between municipalities in their attempts to attract private enterprise, speculation which they can finance in part with other people's money...."

Proponents of Marysville redevelopment look back on bringing Mervyn's, which opened in November of 1978, and the building of Packard Library, as two of the most visible successes the city has achieved through redevelopment.

The council, sitting as the Community Development Agency, stepped up its redevelopment plan in March of 1991 by adding about 235 acres in the areas of Washington Square, Rideout Hospital and along the length of B Street to the existing redevelopment area. There are now more than 300 acres designated as redevelopment zones in the city.

Under the city's plan, which spans 40 years, the city will seek to put in place about $30.7 million in improvement projects. And, as required by Community Redevelopment Law, the authority under which the plan operates, will spend about $7.6 million to increase and improve the city's low and moderate-income housing.

In 1991 the Development Agency made an attempt to redevelop 3B on the map. Due to a breakdown in communication or lack of information, the plan was met with resistance from property owners in the area designated. In order to salvage the project, the Agency obtained a legal opinion from the Agency's attorney to exempt certain properties from Eminent Domain. This project was finally abandoned with some properties exempt from Eminent Domain.

Also in 1991, the Development Agency proposed a project involving 3A on the map. The threat of having to sell or relocate at least sixteen businesses and light industrial services angered the

owners enough to cause them to band together and organize themselves into an organization called Marysville Action Committee. A strong protest was made to the agency by MAC and the project was abandoned.

In summary, the recent attempts at Redevelopment fell short of the rosy picture set forth by the proponents of Redevelopment. The Chairman of the Marysville Development Agency informed the Grand Jury that there are no new projects contemplated in Marysville under Redevelopment at the present time. Additionally, there appears to be a need to inform and educate the public about the Redevelopment Laws and how they affect the general public welfare.

Primarily, the debate over redevelopment in Marysville comes back to two essential issues:

1. Is it appropriate for the Agency to use CRL for development and thus provide a subsidy to encourage private development?

2. Is it appropriate for the Agency to contemplate any projects without first ensuring that all citizens of the community, particularly property owners most effected, are allowed to participate in all phases of planning of the project?

FINDINGS:

All findings must be substantiated by current documentation, and by interviews conducted by no less than two members of the Grand Jury, Penal Code § 916.

1. The people of Marysville do not yield their authority to the agencies which serve them to determine what is good for the people to know, and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instrument they have created.

2. The legislature intended the CRL, through redevelopment not development, to remedy those areas which had become blighted, and the Courts have supported this law by ruling that development may not be undertaken under the CRL.

3. The Health and Safety Code provides for funding agreements to be included in the Redevelopment Projects description and which may be instituted to alleviate any financial burden or detriment to the schools caused by a redevelopment agency.

CONCLUSIONS:

The Grand Jury has concluded that the people of the City of Marysville, by their formation of MAC and their subsequent demonstrated resistance to the Agency's attempt to develop the areas depicted as 3A and 3B on the attached map, insist on being kept informed of all actions and plans for any proposed projects by the Agency.

In the attempt to redevelop the above mentioned areas, the Agency declared some buildings as blighted, that were only in need of repairs and routine maintenance. The enforcement of existing City ordinances could have corrected the problems with the buildings which the agency had declared as blighted.

The Grand Jury because of the impact and the end results achieved by the members of MAC, has concluded that there is a definite need for members of the Agency and members of the City, and of the County, to be better informed of the intent and the laws governing CRL.

RECOMMENDATIONS:

1. That the Agency review and if necessary revise its procedures to ensure that the people are better informed of all present and future redevelopment projects.

2. That the Agency review and if necessary revise its procedures to ensure that all future CRL projects are in fact redevelopment and not development projects which are normally funded by the property owner.

3. That the Agency, MJUSD Board of Trustees and Yuba College Board of Trustees review and revise their procedures to ensure that all future redevelopment projects provide for funding agreements to be included in the Redevelopment Projects description.

P.C. § 916, provides in part: "....all problems identified in a final report are accompanied by suggested means for their resolution, including financial, when applicable."

1. The City of Marysville Newsletter distributed to all property owners would be an excellent vehicle to inform the public of the current status of existing and of any proposed redevelopment projects. Status on present projects should include a financial status on LMI funds and remaining long term debt for which the City is obligated. News Letters on future projects should include information of initial concept to the ultimate long term cost to the taxpayers of the City.

2. Procedures should include a clear distinction between redevelopment and development to ensure that the people are not being asked to provide a subsidy to encourage private development.

3. Procedures of both the Agency and the Board should include means by which all future Redevelopment Project Plans provide that school and college districts receive their fair share of "Tax Increment Revenue" to alleviate any financial burden or detriment to the districts caused by a redevelopment project.

COMMENTS REQUIRED ON FINDINGS:

City of Marysville Development Agency: Findings 1, 2, & 3.

Marysville Joint Unified School District Board of Trustees: Finding 3.

Yuba College Board of Trustees: Finding 3.

COMMENTS REQUIRED ON RECOMMENDATIONS:

City of Marysville Development Agency: Recommendations 1, 2, & 3.

Marysville Joint Unified School District Board of Trustees: Recommendation 3.

Yuba College Board of Trustees: Recommendation 3.

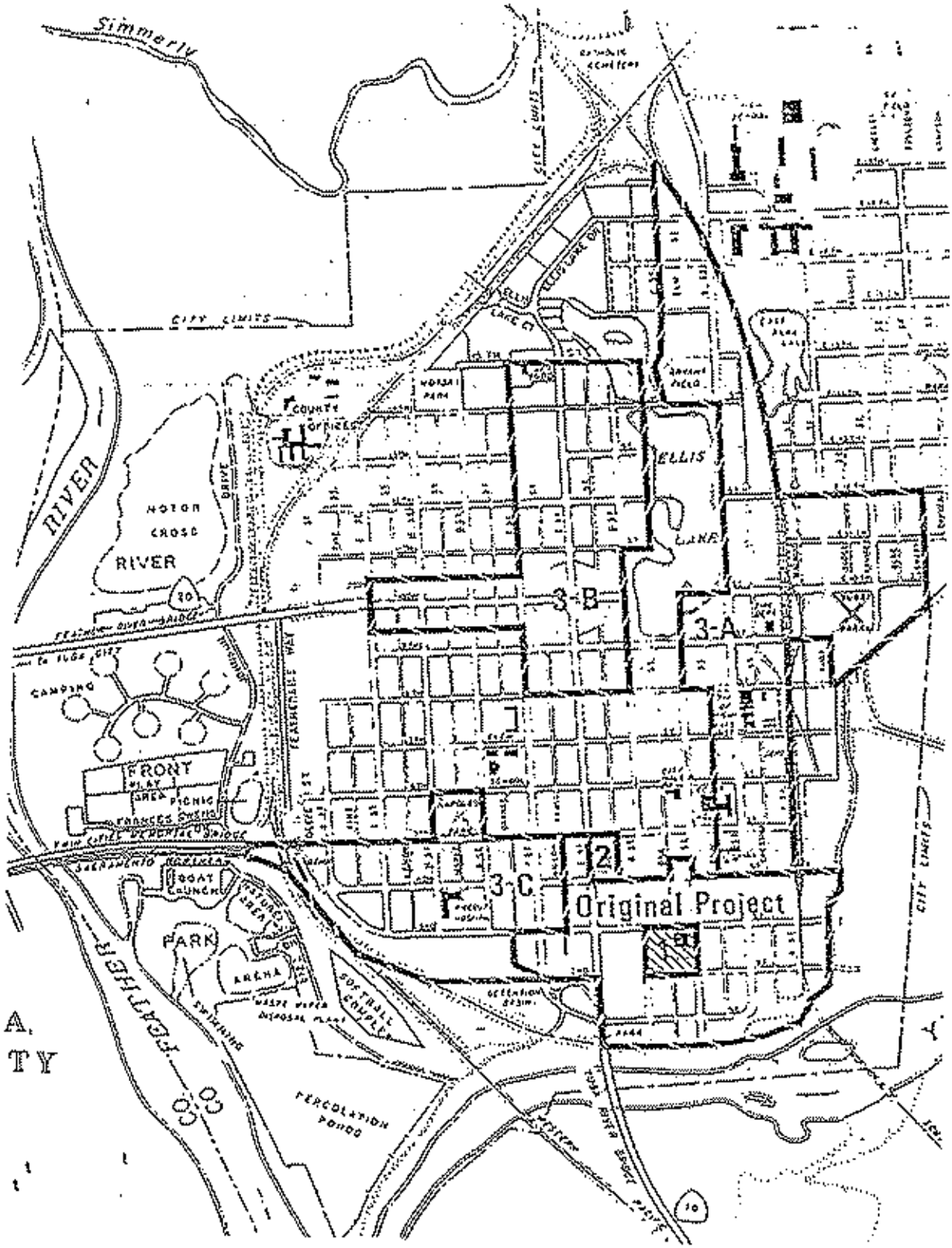
FINAL COMMENTS:

The Grand Jury wishes to thank the following for their cooperation in providing information on Redevelopment law and historical background.

Director
Citizens Advocates, Inc.
P. O. Box 440
Mountain Ranch, CA 95246

Marysville Action Committee (MAC)
Marysville, CA

Sonoma County
Past Grand Jurors


Simmerly
CITY LIMITS
RIVER
MOTOR CROSS
RIVER
COUNTY OFFICES
ELLIS
LAKE
3-B
3-A
CAMPING
FRONT
PICNIC
3-C
2
Original Project
BOAT LAUNCH
PARK
ARENA
SOFTBALL COMPLEX
PERCOLATION POND
FOOTHILL
CO

CITY OF MARYSVILLE

PROCESSING OF MAIL AND WRITTEN COMMUNICATIONS

COMMENTS REQUIRED ON FINDINGS:

City of Marysville, City Council: All findings.

City of Marysville, Mayor: All findings.

COMMENTS ON RECOMMENDATIONS ARE REQUIRED BY:

City of Marysville, City Council: All recommendations.

City of Marysville, Mayor: All recommendations.

PROCESSING OF MAIL AND WRITTEN COMMUNICATIONS
CITY OF MARYSVILLE

REASON FOR INVESTIGATION:

In the process of investigating a citizen's complaint on a different subject Grand Jury members discovered that three Grand Jury letters addressed, by name and annotated on the outside of the envelope with "Personal" or "Official Business", to specific council members had been opened by personnel in the City Clerk's Office. Since the routine opening, by the Marysville City Clerk's Office, of a council member's mail or written communications addressed to a council member, by name or marked on the outside of the envelope as "Personal" or "Official Business", effectively violates the normal expectation of confidentiality, an investigation into this matter was conducted by the Grand Jury.

BACKGROUND:

State of California Penal Code

Section 925.a, states in part: "The grand jury may at any time examine the books and records of any incorporated city or joint power agency located in the county. In addition to any other investigatory powers granted by this chapter, the grand jury may investigate and report upon the operations, accounts, and records of the officers, departments, functions, and the method or system of performing the duties of any such city or joint powers agency and make such recommendations as it may deem proper and fit."...

Section 933.(a), states in part: "...Final reports on any appropriate subject may be submitted to the presiding judge of the superior court at any time during the term of service of a grand jury. A final report may be submitted for comment to responsible officers, agencies, or departments, including the county board of supervisors, when applicable, upon finding of the presiding judge that the report is in compliance with this title."...

Section 933.(c), states in part: "No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, ... In any city and county, the mayor shall also comment on the findings and recommendations."...

City of Marysville Ordinance Code

Code Section 1.01.50. Definitions. The following words and phrases whenever used in this code shall be construed as defined in this section unless from the context a different meaning is specifically defined and more particularly directed to the use of such word or phrases.

(1) ...;

(2) ...;

(3) ...;

(4) "Council" means the city council of the city of Marysville. "All its members" or "all councilmen" means the total number of councilmen provided for in Article II, Section 2, of the Marysville Charter, without regard to vacancies or absences;

(5) ...

Code Section 2.04.060., states in part: "...

(a) ....

(b) Authority of City Clerk. The city clerk is authorized to open and examine all mail or other written communications addressed to the mayor or the city council and to give it immediate attention to the end that all administrative business referred to in the communication and not necessarily requiring council action may be acted upon between council meetings. (Ord. 798 § 6, 1971)."

Established Procedures of Governing Bodies
In The Surrounding Area

The county has no written procedures for opening of mail or other written communications addressed to individual district supervisors. However, procedures currently in use do not authorize anyone to open mail addressed by name to a specific district supervisor, or mail annotated on the outside of the envelope indicating that the communications is privileged.

The city of Yuba City has no written procedures for opening of mail or other written communications addressed to individual council members. However, procedures currently in use do not authorize anyone to open mail addressed by name to a specific councilman, or mail annotated on the outside of the envelope indicating that the communications is privileged.

The city of Wheatland has no written procedures for opening of mail or other written communications addressed to individual council members. However, procedures currently in use do not authorize anyone to open mail addressed by name to a specific councilman, or mail annotated on the outside of the envelope indicating that the communications is privileged.

PROCEDURE:

Grand Jury members: Interviewed past and present city officials, and inquired into how incoming mail and written communications is processed by the county and the cities of Wheatland and Yuba City. Additionally, Grand Jury members reviewed and compared the administrative procedures for the handling of incoming mail and written communications for

county supervisors by the county, and for council members by the cities of Marysville, Wheatland, and Yuba City.

FINDINGS: **All findings have been substantiated pursuant to Penal Code Section 916, by documentation, and/or by interviews conducted by no less than two members of the Grand Jury. All findings have been validated.**

1. City of Marysville Code Section 2.04.060.(b), was adopted as an ordinance in 1971.

2. The City of Marysville Code Section 2.04.060.(b), has been interpreted, by the City Administrator (City Clerk), the last five members of the city council and two of the present city council members, that the City Clerk is authorized to open all mail or written communications addressed to the mayor or any member of the city council.

3. The City Clerk has used this authorization, City of Marysville Code Section 2.04.060.(b), to open mail or other written communication addressed, by name, to city council members regardless of what annotations are on the outside of the envelope containing the communications.

4. Grand Jury letters (mail or written communications) addressed by name to specific city council members and marked "Personal" or "Official Business", were on three different occasions opened by personnel in the City Clerk's Office.

CONCLUSIONS:

The opening of mail and other written communications by the City Clerk addressed to the Mayor and the City Council has merit if it is done in the interest of expediting the business of the city. However, in the interest of confidentiality, mail or other communications addressed by name to a specific council members or city official or annotated to indicate that the communications is privileged, should not be opened by anyone other than the person to whom it is addressed.

If the opening of mail, by the Marysville city clerk, is to determine if city business can be expedited, someone must read and comprehend the correspondence. Thus, what the originator believes to be privileged communications, with a council member, has by the existing procedures become known to others. Additionally, the opening of Grand Jury communications discloses privileged information which could compromise the Grand Jury's promise of confidentiality and could reveal the subject(s) of scheduled Grand Jury investigations and hearings.

RECOMMENDATIONS:

1. That the Marysville City Council review and revise the existing procedures for the processing of mail or other written communications addressed to the mayor and city council and implement the appropriate changes to ensure the confidentiality of communications between the originator and council members.

2. That if issuing a code change at this time is considered to be cost prohibitive an interim directive be issued, by the city council to the City Administrator, which will ensure the confidentiality, of incoming mail and other written communications.

Penal Code Section 916, states in part: "... all problems identified in a final report are accompanied by suggested means for their resolution, including financial, when applicable."

Therefore, the Grand Jury suggests that the City Code be revised to read:

Chapter 2.04.060.

(a) . . . .

(b) Authority of City Clerk. The city clerk is authorized to open and examine all mail or other written communications addressed to the mayor or the city council and to give it immediate attention to the end that all administrative business referred to in the communication and not necessarily requiring council action may be acted upon between council meetings. The city clerk shall not open any mail or written communication addressed to individual council members or which is marked; "Personal", "Confidential", or in such manner to indicate that it may be privileged communications.

Cost of this revision to the code can be kept to a minimum if this change is made along with other changes at the next scheduled code revision. The cost of an interim directive is minimal and is worth the cost when compared with the resulting increase of trust in government by the people.

Pursuant to Penal Code Section 933(c)

COMMENTS ON FINDINGS ARE REQUIRED BY:

City of Marysville, City Council: All findings.

City of Marysville, Mayor: All findings.

COMMENTS ON RECOMMENDATIONS ARE REQUIRED BY:

City of Marysville, City Council: All recommendations.

City of Marysville, Mayor: All recommendations.

CITY OF MARYSVILLE

RESPONSE TO

PROCESSING OF MAIL AND WRITTEN COMMUNICATIONS FINAL REPORT

526 "C" Street • P.O. Box 150 • Marysville, California 95901 • (916) 741-6844

OFFICE OF THE MAYOR

May 20, 1993

Judge Thomas Mathews
Presiding Judge
Yuba County Superior Court
938 Fourteenth Street
Marysville, CA 95901

Dear Judge Matthews:

As required by Section 933(c) of the State of California Penal Code, I am responding to the findings and recommendations made by the Grand Jury in its 1992-93 Final Report.

We agree with the Grand Jury's findings in that the City Administrator was complying with the Marysville Municipal Code in opening all mail, regardless of what annotations were made on the outside of the envelope. Even though she was in compliance with the Code, we understand the Grand Jury's position in making the recommendation that the City Council review and revise the procedure. With that in mind, the City Council, at its meeting on April 6, 1993, adopted Ordinance 1153, a copy of which is attached.

I apologize for the delay in getting this response to you. Even though we acted upon the recommendations, and forwarded a copy of the ordinance to both the Municipal Court and the Grand Jury foreman, with our City Administrator leaving us, we inadvertently overlooked the requirement of a formal response to your office. I can assure you that I will do everything possible to see that this does not happen again.

On behalf of the City of Marysville,

Frank J. Crawford
Mayor

cc: Al Amaro, Grand Jury Foreman
Councilmembers

ORDINANCE NO. 1153

AN ORDINANCE OF THE CITY OF MARYSVILLE, CALIFORNIA
AMENDING SECTION 2.04.060 OF THE MARYSVILLE
MUNICIPAL CODE REGARDING COUNCIL CORRESPONDENCE

The City Council of the City of Marysville does ordain as follows:

Section 1: Section 2.04.060 (b) of the Marysville Municipal Code, entitled "Council Correspondence" is hereby amended in its entirety and shall read as follows:

"2.04.060 (b) Authority of City Clerk. The city clerk is authorized to open and examine all mail or other written communications addressed to the city council and to give it immediate attention to the end that all administrative business referred to in the communication and not necessarily requiring council action may be acted upon between council meetings. The city clerk shall not open any mail or written communication addressed to individual council members or which is marked 'Personal', 'Confidential', or in such manner to indicate that it may be privileged communications."

Section 2: POSTING OF ORDINANCE. The City Clerk is hereby authorized and directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Marysville within 15 days after its adoption.

* * * * * * * *

I HEREBY CERTIFY that the foregoing ordinance was introduced before the City Council of the City of Marysville, County of Yuba, at the meeting of the City Council of said City, held on the 2nd day of March, 1993, and finally adopted at a regular meeting of said Council held on the 6th day of April, 1993, by the following vote:

AYES: Paul D. McNamara, James E. Kitchen, and Frank J. Crawford

NOES: Ronald W. Gless and Darlene F. Hart

ABSENT: None

ABSTAINED: None

MAYOR

ATTEST:

Deputy CITY CLERK

Marysville Joint Unified School District (MJUSD)

SPECIAL EDUCATION ASSESSMENT

COMMENTS REQUIRED ON FINDINGS:

MJUSD Board of Trustees: Findings 1, 2, & 3.

COMMENTS REQUIRED ON RECOMMENDATIONS:

MJUSD Board of Trustees: Recommendations 1, 2, & 3.

SPECIAL EDUCATION ASSESSMENT
Marysville Joint Unified School District (MJUSD)

REASON FOR INVESTIGATION:

The 1992-93 Grand Jury received a citizen's complaint regarding the manner in which the school district identifies special education needs and then provides appropriate educational intervention for that student.

BACKGROUND:

The intent of the legislature is to avoid any exceptional needs student from 'falling through the cracks'.

Pertinent Sections of the Codes

Educational Code (E.C.) Section (§) 56300 of Article 1, Chapter 4 provides that the district shall systematically seek out all individuals with exceptional needs in school through age 21 which reside in the district through a "continuous child find system". It must then provide for assessment of that individual's needs, followed by a plan to meet those needs. Provision is further made by which parents must receive written notification of all parental rights in this Section. E.C. Part 30, Special Education Programs, Chapter 1 of General Provisions, Article 1, beginning in E.C. § 56000 states in part: "The legislature finds and declares that all individuals with exceptional needs have a right to participate in free appropriate public education ... to meet their unique needs."

This Code further states in part: "The intent is to assure rights to appropriate programs and services through a Master Plan for Special Education that will provide an educational opportunity for individuals with exceptional needs which is equal to or better than that provided prior to the implementation of programs under this part... ." Section 56000 further states that the above plans be fully implemented by June 30, 1982.

Education Code Section 56339, Students with Attention Deficit Disorders (ATDD) and Attention Deficit Hyperactive Disorder (ATDHD), when needing special education, were deemed eligible for assistance under the Disabilities Education Act.

Education Code Articles 1 and 2 on Intent and Definitions. (see Sections 56000 and 56020 inclusive.)

California Code of Regulations - Title 5; Division 1; Articles 1 through 8 inclusively.

Public Law 94-142: This federal law guarantees a free and appropriate education for every child identified with exceptional needs.

MJUSD's Master Plan:

1) **Referral** by parent, doctor, teacher, community agency, any other concerned individual.

2) **Assessment** of child's strengths and needs through testing, observations, and conferences among school's professional staff and the parent(s).

3) **Individualized Education Program (IEP)** team is formed, and if there is agreement that the child needs special education, an individual program will be designed to meet those needs. The parent(s) are involved in this planning.

4) **Appropriate placement** follows Individualized Educational Program development. The parent(s) and the school team select a full or part-time special class placement. The parent's written consent is necessary.

5) **Implementation of the program as stated in the Individualized Educational Program** is the responsibility of the Individualized Educational Program chairperson.

6) **Individualized Educational Program REVIEW** will be done at least once a year to determine how well the program is meeting the child's needs or sooner if requested by the parent(s), or if the student's progress is below expectation.

There are currently 830 students in the MJUSD receiving special education assistance either on a full or part-time basis in 33 class rooms (plus one bi-county class for the Seriously Emotionally Disturbed) and staffed by 34 positions which are supported by Nurses, Psychologists, Testing & Statistical Projects Coordinator, an Administrative Secretary III and Director of Pupil Services. Close to seven percent of the MJUSD students are receiving some type of special education.

SCOPE:

The questions investigated were: Does the MJUSD Master Plan effectively and properly identify students with exceptional needs? And, does this plan and District offer adequate intervention assistance as provided for in the Education Code?

PROCEDURE:

The 1992-93 Grand Jury reviewed the MJUSD Master Plan for Special Education, and interviewed selected personnel and parents of one student with identified exceptional needs to test if the plan was effective in the identified case, hereinafter known as the "test case."

DISCUSSION:

There was a cause and effect relationship between the Grand Jury findings and those found in the test case. While there was an acknowledged need for an intermediate level (grades 6-9) self contained classroom, the test case went without the recommended assistance that the additional classroom could have provided.

Statements taken in interviews indicate that there were incidents of emotional and physical outbursts that resulted in assaults on staff and other students. These sources pointed to the test case's underlying diagnosed conditions, and the student being under served as causal factors for the acting out behavior.

When the test case was sent home rather than the school addressing the behavioral problem in the previously established preventive manner, the parents became alienated from the school process. These changes occurred immediately following the student's mainstreaming and should have signaled a new Individualized Educational Program team meeting with the parents. Since many meetings were required, a number of Individualized Educational Program team meetings could have been held (offered) in extended hours so as not to threaten the parent's employment or income.

When the mediation process was underway the parents felt isolated and unrepresented. They experienced difficulty with the translations of the translator; then the process was terminated without resolution by administrative direction. It is noted that an alternate mainstream, enhanced program was tried, but it soon disintegrated. No new Individualized Educational Program was held and both educators and parents reported deterioration of certain key abilities of the student.

Authoritative sources estimate a need for a self contained classroom for approximately 15 students for 6-9 grade levels. There is a system in place to identify these students, but there is no self-contained classroom to accommodate them.

FINDINGS:

All findings have been substantiated by current documentation and by observation and interviews by no less than two members of the Grand Jury. P.C. § 916

1. While there is an ongoing effort to reach certain special needs students, the MJUSD does not have an intermediate level self-contained classroom, grades six through nine, for those with conditions requiring more structure and less distractions. Example cases would be the (ATDD) Attention Deficit Disorder and the (ATDHD) Attention Deficit Hyperactive Disorder.

2. The test case in this investigation met all of the criteria for special education program(s), but did not receive appropriate or recommended special education. Further, the follow-up Individualized Educational Program meetings required by E.C. § 56343 were not held.

3. The test case parents were not given a good understanding of their rights and options and felt that the mediation process was adversarial in nature. When the administration moved to terminate the process, the parents thought by agreeing they were protecting their child from some arbitrary action.

CONCLUSIONS:

The Grand Jury has concluded that because the District lacked a needed intermediate level self-contained program, the considerably enhanced educational efforts to meet the needs of the test case resulted in the student not receiving the expected benefits. It is possible that this same program inadequacy may exist for other students currently receiving only intermittent assistance when a specialized classroom is required due to their condition and the statutes referenced in this report.

RECOMMENDATIONS:

P.C. § 916, states in part: "... All problems identified in a final report are accompanied by suggested means for their resolution, including financial when applicable."

1. That the School Board implement the plans for an intermediate self-contained classroom beginning with the 1993-94 school year, and that the School Board initiate the "seek, find and place" procedure for those students in need of a self-contained classroom.

2. That the School Board initiate action to schedule and hold an Individualized Educational Program for all such cases with the annual date for review being set at the first Individualized Educational Program meeting.

3. That the School Board initiate a review of the process used in mediation and Individualized Educational Program meetings to insure a non-adversarial atmosphere with good communication and translation of the process to all parties involved.

COMMENTS REQUIRED ON FINDINGS:

MJUSD Board of Trustees: Findings 1, 2, & 3.

COMMENTS REQUIRED ON RECOMMENDATIONS:

MJUSD Board of Trustees: Recommendations 1, 2, & 3.

CITY OF WHEATLAND

ACCOUNTING PROCEDURES

COMMENTS REQUIRED ON FINDINGS:

City of Wheatland, Mayor: Finding 1.

City of Wheatland, City Council: Finding 1.

COMMENTS REQUIRED ON RECOMMENDATIONS:

City of Wheatland, Mayor: Recommendation 1.

City of Wheatland, City Council: Recommendation 1.

ACCOUNTING PROCEDURES
CITY OF WHEATLAND

REASON FOR INVESTIGATION:

The Grand Jury, in responding to a Citizen's complaint, investigated the accounting practices of the City of Wheatland. The basis of the complaint was that the City Council was not receiving financial reports on a regular basis.

BACKGROUND:

The City of Wheatland (City), like other cities in the State, in order to ensure the accurate accounting of city funds, has established standard accounting procedures and has an annual audit conducted by a certified public accounting firm.

There is no State statutory requirement that municipalities, cities, have an annual audit conducted, unless such a requirement is mandated by the city's charter. Cities that receive certain Federal funds, by Federal statutes, are required to have an annual "Single Audit" conducted pursuant to Office of Management and Budget Circular A-128 (4/12/85). This Single Audit requirement is for federal funds only and does not require that City General funds be included.

SCOPE:

The Grand Jury limited its investigation to determining if, and if so why, the accounting procedures in use by the City did not allow for generating financial reports on a regular basis and if the accounting procedures in use by the City were in keeping with sound accounting practices and in the best interest of the public.

PROCEDURE:

Grand Jury members researched State Statutes and the City of Wheatland Ordinance Code, and discussed city budgets and audit requirement with members of the Office of the State Controller and City of Wheatland elected and appointed officials.

DISCUSSION:

Grand Jury members, because of an inquiry into a different matter, as early as August 21, 1992 asked for a copy of the audit for the fiscal year ending June 30, 1992. Grand Jury members after waiting almost ten months and unable to obtain a copy of the audit did further research on the statutory requirement for audits. Grand Jury members were unable to find any statutory requirement that municipalities have an annual audit. This fact was substantiated by personnel at the State Controllers Office.

Grand Jury members, while meeting with elected officials of the City of Wheatland, validated the citizen's complaint. Grand Jury members learned that the City Administrator for various reasons was unable to provide the Council with timely financial reports.

An attempt by the City to convert from a manual double entry to a computerized accounting system had not been successful. In converting from the manual to a computer system, city employees had ceased manual entries and made only computer entries. Upon discovering that the computer system was not functioning as intended, city employees had to go back and enter transactions by hand in order to again try and make the computer system work.

Though the computer system now appears to be working properly, the City Administrator is still unable to provide the Council or the People with meaningful financial reports. Because of initial problems with the computer system, the City started the new fiscal year without properly reconciled balances brought forward. Until the annual audit is completed and certified balances entered financial reports are of little value. The City presently relies on balances solely on information made available in bank statements.

On June 2, 1993, during a meeting with the City Administrator and a City Councilman, Grand Jury members again asked, for but did not receive, a copy of the 1991-92 audit. Explanation was that the auditor had not yet completed the audit. Grand Jury members during the meeting learned that both the City Administrator and the Councilman present were not aware that there was no statutory requirement for an annual audit.

Additionally, it was learned by members of the Grand Jury that it was common practice for the City to have an annual audit and during the last several years the cost per audit has been $7,500.00 The audit presently being conducted is to be a three year audit, as the new first time auditor could not certify the 1991-92 audit unless he certified the previous two years audit figures. Cost for the three year audit to be at the same $7,500.00.

FINDINGS:

All findings must be substantiated by current documentation, and by interviews conducted by no less than two members of the grand jury, P.C. § 916.

1. The City presently has no way of verifying that the end of month figures generated by the computer system are in fact accurate nor is the City able to generate meaningful financial reports.

CONCLUSIONS:

The Grand Jury can only conclude that the citizen's complaint received is valid, as City officials were unable to share with the Grand Jury accurate account balances or a certified fiscal audit.

Computer print-outs made available to Grand Jury members appear to contain accurate current entries; however, without accurate account balances brought forward the print-outs are of little value as a financial report.

RECOMMENDATIONS:

P.C. § 916, states in part: "...all problems identified in a final report are accompanied by suggested means for their resolution, including financial, when applicable."

1. That the City Council insist on a final certified audit at the earliest in order to bring all financial records up to date and in order that the Council and the people know the true financial status of the City.

COMMENTS REQUIRED ON FINDINGS:

City of Wheatland, Mayor: Finding 1.

City of Wheatland, City Council: Finding 1.

COMMENTS REQUIRED ON RECOMMENDATIONS:

City of Wheatland, Mayor: Recommendation 1.

City of Wheatland, City Council: Recommendation 1.

CITY OF WHEATLAND

POLICE DEPARTMENT

COMMENTS REQUIRED ON FINDINGS:

City of Wheatland, City Council: Findings 1, 2, 3, & 4.

City of Wheatland, Mayor: Findings 1, 2, 3, & 4.

COMMENTS REQUIRED ON RECOMMENDATIONS:

City of Wheatland, City Council: Recommendations 1, 2, 3, & 4.

City of Wheatland, Mayor: Recommendations 1, 2, 3, & 4.

POLICE DEPARTMENT
CITY OF WHEATLAND

REASON FOR INVESTIGATION:

The Wheatland Police Department was selected for investigation by the 1992/93 Grand Jury, pursuant to P.C. § 925, and as a follow up to the 1991-92 Grand Jury report and to review the impact of the current budget crises.

BACKGROUND:

The position of Chief of the Wheatland Police Department is subordinate to the Wheatland City Council. The City Council establishes the budget, reviews for approval all major expenditures, and funds the manpower positions as deemed necessary. It is the Chief's responsibility to assign the available manpower and equipment to best serve the community's needs.

SCOPE:

The scope is limited to departmental practices, policies and procedures. Due to current budget constraints, the operational effectiveness of the department was reviewed in the following areas:

A. Staffing
B. Employee moral
C. Level of law enforcement services provided to the community
D. Adequacy of facilities and equipment
E. Evaluation of types and numbers of crimes in the community
F. Current procedures implemented in addressing criminal activities

A feasibility study was conducted by the Grand Jury for the contracting of outside law enforcement services in regard to economic and net effect of services rendered.

PROCEDURE:

The Grand Jury reviewed the pertinent sections of the California Penal Code and applicable City Ordinances. An interview was scheduled and conducted with the Department Chief. An on site visitation and tour of the facility and its equipment was performed by Grand Jury members.

DISCUSSION:

The Police Department is responsible for providing the highest level of 24 hour law enforcement protection possible for the residents of Wheatland. Dispatch operations are conducted through the Wheatland Police Department only during the normal day time hours. All after hours dispatch services are provided through the Yuba Co. Sheriff's Department.

The current department staffing consists of seven full time personnel and a reserve force augmentation of four reserve police officers. Full time positions are:

A. Chief (one)
B. Captain (one)
C. Policemen (four)
D. Dispatcher/Secretary (one)

Employee moral does not appear to be a problem, however, the attrition rate continues to remain high, (employee average of 2 1/2 years) due primarily to the employee compensation as compared to neighboring law enforcement agencies. This is the first full year that an employee medical plan has been provided which may help reduce the current attrition rate. Because of the small size of the police department, the reserve force is critical for efficient operation. Reserves are utilized to fill in for personnel during all absences: illnesses, vacations, etc.

An effective level of law enforcement is currently being provided to the residents of Wheatland. Reported crimes against persons and property continue to show a significant decline in both the amount and severity from 1989 to the present. The Chief concluded that the increased police visibility in the community directly relates to the reduction of crime.

Wheatland, in years past, had a reputation of being a "speed trap." The current City Council has revised their policy to direct the police efforts to more closely patrol the entire community, rather than concentrating on the primary highway. The new policy has resulted in an increase in verbal and written warnings for minor traffic violations throughout the city.

The Wheatland Police Station consists of a 24' x 60' converted mobile home. The facility and grounds are well maintained and ample equipment is currently on hand to support the mission of the department. Even though two of the three vehicles are more than five years old and have in excess of 100,000 miles, they are kept in excellent operating condition. The department is utilizing lease purchase agreements and equipment service contracts as a means to reduce costs. Police services account for approximately 24% of the entire Wheatland City budget.

The feasibility study, conducted by the Grand Jury, was prompted by a citizen's concern, in regard to consolidating the law enforcement services with those of Yuba County. Results of this study concluded that both the administrative and operational costs are often reduced in agencies where consolidation has occurred and services are generally not adversely affected. In a nearby community where the law enforcement services were recently contracted with the County Sheriff's Department, it was noted that both the City and County benefitted. A significant reduction in the cost of providing law enforcement services was realized by the City, while the county increased revenues and improved emergency response time. Numerous cities throughout the state have opted to disband their police departments in favor of using the local county sheriff's department because of the need to reduce over-all operating costs. County operated law enforcement appears to be the trend of the future throughout the state as the most cost effective means for the cities to operate under tight fiscal constraints. Another area of concern by Grand Jury members related to the humanistic and personal economic impact on the existing city police personnel. With proper contract negotiations a majority of the affected personnel are assimilated into the county agency because of the increased area that needs to be served.

FINDINGS:

All findings have been substantiated by current documentation and by observation and interviews by no less than two members of the grand jury. P.C. § 916

1. The City recently provided a medical plan to the members of their law enforcement, in the hopes that the attrition rate would be reduced.

2. Police facilities and equipment are currently being well maintained, managed and utilized even though some of the equipment is far from new.

3. The reserve augmentation force is a vital component in both the mission and structure of the Wheatland Police Department.

4. The cost to provide adequate law enforcement services to the city has become a major concern to some of the residents.

RECOMMENDATIONS:

P.C. § 916, states in part: "... All problems identified in a final report are accompanied by suggested means for their resolution, including financial when applicable."

1. That the City Council examine the various avenues of employee incentives of both a financial and a personal nature in an effort to reduce employee attrition.

2. That the City monitor the current condition of all equipment, and upgrade as necessary, to ensure that the department's needs are being met.

3. That adequate active duty time and training be provided for the members of the police reserve force in order to maximize utilization and efficiency of the department.

4. That a feasibility study be conducted in regard to contracting for outside law enforcement services and implement the program that best meets the needs of the community.

COMMENTS REQUIRED ON FINDINGS:

City of Wheatland, City Council: Findings 1, 2, 3, & 4.

City of Wheatland, Mayor: Findings 1, 2, 3, & 4.

COMMENTS REQUIRED ON RECOMMENDATIONS:

City of Wheatland, City Council: Recommendations 1, 2, 3, & 4.

City of Wheatland, Mayor: Recommendations 1, 2, 3, & 4.