

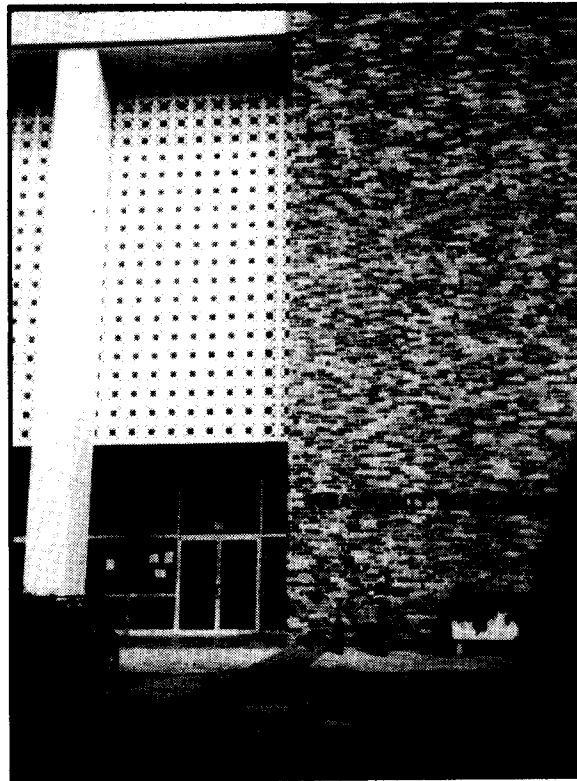
# *YUBA County*



**1996/97 GRAND JURY**

**FINAL REPORT**

# *YUBA County*



**1996/97 GRAND JURY**

**FINAL REPORT**

1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

The Honorable Thomas Mathews,  
Presiding Judge  
Yuba County Superior Court  
215 Fifth Street  
Marysville, Ca. 95901

Dear Judge Mathews:

The 1996/97 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. All findings were substantiated by the requirements of Penal Code 916.

The 1996/97 Grand Jury is proud to have constructed and installed a computer, with modem and dedicated telephone line. A new 2.0 gigabyte hard drive and installation was generously donated by the Yuba County Citizens Alliance. This computer has proven to be invaluable for data storage and final report writing. In addition, members have created a web site where Grand Jury reports can be viewed. The web site is on the Yuba County Office of Education server ([www.yubacoe.k12.ca.us](http://www.yubacoe.k12.ca.us)). This year's final report will have only the required number of hard copies, and all others will be issued on computer diskette. This will be a cost effective method for this and future Grand Juries.

As Foreperson of this 1996/97 Grand Jury I wish to thank all the members for the 4000 plus hours of time expended, and their special expertise exhibited. I am especially grateful to you for selecting an exceptional panel of men and women to serve as members of this years Grand Jury.

I also wish to thank the many people of your office and the people of Yuba County for assisting this 1996/97 Grand Jury, for without their input and assistance this would have not been possible.

Respectfully submitted,



Sandra Kawashima, Foreperson  
1996/97 Yuba County Grand Jury

---

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

---

### 1996/97 Grand Jury Members

Catherine Blystone*		Marysville
Johnnie Colburn		Olivehurst
Linda Crane **	Pro-tem	Olivehurst
Kennt Lee Davis	Computer Systems	Marysville
Jimmie L. Gray		Marysville
Bill Harris		Marysville
Gary L. Hoon*		Marysville
Joan Hungrige (JoAnn)**		Oregon House
Mohmood Khan*		Marysville
Fred Kawashima**	Web Page	Loma Rica
Sandra Kawashima**	Foreperson	Loma Rica
Donna King		Wheatland
Ronald King		Wheatland
Lawrence Lambert	Sgt. Of Arms	Linda
Michele Luis	Recording Secty 1	Linda
Stella Marie Mahan	Data and Codes	Linda
Mary Lou Mullen	Correspondence Secty	Loma Rica
Steve Sanders		Linda
Mary (Lizz) Welch	Recording Secty 2	Hallwood

\*Alternate

\*\* 95-96 Holdover

1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

Johnnie Colburn Johnnie Colburn  
Linda Crane Linda Crane  
Kenneth Lee Davis Kenneth Lee Davis  
Jimmie Gray Jimmie L Gray  
Bill Harris Bill Harris  
Joan Hungrige Joan M Hungrige  
Fred Kawashima Fred U Kawashima  
Sandra Kawashima Sandra Kawashima  
Donna King Donna King  
Ronald King Ronald King  
Lawrence Lambert Lawrence Lambert  
Michele Luis Michele Luis  
Stella Mahan Stella Mahan  
Mary Lou Mullen Mary Lou Mullen  
Steve Sanders Steve D. Sanders  
Mary (Lizz) Welch Mary Welch

Catherine Blystone\*

Gary L. Hoon\*

Mohmood Khan\*

\* no signature per code 908.1

---

1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

---

**TABLE OF CONTENTS**

	page
<b>FOREPERSON'S LETTER</b>	-
<b>MEMBERS OF THE 1996-97 YUBA COUNTY GRAND JURY</b>	1
<b>SIGNATURE PAGE</b>	2
<b>TABLE OF CONTENTS</b>	3
<b>YUBA COUNTY</b>	
<b>DISTRICT ATTORNEY'S OFFICE (CRIMINAL DIVISION)</b>	4
<b>FLOOD OF 1997</b>	9
<b>MARYSVILLE JOINT UNION SCHOOL DISTRICT</b>	18
<b>PUBLIC ACCESS TO YUBA RIVER</b>	30
<b>OFFICE OF EMERGENCY SERVICES</b>	38
<b>RISK MANAGEMENT (DIRECTOR)</b>	40
<b>SHERIFF'S DEPARTMENT</b>	46
<b>SHERIFF'S DEPARTMENT (JAIL DIVISION)</b>	56
<b>BI-COUNTY JUVENILE HALL</b>	60
<b>OLIVEHURST PUBLIC UTILITY DISTRICT</b>	64
<b>WHEATLAND, CITY OF - (CITY COUNCIL)</b>	68
<b>YUBA COUNTY WATER AGENCY</b>	73

**District Attorney's Office  
(Criminal Division)**

**RESPONSE REQUIRED ON FINDINGS**

- Yuba County District Attorney on Finding 1 and 3.
- Yuba County Board of Supervisors on Finding 1.

**RESPONSE REQUIRED ON RECOMMENDATIONS**

- Yuba County District Attorney on Recommendation 1 and 3.
- Yuba County Board of Supervisors on Recommendation 1.

# 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

## **District Attorney's Office (Criminal Division)**

### **Reason for Investigation:**

This investigation was conducted pursuant to Chapter 3, Article 2, Section 925 of the California Penal Code. The Yuba County District Attorney's Criminal Division was selected due to the extended period of time since last Grand Jury investigation 1991/92.

### **Background:**

The Yuba County District Attorney's Office is located at 215 5th Street, Marysville, California and is comprised of the Criminal Division and the Family Support Division. The District Attorneys Office is comprised of the District Attorney, Chief Deputy District Attorney, six Deputy District Attorneys and four clerical staff to act as support personnel. The District Attorney is the Chief Law Enforcement Officer of the County and is responsible for the prosecution of all criminal cases in the Yuba County Superior and Municipal Courts.

### **Scope:**

The members of the Grand Jury chose to conduct an investigation of the Criminal Division of the District Attorney's Office, with a particular emphasis on the staffing level and other areas that may negatively impact the efficient operation.

### **Procedure:**

All interviews were conducted and documents were obtained by no less than 2 members of the Grand Jury per PC §916.

Interviews were conducted with the Yuba County District Attorney, Chief Deputy District Attorney, and various support staff. The Grand Jury also examined the 1995-1996 Yuba County District Attorney's budget. The Grand Jury also examined the Sutter County District Attorney's Budget for comparison purposes.

### **Discussion:**

The Yuba County District Attorney's 1996-1997 approved budget is \$469,138; of which \$152,683 is general fund monies and the remainder derived from various state and federal sources. The 1995-1996 budget was \$435,000; of which \$199,949 was general fund monies and the balance from state and federal sources. The general fund contribution was higher for FY1995-96 than for this fiscal year. Breakdown of the budgets with respect to general fund monies is shown below.



## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

The total budget for this fiscal year has a modest increase of approximately \$34,100.

<u>Approved Budget</u>	<u>1995-1996</u>	<u>1996-1997</u>
General Funds	\$199,949	\$152,683
Other Funds	\$235,091	\$316,455
-----	-----	-----
Total Budget	\$435,040	\$469,138

All of the District Attorney's staff interviewed by the Grand Jury were extremely cooperative and provided all information requested in a timely fashion. Many of the Deputy District Attorney's have come into this office from varied backgrounds within the criminal justice field.

The District Attorney's Office has two investigators; one assigned to Child Abuse/Sexual Assault Unit and the other investigator is assigned to the Domestic Violence Unit for 35% of the time and Family Support Unit for 65% of the time. The two investigator positions are not funded by general fund monies.

The District Attorney's Office does not have a general purpose criminal investigator. The District Attorney's caseload is increasing due to the increased penalties for various offense, more violent crimes, and an increase in serious drug offenses. Investigators are needed to complete follow up investigations on cases rather than refer the cases back to the arresting agencies.

As a comparison, the District Attorney's Office in Sutter County has the following number of investigators:

Chief Investigator Deputy Attorney	2
Criminal Investigator III	5

Criminal investigators can also be used to investigate evidence which is provided to the District Attorney by the defense attorneys. In years past, the District Attorney did not always have access to this information. Presently, defense attorneys must provide this information to the District Attorneys through the discovery process. An investigator can be utilized to examine this information, thereby reducing the District Attorney's prosecution workload in the sense that it would result in faster case dispositions. This would enable the District Attorney to initiate the prosecutions in a timely manner. It would also relieve the arresting agencies of the follow up work that is required.

Criminal investigators would be able to spend more time investigating the more complex cases. The arresting agencies may not have the time nor the resources to evaluate these complex investigations. An example given was, "A complex embezzlement case may take up to 60 hours of investigation time." This is either done by a criminal investigator or attorney. If an attorney takes on this investigation, other cases may not be given appropriate attention. Other crimes can be investigated that generally receive little attention which are environmental offenses, consumer fraud, and child abduction cases.

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

When a referral comes to the District Attorney's Office, often times they have only two days to determine if a prosecution is appropriate. The District Attorney reviewing the case knows that the arresting agencies have little time for follow up investigations. If a criminal investigator were available and communications between agencies were improved, the follow up investigation could begin immediately. This increases the chance of a case being filed and a criminal going to jail.

Criminal investigators also have very specialized training and experience. They could provide training to local law enforcement personnel regarding the rules of evidence and other valuable training.

The District Attorney's Office handled 8,666 cases in FY 1995-96 - which required investigations. The table below shows the breakdown of the types of cases for which an investigator is required. The office handles approximately 1,100 felony cases yearly. Of these cases, 40% to 50% are reduced to misdemeanors or are dismissed. The District Attorney's office is experiencing an increase in workload due to more severe penalties, more restrictions in plea bargaining and longer sentences.

### **Total Filings - Fiscal Year 1995-96**

	FELONY	GROUP A	GROUP B	GROUP C	GROUP D	CHILD DEPEND	JUVENILE	TOTALS
	-----	-----	-----	-----	-----	-----	-----	-----
CASES	1,068	2,072	153	848	3,725	550*	250*	8,666

\* approximation

The District Attorney is in charge of the administrative aspects of the office. He prepares the budget and submits the budget to the Yuba County Supervisors for approval. He is responsible for completing and submitting grants to acquire funding outside of the general fund. He also prosecutes all of the homicide trials that occur in the county.

The Chief Deputy District Attorney has primary responsibility for the day to day operation of the office. In addition to these duties, he prosecutes the child physical assault cases. He reviews cases prior to the preliminary hearing and assigns the cases to the appropriate Deputy District Attorney.

### **Findings:**

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

1. The Yuba County District Attorney's Office is in serious need of a general purpose Criminal Investigator.
2. The Yuba County District Attorney has demonstrated sound budgetary skills by reducing the general fund monies that are required by his department

---

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

---

3. The District Attorney is responsible for all administrative aspects and duties such as, preparing the budget, procuring grants, supervising and overseeing his department and staff.

### **Recommendations:**

1. That the Yuba County Board of Supervisors should fund the position of a general purpose criminal investigator for the Yuba County District Attorney's Office. While this would cost more in the beginning it would be cost effective due to reduction in follow up investigative time by law enforcement agencies. Furthermore, the citizens of Yuba County would be better served in that additional investigative capability by the District Attorney's Office would enhance their prosecution ability. It is suggested that the monies to fund this position be recovered from the county agencies or agency which would benefit most from the reduced workload.

2. That the District attorney should continue to exercise sound fiscal judgment with regard to the administration of the department's budget.

3. That the District Attorney should share the responsibility for the prosecution of homicide cases to the Chief Deputy District Attorney.

### **Response Required on Findings:**

- Yuba County District Attorney on Findings 1 and 3.
- Yuba Board of Supervisors on Finding 1.

### **Response Required on Recommendations:**

- Yuba County District Attorney on Recommendation 1 and 3.
- Yuba Board of Supervisors on Recommendation 1.

## **YUBA COUNTY**

### **Flood of 1997**

#### **RESPONSE REQUIRED ON FINDINGS**

- Reclamation District No. 784 on Finding 1
- Board of Supervisors on Findings 2, 4, 5, 6, 7 and 8.
- Board of Yuba County Water Agency on Findings 3, 5, 6, and 7.

#### **RESPONSE REQUIRED ON RECOMMENDATIONS**

- Reclamation District No. 784 on Recommendation 1.
- Board of Supervisors on Recommendations 2, 4, 5, 6, 7 and 8.
- Board of Yuba County Water Agency on Recommendations 3, 5, 6, and 7.

## **Yuba County - Flood of 1997**

### **Reason for Investigation:**

Penal Code, Chapter 3, Article 2, Section 925, states in part: "The Grand Jury shall investigate functions of the County on some selective basis each year."

### **Background:**

The Yuba River is composed of three forks - the North, the Middle and the South. The North Fork is controllable by the New Bullards Bar Dam - which is owned and operated by the Yuba County Water Agency. The Middle and South Forks are uncontrolled. The Yuba River joins and becomes a part of the Feather River at Marysville.

All four forks of the Feather River flow into and are contained in Lake Oroville - which is located up river (approximately 40 miles) from the confluence with the Yuba River. It is owned by the State of California and operated by the Department of Water Resources.

The levee break of January 2, 1997 occurred on the east bank of the Feather River, approximately 8 miles down river from the confluence, in the Arboga area of Yuba County.

### **Scope:**

This report encompasses only the jurisdictions of Yuba County, specifically the Yuba County Water Agency and Reclamation District 784. The US Army Corp of Engineers and the California State Department of Water Resources are included, but for reference only.

This report does not intend to make any judgements on any agency nor individuals. It is intended to present only the facts and recommendations derived from the investigation.

### **Procedure:**

The investigation was conducted by no less than two members of the Grand Jury per Penal Code § 916.

The members obtained, read and analyzed the following documents:

- Hourly Readings for Bullards Bar Project, Yuba County Water Agency
- Flood Channel Design Flows, Department of Water Resources (State of California)
- Reservoir Operations, US Army Corps of Engineers
- Maps of RD784 Levees, Sacramento District Army Corps of Engineers
- Articles, Appeal-Democrat Newspaper, Marysville, California
- Marysville City Levee by W.T. Ellis, printed 1943.
- [www.yubacoe.k12/ca.us/oes/yubaoes.html/](http://www.yubacoe.k12/ca.us/oes/yubaoes.html/), Yuba County Office of Emergency Services.

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

The members conducted interviews of:

- The Director and Assistant of the Yuba County Water Agency
- Contractors (working for RD784) for levee repairs

### **Discussion:**

Abbreviations, names and terms used herein are not common to the lay public. They are defined, as follows:

<b>ac-ft:</b>	Acre feet - a measure of volume, an equivalence: one acre of water, one foot deep or 43,560 cubic feet.
<b>Agency:</b>	Yuba County Water Agency, owner and operator of New Bullards Bar Dam.
<b>Boil:</b>	River water seepage that surfaces on the inland side of the levee. A 'dirty' boil contains levee material; therefore, most apt to cause a levee break.
<b>cfs:</b>	Cubic feet per second - water flow rate, an equivalence: 100,000 cfs will fill approximately 200,000 ac-ft per day.
<b>Confluence:</b>	Where the Yuba River flows into the Feather River. Located at Marysville.
<b>DWR:</b>	Department of Water Resources (California), operator of Oroville Dam.
<b>Flood reserve:</b>	Space in the reservoir below the maximum capacity. Stated mathematically: Maximum storage = Maximum capacity - flood reserve (usually in ac ft).
<b>freeboard:</b>	space between the top of the levee to the river, i.e., before river overflows levee.
<b>M:</b>	Abbreviation for Million, e.g., 3.2M is abbreviation for 3,200,000.
<b>RD784:</b>	Reclamation District 784, maintains drainage ditches (60 to 70 miles) and levees (37 miles) on the south bank of the Yuba, the east bank of the Feather, and the north bank of the Bear Rivers - all within Yuba County.
<b>slurry wall:</b>	A reinforcing section of impervious material built in the middle of the levee (parallel to the levee sides) - to prevent seepage of river water through or beneath the levee.
<b>US Corps:</b>	US Army Corps of Engineers, Sacramento District, jurisdictional control of dams and levees.

### **The Levee Break:**

The levee break occurred at Country Club Road in the Arboga area. As stated by the levee contractors: "...the area we were working at Country Club is an area that has historically had a lot of boils...this section of the levee was built on an old river bed." "...there's a historic boil - about a 100 yards from the levee along Country Club...it was running clear water. They sandbagged it....it was under control." "...they were working a dirty boil about 50 yards north of Country Club Road... they were sandbagging it when it blew - about 5 feet behind them on the levee.... they just cut and ran."

As stated above, the levee was built over an old river bed. The section of the levee that broke was constructed over a wide spot of the old river bed, known historically as Messick Lake. A map (provided by the US Corps) shows the lake was located in an area bounded by the levee

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

and Country Club and Anderson Roads. When the river broke through the levee, it reclaimed its old river bed.

Prior to the levee break, they noticed that the river was still rising. Levee Contractor stated: "...it was carrying all the water it could...lot of pressure from levee to levee." "...to illustrate the pressure....there was a well (near a house on Country Club Road) with a submersible pump." "...that well was sealed on top - it had a conduit going up a pole to a electrical box ...water was gushing out of it."

"... the river had about 3 feet of freeboard." "...the levee surface was saturated, but we had more concerns with the water going over the top - than of the levee breaking." About dark (day of the levee break), "...they noticed that they were losing it." They tried to reach the RD784 office via their hand held radio. An official of RD784 was stationed there, who was to alert the Sheriff's Department by telephone. They could not make contact, their communication system was inadequate. Another official of RD784, who was working with them, drove to the office to report the situation.

### **Condition of the Levee on the Bear River:**

During the day on January 2, a levee watcher reported that there was very little free board on the Bear River levee - between Hiway 70 and old Hiway 152. The levee contractors hauled a few truck loads of crushed rock to build up the levee.

While the crews were concentrating on the boils at Country Club Road, the Bear River levee was forgotten. Per the levee contractor: "...everybody had forgotten the Bear....we would have lost the Bear in an hour - hour and half...there was only 8 inches of freeboard left." Eventually however, when the Feather flooded into the Bear River (north) levee - it broke through.

When the Bear River subsided, a large portion of the flooded area drained out. The repair of this levee break was delayed approximately 3 weeks. On January 22, another rainstorm hit the area. The Bear River rose and flowed through the break, reflooding the flooded area.

What the crest of the Bear River was at the break is not known, but the waters from the Bear River rose to the level of Country Club Road at the Plumas Lake Golf Course - approximately 5 miles. The 10th and the adjacent fairways, from which the original flood waters had receded, were once again covered.

### **Management of the Oroville Dam and Feather River:**

During the month of December 1996, reservoir storage in Lake Oroville was within the parameters for flood reserve of 750,000 ac-ft. When the "Pineapple Express" rains started on December 27, the flood reserve was at 800,000 ac-ft. The inflow into the reservoir exceeded the outflow and the reservoir filled rapidly into the flood reserve. The inflow peaked at 274,000 cfs on January 1 when the rains subsided. When the inflow and outflow equalized at 129,000 cfs on January 2, the reservoir peaked - at 3.3 M (million) ac-ft or 94% of capacity. There was a flood reserve of 207,000 ac-ft remaining, or approximately 1/4 of the flood reserve was yet available.

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

### **Management of Bullards Bar Dam and the Yuba River:**

The total management of the Yuba River is not possible. Only the waters of the North Fork are controllable - and that by the New Bullards Bar Dam. The other two forks, the Middle and the South are not controlled. Prior to the "Pineapple Express" rains, the New Bullards Bar had a flood reserve of 180,000 ac-ft (minimum required is 170,000 ac-ft). The peak inflow into the reservoir occurred on January 1 with a flow rate of 107,000 cfs. During this period, the reservoir had a maximum increase of 6,000 ac-ft in one hour. The outflow was purposely kept around 30,000 cfs by the Director of the Agency, so as not to overflow the banks in the Simpson Lane area during the evening - when it was dark.

The following day, January 2, the outflow was increased to 55,000 cfs. The banks did overflow the Simpson Lane area and also unexpectedly in the Hallwood area, but there was adequate time to evacuate the people in the daylight. At 1600 hours, the dam had reached capacity (100%). As stated by the Director: "...we had an **inch and a half** of space left....so we didn't use it all." "... Bullards can stand an overtopping"; i.e., it is structurally capable of an overtopping.

In the meantime, the Middle and South Forks flowed uncontrolled. Fortunately, their peak flows and that of the North Fork were staggered. The North Fork peaked 19 hours earlier, which allowed some control of the flow rate in the lower Yuba.

On January 2, the day of the levee break, the maximum flow rate at Marysville was calculated\* to have been around 174,000 cfs (\*exact reading was unknown). The Marysville gage was operating in error. This was evident because the gage below Englebright Dam (upriver from Marysville gage) was reading higher.

### **The Feather River below the Confluence:**

US Corps, issued a report titled "The Floods of 1997 - Reservoir Operations." It states: "...together, Oroville Dam and New Bullards Bar Dam reduced flows on the Feather River below the Yuba River from 530,000 to 318,000 cfs". The 318,000 cfs flow rate is questionable. There **is no flow gage** below the confluence in the area of the Arboga break nor in the Shanghai Bend area (levee break of 1955).

The levee capacity below the confluence is rated at 300,000 cfs, which is 3 feet below the top of the levee. To obtain that flow rate, the **height** of the Feather River (above the confluence) must be converted to flow rate (cfs), and added to the flow rate of the Yuba River at Marysville.

Using the 318,000 cfs for the purpose of this discussion, the Yuba River contributed 174,000 cfs of that amount. Since the Middle and South Forks of the Yuba River are uncontrolled, the Yuba River should be of more concern for contributing to levee breaks than the Feather River and Oroville Dam.

W.T. Ellis, who spent 43 years studying the Yuba River, stated in his book: "...the Feather River is not a problem....(but) the Yuba must be watched carefully."

### **Analysis of Bullards Bar Dam Operation for Flood Control:**

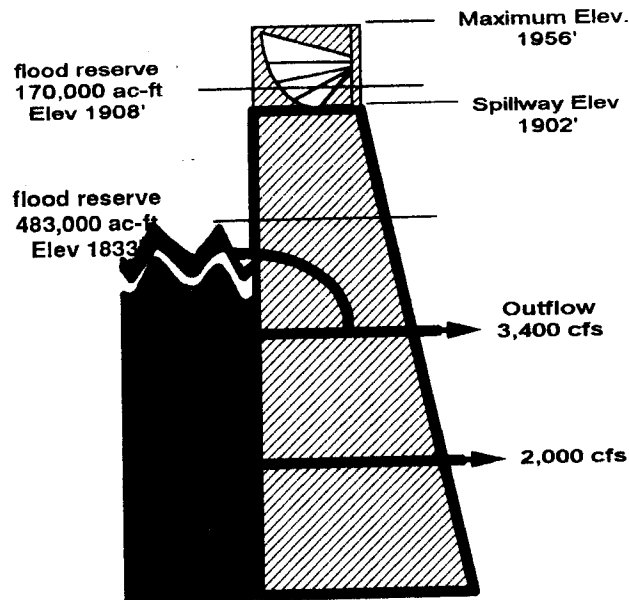
A study was performed by the Yuba County Water Agency to determine if additional flood reserve would have alleviated the flow rate in the lower Yuba during the "Pineapple



## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

Express" rains. They used "a half full" model with 483,000 ac-ft of space for flood reserve versus the current requirement of a minimum of 170,000 ac-ft. It was mathematically established that because of the design limitations, Bullards Bar Dam would have contributed just 5,000 cfs less during the peak flow at Marysville.

The limitations are explained (overly simplified), as follows: The elevation of the spillway is 1902 feet (above sea level). Therefore, outflow from any level below that (see Figure 1. below) is via pipes. At "half storage", the elevation is 1833 feet and the head (pressure) created will



**Figure 1: Bullards Bar Dam (cross-sectional view)**

force an outflow of only 5,400 cfs (through the pipes). If the flood reserve began at 170,000 ac-ft, the elevation would be 1908 feet - or 6 feet above the spillway. The overflow could be 18,000 cfs. Therefore, the trade-off is: "half storage" has more space to fill, but will fill at a faster rate. The 170,000 ac-ft of storage will fill at a slower rate because of a higher rate of outflow. The net result is that the "half storage" maximum outflow would have resulted in 50,000 cfs versus the actual 55,000 cfs, or 5,000 cfs less flow on January 2, 1997.

The conclusion is that Bullards Bar dam is not capable of providing adequate flood reserve for the Yuba River.

### **Proposal for Flood Control of the Yuba River:**

Studies by the Corps and DWR indicate the Yuba River requires 400,000 ac-ft of flood reserve. Bullards Bar can provide 170,000 ac-ft, therefore an additional 230,000 ac-ft is required.

The Agency has put together a proposal for a new dam. The Parks Bar Dam will hold 640,000 ac-ft with a flood reserve of 240,000 ac-ft. The reservoir behind the dam will not encroach into the South Fork\* (\*designated as a Federal scenic river).

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

The cost of the dam is estimated to be \$530M. The Agency has several options on the financing, but all options are based on financing by revenue bonds. That is, the revenue from the sale of the electricity generated by the dam, based on the current rate of \$32 per megawatt-hour, will make the bond payments. Additionally, it can create income from water sales.

The debt ratio for the proposed option of using Bullards Bar as collateral is 1.55 to 1. The option of obtaining federal flood control funds and using the Parks Bar Dam as collateral for itself has a debt ration of 1.4 to 1. The debt ratio (income versus the debt service) is very favorable to financiers of bonds.

If the Federal regulators approve the construction of the Parks Bar Dam, it will also need the approval of the citizens of Yuba County. Since the dams will be used as collateral, there will be **no financial** liability to the citizens of Yuba County.

### **Proposed Reconstruction of RD 784 Levees:**

Per a letter to Yuba County Grand Jury from P. Lee, Sacramento District Army Corps of Engineers, dated January 13, 1997 "...levee reconstruction plan to build slurry walls in Reclamation District 784.... only at select locations." The locations (three) were identified on Maps (Site 6), on the Yuba River between Simpson-Dantoni Road to Island Road. The length of each section is as follows: 4000 feet, 2900 feet and 6500 feet. Map (Site 7) identifies one section at Star Bend of 2700 feet.

The proposed slurry walls total approximately 3 miles - of the 37 total miles of levees under RD784 jurisdiction.

### **Findings:**

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

1. A few hours prior to the levee break, the on-site personnel could not contact the RD784 office via their hand held radios. A person had to drive to the office to notify them the levee (boils) were getting beyond control.
2. Before the break in the Bear River (north) levee was repaired, another rainstorm hit the area. Water from the Bear River poured through the break and re-flooded the area from the river to Country Club Road (approximately 5 miles).
3. On January 2nd, day of the levee break, the Yuba River flow rate at Marysville was *not known*. The river gage was operating erroneously during the peak flows.
4. On January 2nd, day of the levee break, the (combined) Feather River flow rate was *not known*. There is **no river flow gage** below the confluence in the Arboga nor Shanghai Bend areas.
5. For the levees below the confluence, the Yuba River should be of more concern than the Feather River. The flow rate of the Feather River can be controlled by Oroville Dam. Two forks of the Yuba River are not controlled.

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

6. The Agency performed a study for increasing the flood reserve in Bullards Bar Dam from 170,000 ac-ft to 483,000 ac-ft. Conclusion was that the Bullards Bar Dam can not control the Yuba River.
7. A new dam on the Yuba River is a viable solution to the flood control of the Yuba River. The new Parks Bar Dam is estimated to cost \$530M, and if funded by revenue bonds - will be of no cost to the taxpayers of Yuba County.
8. There are no slurry walls proposed for the area between Island Road (West Linda area) and the Star Bend area, a distance of approximately 10 miles.

### **Recommendations:**

1. That RD784 provide their field staff, communications equipment with the capability of accessing the Yuba County Sheriff's communication system.
2. That the Bear River be given the same consideration as the Yuba and Feather Rivers for flood evacuation.
3. That the Yuba County Water Agency institute action to install flow rate gages to serve as a backup for the current river flow rate gage at Marysville.
4. That the Yuba County Board of Supervisors institute action for Department of Water Resources to install a **flow rate** gage below the confluence in the area of Shanghai Bend.
- 5, 6, and 7. That the Board of Supervisors and of the Yuba County Water Agency be united in proceeding with additional flood control measures.
8. That the Board of Supervisors request the US Army Corps, Sacramento Division, to revisit sections of the levees requiring slurry walls, especially the levees in Site 7 built over old river beds.

### **Response Required on Findings:**

- Board of RD784 on Finding 1.
- Board of Supervisors on Findings 2, 4, 5, 6, 7 and 8.
- Board of the Yuba County Water Agency on Finding 3, 5, 6 and 7.

---

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

---

### **Response Required on Recommendations:**

- Board of RD784 on Recommendation 1.
- Board of Supervisors on Recommendation 2, 4, 5, 6, 7 and 8.
- Board of Yuba County Water Agency on Recommendation 3, 5, 6 and 7.

**Marysville Joint Unified School District**

**RESPONSE REQUIRED ON FINDINGS**

- MJUSD Board of Trustees on Findings 3 and 4.
- MJUSD Superintendent on Findings 3 and 4.

**RESPONSE REQUIRED ON RECOMMENDATIONS**

- MJUSD Board of Trustees on Recommendation 3 and 4.
- MJUSD Superintendent on Recommendations 3 and 4.

## **Marysville Joint Union School District**

### **Reason for Investigation:**

This investigation was conducted pursuant to California Penal Code Section 925, which states in part: "investigations may be conducted on some selective basis each year." The Marysville Joint Unified School District was selected due to the extended period of time, since the last Grand Jury investigation by the 1990-91 Yuba County Grand Jury. The 1996-97 Grand Jury has received no citizen's complaints regarding any aspect of the Marysville Joint Unified School District's operation.

### **Background:**

The Marysville Joint Unified School District (hereafter referred to as the District) is located in Yuba County. The District office occupies the old Marysville High School campus, located at 1919 'B' Street, Marysville, California.

The District is comprised of (see Attachment 1.): thirteen (13) elementary schools, four (4) intermediate schools, two (2) high schools and two (2) continuation high schools. The District operates an adult education program, a teen parent program, a home school program, and operates nine (9) pre-school children's centers and latchkey programs.

The school district has approximately 1,200 employees and operates on a budget of fifty-three million dollars (\$53,000,000). The budget is derived from a combination of funding sources; including, but not limited to County, State and Federal funding sources.

The District is governed by a seven member Board of Trustees, who are elected officials. The current board members are: Margaret A. Markle (president), Clarence R. Weckman (vice-president), George McGrew, Charles D. Center, Glen E. Harris, Roland D'Arcy and Sherill Webb.

The day to day responsibility for the administration of the District falls within the purview of Superintendent Pillsbury and his administrative staff. They are governed by the State of California Education Code 1-1000, and Federal regulations and guidelines that receive Federal monies.

### **Scope:**

The members of the Grand Jury chose to conduct a broad investigation of all aspects of the District's operations, with a particular emphasis on the safety and security of the students. These areas of investigation include:

1. Gang problems within the schools
2. District budget problems.
3. Response to emergencies
4. Drug use by students and the District's response
5. Staffing cutbacks
6. Plan to implement the twenty (20) student maximum requirement for each classroom.
7. District disciplinary policies.

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

### **Procedure:**

The investigation was conducted by no less than two members of the Grand Jury pursuant to Penal Code §916.

The members of the Grand Jury Schools Committee reviewed the District's: 1996-97 Final Budget, the Proposed Suspension and Expulsion Policy, the Emergency Plan for each school in the District, and the Emergency Evacuation Plan for each school in the District.

Committee members conducted an interview with District Superintendent Peter Pillsbury and various other staff and teachers within the school district.

Committee members visited many schools in the district and attended a Board of Trustee meeting, (see attachment 2. for visitation list).

Committee sent letters to various schools in the District, requesting information related to the scope of this investigation.

### **Discussion:**

An interview was conducted with District Superintendent Peter Pillsbury and District Financial Officer Sandy Davini. The Grand Jury found Mr. Pillsbury and Ms. Davini to be very open and frank in their discussion. They answered all questions with a high degree of overall knowledge regarding the operation of the District. The following information was obtained from this interview and a review of appropriate documents:

### **Superintendent, Personnel and Funding:**

Mr. Pillsbury has been District Superintendent for seven (7) years. His educational background includes a Bachelor of Arts degree in History and Sociology, a Masters in Divinity, and has credentials for California Teachers and Administration. He stated: "California has no educational requirements for the position of superintendent." He has extensive experience in the private sector as an administrator, having worked for the Ford Foundation and etc. Mr. Pillsbury is employed on a contract basis and has recently signed a new four (4) year contract. The superintendent's salary and benefits are generally based on comparable positions of other school districts.

Hiring of staff is done through the District Personnel Office. Personnel of all educational levels are employed by the District. The salaries for the District administration is set by the school board by contract. The Superintendent receives cost of living adjustments, as all district employees do. The Superintendent and the Assistant Superintendent each receive a \$450.00 per month vehicle allowance. Mr. Pillsbury estimates he drives approximately 600 miles per month on school district business..

This past year, due to reductions in the school districts funding sources, some personnel were terminated. These positions included a number of aides, a drug counselor/coordinator and six

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

teachers. Because of the smaller classroom requirement, some of these teacher may be re-hired. He estimated that on the average a teacher costs the school district approximately \$40,000.00 each year.

Yuba County general fund money is allocated to each school, primarily based on the school's student population. Each school receives a specified amount of money that may be allocated to their needs. This money is over and above the cost for staffing, maintenance, etc. Determining how to allocate this money is the responsibility of the school principal and the school site councils. These monies are usually spent on such things as field trips, school supplies, athletic programs, phone bills, operational costs and staff development. One school, Alicia Middle School, has used these funds to hire a deputy probation officer - to assist school staff in dealing with the gang problems and other disciplinary problems the school experiences.

The school district receives monies from grants (written by staff) to assist children from homeless families with their education, clothing, medical needs, and etc. The children from the homeless families may live in tents on the river bottoms, a shelter or with a relative. Covillaud school in Marysville has the highest number of homeless students, followed by Cedar Lane in Linda.

All handicapped students are provided for in compliance with the American Disabilities Act. The school district spends approximately one million dollars (\$1,000,000) per year on the Special Education Program. The Yuba County Office of Education provides for the educational services of these students and the District pays for the costs of these services.

Counseling services are available for students in the district. Grant monies help pay for counselors at the school sites. There are school psychiatrists and student interns who provide services. At the high school level, there are academic counselors available to help students with career planning, class scheduling, college preparatory, and etc.

### **Teaching Methodology:**

Mr. Pillsbury stated that teachers have the need to feel respected in the public eye. Public education is very important. The school system is graduating more and more students with higher skills than ever before. The school district has implemented the Senior Project as a way of maintaining this goal. Mr. Pillsbury feels that it is important when students graduate from high school - they should have the necessary skills to write and produce a senior project. They should be able to stand up and give a short verbal presentation on the subject the student has chosen. He feels they must be able to complete this project, or they should not be allowed to graduate with their class. There is possible litigation pending from parents who do not believe it should be a requirement. He believes the school and the community should encourage students to push for excellence and have expectations of those students graduating from their schools. Parent involvement is very important.

Each year Mr. Pillsbury conducts focus groups with several graduating seniors to help determine if their needs have been met and what changes would be beneficial to future graduation seniors. The school district has a goal of teaching all third graders to read at their grade level. It was the Superintendent's opinion that it is necessary that teachers care about their students.



### **The Student Body:**

The District's student population is approximately 10,400 students for the 1996-97 school year. This is down from 10,700 students in the past school year. The school population range from 100 students at Cordua Elementary to approximately 1,000 students at Linda Elementary Schools.

The school district has a plan for complying with the 20 student maximum law for each classroom. This plan will bring the district into full compliance by 1998. They have begun with kindergarten and first grade.

School buses are available for student transportation to and from school. The student must live at least one mile from school to be able to ride the bus. Due to the large area of the District, bus transportation is a large portion of the budget. In addition to the transportation for students to and from school, the buses are used for various other school activities; such as, field trips and sports programs. The buses have an excellent safety record. The school buses are also used in times of emergencies, such as the recent flood.

Parents are notified when students are sent home from school due to an emergency. However, the way of notification varies from school to school. Notification is done by phone, word of mouth or the radio. At the present time, bomb threats have become one of the more serious problems with which the district has been confronted. Each school has a written emergency response plan which must be approved by the district office. There are no medical staff on duty on school sites. There is a basic first aid kit at each school and staff are trained in CPR. 911 is used in the event of a major problem or injury.

### **Facilities:**

Approximately thirty (30) percent of the building in the school district are "portables". These buildings are actually known as "relocatable" structures, since they can not easily be moved. They cost approximately fifteen (15) percent of the cost of a permanent structure. They are also faster to construct than a permanent structure, saving the district substantial amounts of money and time. However, the "relocatables" do not last as long as a permanent structure, and some "relocatables" have been condemned. The state can grant a waiver, so that these building can continue to be used on a limited basis. There are schools in the district that use these condemned "relocatables", but they are not used if the condition of the building in any way creates a safety hazard for students.

### **Truancy and Dropouts:**

The truancy problem in the District is not considered extremely serious. However, the District does loose A.D.A. (Average Daily Attendance) funds when students do not attend school. In years past, the District had a full time truant officer. This position was eliminated two or three years ago due to budget problems. The District is looking into hiring a part time truant officer, as there may be money available for this. At the time the truant officer position was eliminated, it was thought to be not "cost effective." That view is now being reevaluated as a necessary expense.

---

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

---

The "Zero Tolerance" policy which had been implemented by the school district is now being revised. The revisions will allow more discretion by school administrators. There is a new state law that requires school districts to provide for the education of students who have been expelled. The infractions which cause action to be taken against students will be better defined.

The drop-out rate for the school district has improved dramatically. Four (4) years ago the drop out rate for the district was approximately forty (40) percent. A new study has recently indicated that the drop out rate is currently 12.7 percent. The District is doing several things to improve on both the drop-out rate and the truancy problem. The school district does truancy sweeps and offer alternative programs and incentive programs to encourage students to stay in school. Many of the students who do not stay in school do not learn to read. This is seen as a root problem.

### **Anti-Drug Programs:**

To combat drug use in the schools, the District has implemented a self-awareness program: **"THE LOOKING AT YOU 2000."** Drug use is increasing at the high schools. There are state required classes in the high schools that help students deal with this issue. The school district is involved with the **"FRIDAY NIGHT LIVE"** program and Mr. Pillsbury is on the Board of Directors. Probation officers are also on some of the school sites and provide drug intervention. Students and school lockers are not routinely searched. There is a drug detection dog available for some of the school campuses and searches are conducted when the situation warrants. They do not need probable cause to do a search, pursuant to California Education Code Section 48-900. The district has experienced problems with drugs and weapons on campus. When there is information or even just a rumor, this prompts an investigation. Often times the students will bring drugs or weapons on campus for the purpose of showing off and this gets them in to trouble.

### **Gang Problems:**

The school district is taking a pro-active stance to combat the gang problem on the school campuses. The gang members are well known to the school staff. One of the middle schools has used its categorical money to hire a probation officer to work full time at the school. Both high schools will be following suit in the near future. According to Superintendent Pillsbury, the reason gangs are becoming more and more of a problem are numerous. They include: a high Asian population, increased local activity by Sacramento gangs, one of the highest AFDC (Aid for Families with Dependent Children) rates in the state, and approximately one third of the district student body being bi-lingual.

### **Campus Security:**

Since the Lindhurst incident, security has been improved on school campuses. The Marysville High School is now a closed-campus. A fence installed around the school perimeter, at a cost of approximately \$300,000.00, and security personnel has helped to keep undesirables off the campus.

---

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

---

### **Volunteer Help for Extra-curricular Activities:**

Volunteers are used throughout the District, in the Twilight School program, for the elementary, middle and high schools. Parent volunteers are more available in the elementary schools. Volunteer recruitment becomes more difficult at the middle and high school level. In high school, the sports programs gain the most parent volunteers. As the student gets older, they become more and more reluctant to have their parents participate in their school activities. However, as stated by Supervisor Pillsbury: when the most successful students were asked, "what was the primary reason for your success?" They will usually say it is because: their parents care about them, challenge them, and hold them accountable.

### **School Safety Plan:**

All schools in the District are required to have a school safety plan. This plan must be approved by the district and a copy of each plan must be on file with the district and at each school site. The 1996-97 Grand was provided with copies of all safety plans for each school. The safety plan for each school must have an emergency procedure for dealing with bomb threats, chemical accidents, earthquakes, explosions, fallen aircraft, fires, floods, windstorms, hostage situations and a state of war.

### **Survey Letters:**

The Committee sent some schools within the District a letter asking for a response to the following:

1. School Dress Code.
2. Any specific security needs the school may have.
3. Any plans for major improvements the schools may have.
4. Truancy problems at each school and how it is dealt with.
5. Gang related problems at each school.
6. Any area the school staff would like to discuss with the Grand Jury.

Every school responded to the letter. The Committee read and evaluated the responses from the school principals - concerning their school. The responses from each school appropriately documented the action each school was taking to confront and deal with each issue. Some of the steps taken by each school were more complex, since some issues and problems were more serious at some schools than at others. It should be noted that all of the schools are actively confronting the problems or potential problems that each school must deal with. The issues are discussed, as follows:

#### **Item 1. regarding the dress code:**

All, excepting the **Walter Kynoch Elementary School**, have a written code governing student dress. Some of the dress codes were quite specific with regard to the types of garments the students may wear, as it relates to male and female dress. Others were a bit more general in nature. All were reasonable and fair. Most of the schools restricted certain colors relating to gang activity. All of the written dress codes are made available to students and parents.

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

**Olivehurst Elementary School** suggested a uniform consisting of white tops and blue jeans or skirts. No school had a uniform requirement.

### **Item 2. regarding specific security needs:**

None of the schools advised of serious security needs that were not already being addressed. Many of the schools had taken pro-active steps to deal with security problems. Many were quite simple. As an example, Johnson Park School instituted a "black out". Gang related graffiti was becoming a serious problem, so the school simply turns out exterior lights at the school. They found that the exterior of the school was so well illuminated that it had become a gathering place for people who left gang related graffiti. This "black out" system has worked very well to curtail this graffiti.

**Lindhurst High School** was able to add another full time security guard to give them a total of two full time campus security supervisors. In addition, they also have a deputy probation officer assigned to the school full time.

**Alicia School** has closed the road behind the school and re-routed buses to pick students up in front of the school. The school office was moved to the front of the school, so that visitors can be seen as they approach the school. The county installed a bike lane on the road approaching the school. This increased the safety of the students as they travel to and from school.

**Yuba Gardens School** has staff on duty for supervision and security needs at all times when students are present on campus. Because of the bomb threats the school has received in recent years, the school has perfected a safety/evacuation plan that is most likely second to none. The day, that the eighth grade students have their promotion ceremony and dance, creates special security needs. On this day, they receive extra support from the Yuba County Sheriff Department and the school hires security officers from Titan Security. All visitors to the school must be cleared by office staff.

### **Item 3. regarding any major improvements the school may be planning.**

Many of the schools have plans to improve/add computers.

**Lindhurst High School** plans to have their own football stadium. Restroom facilities will come first and then the Lindhurst athletic boosters club and Lindhurst High school will begin a major fund raising campaign for stadium lights and a concession stand for the stadium.

**Olivehurst School** plans to re-surface the blacktop on the playground which is in need of repair.

Many of the schools either had recently installed or had plans to install portable classrooms to accommodate the twenty student class size requirement.

**Walter Kynoch School** has recently completed a major roof repair and has installed a new phone system which provides each teacher with phone access in their classrooms.

**Yuba Gardens School** plans to add air conditioning and heating units for their classrooms. Yuba Gardens is the only school in the District that does not have air conditioning/heating units. They currently have radiant floor heating which cannot be easily regulated.

**Linda Elementary School** is in the process of getting a new roof on part of the school and replacing some walls that have dry rot.

### **Item 4. Regarding how the school deals with truancy problems.**

Some of the schools had a very low truancy rate. **Arboga School** and **Dobbins School** reported a 99% attendance rate. Other schools reported an increase in truancy problems. All of the

---

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

---

schools utilize the school attendance review board policies and procedures. The schools also use home visits and frequent contacts with parents to combat the truancy problems.

**Item 5. regarding the issue of gangs** and how the school copes with any gang problems.

Many of the schools with younger students advised of no significant gang related problems. All schools are taking active steps to deal with the problems even before it becomes serious.

**Walter Kynoch School, Anna McKinney School and Marysville High School** work with a Marysville Police Officer who is assigned to the schools.

**Yuba Gardens School** deals with each gang related incident as it arises. Through pro-active supervision, the staff is able to monitor each group and keep incidents to a minimum. They discipline students on an as needed basis.

**Alicia School** has a probation officer assigned to the campus. They try to identify gang members and respond quickly and effectively to any type of gang activity. The dress code, which is enforced, has served to neutralize much of the gang activity.

**Lindhurst High School** is dealing with their gang problems through the use of an on-campus deputy probation officer and through a grant from the state of criminal justice planning. The school has also instituted the Lindhurst "Peace Council". This program was instituted to improve relations between Hispanic and Afro-American students who were in severe conflict. A "peace treaty" was signed by leaders of both groups. The student participants in the program learn skills of conflict management. They utilize these skills whenever a problem arises on campus.

**Item 6. asked the school staff to address any issue they wish the Grand Jury to examine.**

Most of the schools had no issues.

**Dobbins School** expressed a concern about the response time of the Sheriff's Department.

**Alicia School** expressed concern about the apathy and lack of motivation by many of their students.

**Yuba Gardens School** expressed great pride in the school, staff and community. Last year Congressman Wally Herger toured the school following the recommendation of his congressional aide who served as a judge on an assessment panel at the school.

### **District Responded to the Flood:**

During the flood which occurred in Yuba County on January 2, 1997, the District played a significant role in the evacuation of citizens and the operation of evacuation shelters. When the Yuba County Office of Emergency Services called for an evacuation of parts of Yuba County, Foothill School and Loma Rica School were immediately opened as evacuation shelters. Nursing home patients, with their special needs, soon began arriving. Generators that were provided by the community were set up to provide power. Nursing staff from local hospitals helped to provide care for these evacuees. Food was obtained from the school freezers and kitchens. The use of the schools as evacuation shelters was coordinated by the District Superintendent and his administrative staff. Foothill and Loma Rica School had more than 100 evacuees each. In the evacuation of Wheatland, Lindhurst High School was used as a shelter. Marysville High School was used to house personnel of California Division of Forestry. Johnson Park School was used as a Sheriff's Department sub-station. School district buses were provided to authorities to evacuate citizens who did not have transportation.

---

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

---

As a result of the flood of January 2, 1997, Arboga School sustained major damage. The students had to be relocated to Johnson Park.

### **On-Site Visit by the Committee:**

The Grand Jury visited several school sites within the district. In every case, the Grand Jury found the school staff to be cordial, open and frank in their comments. The potential problems the Grand Jury did observe included some lighting fixtures at the **Cordua School**. These fixtures were suspended by chains from the ceiling and did not meet earthquake standards.

The **Loma Rica School** had a desk and a filing cabinet stored in a hallway which created a safety issue for the students should they have to leave the building rapidly.

The **Olivehurst School** had no smoke detectors in any of the rooms.

The **Ella School** did not have fire extinguishers in each classroom.

The Grand Jury examined the District budget for 1996-97. The school district focus on hiring and retaining the best personnel. The personnel section of the budget reflects that a significant amount of money is expended by the district on personnel in all classifications. This would support the overall mission statement of the District. The school district is one of the largest employers in the county. The school district's budget does not reflect deficit spending. It reflects well thought out and planned expenditures.

### **Findings:**

1. The Superintendent of the District and his administrative staff are doing an excellent job and serving the citizens of Yuba County well.
2. The District budget appropriately reflects the mission statement of the school district and the budget is managed in a highly appropriate manner.
3. The District is in need of fire extinguishers in each class room.
4. The District is in need of lighting fixtures to meet earthquake safety standards.
5. The District did an outstanding job in providing aid to the citizens of Yuba County during the flood emergency of January 1997.

### **Recommendations:**

1. None.

---

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

---

2. That the District Board of Trustees and Superintendent Pillsbury and his staff continue to administer the school districts budget in a fiscally sound manner.
3. That as monies become available, fire extinguishers should be placed in all classrooms in the school district.
4. That lighting fixtures should be replaced as appropriate to meet earthquake safety standards.
5. That the District should be commended for their service to the citizens of Yuba County during the flood emergency of January 1997 and recommends the school continue to make school district facilities available during any future emergencies.

### **Responses to Findings:**

1. None required on Findings 1, 2 and 5.
2. Board of Trustees and Superintendent Pillsbury on Findings 3 and 4.

### **Responses to Recommendations:**

1. None on Recommendations 1, 2 and 5.
2. Board of Trustees and Superintendent Pillsbury on Recommendations 3 and 4.

---

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

---

### **Attachment 1: List of Schools in the Marysville Joint Union School District**

Arboga Elementary School	Jim Walters, Principal
Browns Valley Elementary School	Pat Perrault, Principal
Cedar Lane Elementary School	Burke Adams, Principal
Cordua Elementary School	Lee Liminoff, Principal
Covillaud Elementary School	Dave Severson, Principal
Dobbins Elementary School	John Pimentel, Principal
Ella Elementary School	Kitty Tendrick, Principal
Johnson Park School	Lee Liminoff, Principal
Kynoch Elementary School	Dennis Bissell, Principal
Linda Elementary School	June Chiechi, Principal
Loma Rica Elementary School	Pat Perrault, Principal
Olivehurst Elementary School	Todd Herschel, Principal
Yuba Feather Elementary School	Jim Johnston, Principal
Alicia Middle School	Jack Stokes, Principal
Foothill Intermediate School	Robert Wilkerson, Principal
McKenney Intermediate School	Gay Todd, Principal
Yuba Gardens Intermediate School	Carolyn Tindel, Principal
Lindhurst High School	DeAnn Kamilos, Principal
Marysville High School	Al Kinney, Principal
No. Marysville Continuation School	Al Kinney, Principal
So. Lindhurst Continuation School	DeAnn Kamilos, Principal
Home School Program	John Pimentel, Principal

### **Attachments 2. List of Committee Visits:**

1. The District Office of Superintendent Pillsbury.
2. The District Board of Trustees Meeting of October 15, 1996.
3. Executive Director of Operations and Special Projects, Ron Ward.
4. Ella Elementary School.
5. Olivehurst Elementary School.
6. Yuba Gardens Middle School.
7. Cordua Elementary School.
8. Foothill Elementary School.
9. Loma Rica Elementary School.
10. Browns Valley Elementary School.
11. Marysville High School.
12. Lindhurst High School.



## **YUBA COUNTY**

### **Public Access to Yuba River**

#### **RESPONSE REQUIRED ON FINDINGS**

- Board of Supervisors on Findings 1, 2 and 3.

#### **RESPONSE REQUIRED ON RECOMMENDATIONS**

- Board of Supervisors on Recommendation 1, 2, 3 and 4.

# 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

## **Public Access to Yuba River**

### **Reason for Investigation:**

1. The 1992/93 Grand Jury reported on the limited access of the Yuba River to the public. Their recommendation: "... that the Board of Supervisors should agree to providing more public access to the Yuba River."
2. Majority of the Yuba County electorate approved - Advisory Measure F on the November 1994 Yuba County ballot: "Enhancement, Recreational. . . access to the Yuba River be the main goal for Yuba County?"

### **Background:**

River frontage property was offered to Yuba County by Mr. Deane Swickard, Area Manager, representing the Bureau of Land Management (BLM). He proposed selling some of the BLM property in the Yuba Goldfields, which is landlocked, and buying/trading for certain river frontage property - which was then to be leased to Yuba County at no cost.

The Board of Supervisors issued the above-mentioned advisory referendum. In 1995, the Board created an ad hoc committee, consisting of Supervisors Amaro and Palmquist, to study the Yuba River Project. The Committee presented their recommendation to the Board of Supervisors for their decision.

The Board of Supervisors make decisions regarding Yuba County, including the above-mentioned property. They meet in the Yuba County Courthouse, 215 5<sup>th</sup> Street, Marysville, California.

### **Scope:**

This report focuses on the Yuba River frontage property offered to Yuba County by the Bureau of Land Management (BLM), and to establish the status of the Board's action/inaction in obtaining/developing the river front parcels.

This report does not address public access to the Goldfields via Hammonton Road (public or private) controversy, currently in progress.

### **Procedure:**

Investigation was conducted by no less than two members of the Grand Jury per Penal Code §916.

The Grand Jury members:

- met with several members of the Yuba County Board of Supervisors, the County Administrator and the Director of Community Development.
- met with Mr. D. Swickard, Manager, Folsom Resource Area, Bureau of Land Management.
- made on-site tours of the areas in discussion.

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

- studied numerous letters communicated between D. Swickard, BLM and the Yuba County Board of Supervisors.
- read minutes of the Board of Supervisors meetings, inre: above-mentioned subject.
- studied the lease contract and planning document for Hammon Grove Park.
- read the ballot and election results of the Yuba County General Election, November 8, 1994.
- researched articles written in the Appeal-Democrat newspaper, Marysville, California.

### **Discussion:**

The concept of utilizing the Yuba River was presented in a letter to the Board in November of 1993 by D. Swickard, Area Manager, BLM. Excerpts, as follows:

- "... Yuba River has extraordinary untapped recreational, historic, ecological and economic potential.... the gap between present condition and future potential is so great it cries out for attention."
- "...several county parks located along the river.... a park at Parks Bar for 'put in'...a park downstream at Hammon Grove for access to river from Highway 20.... further downstream a day area at Daguerre Point dam.... further downstream a park for 'take out' at Marysville."
- "... underwater exhibit of salmon migrating.... spawning."
- "How do we pay for it? ....sell portions of federal lands, sell aggregate, special legislation required, but possible. Grants are available, state, private, federal funds are available.(sic)"

### **News Article in the Appeal-Democrat**

Following the above letter, there was an article on the front page of the December 9, 1993 issue of the Appeal Democrat. The headline stated "Land Gift Sparks Parkway Dream." The sub-headline stated "Public Given Access to Yuba River."

Excerpts from the article, as follows: "This would be the greatest shot in the arm Yuba County has ever gotten," (Supervisor) Palmquist said. County Administrator Fred Morawcznski agreed. "This is a major, major program that could set the tone for the quality of life issues here for the next 50 to 100 years."

### **What Followed**

The Supervisors met with various local groups and received varied responses. Many residents of Hallwood were opposed to the river access. They contended that they would lose their privacy and be subjected to trespassing, littering and vandalism. Per D. Swickard, "the supervisors did not address how to manage those problems to the private owners."

Per F. Morawcznski: because of the opposition, the Board "watered down" the parkway concept. They presented a referendum in the November 1994 General Election. It was called Advisory Measure F - which read "Should enhancement of recreational and economic opportunities and promotion of preservation, reclamation and habitat improvement along the Yuba River by access to the Yuba River be the main goal for Yuba County?" The voters approved the measure. The Board of Supervisors were given a mandate.

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

### **Response from the Board**

A year later, at the Board meeting of November 7, 1995, the ad hoc Committee made their recommendation with a four page handout detailing the Yuba River Project. It stated in part: "the ad hoc committee has determined....greater access to river and recreational facilities are needed for the public." It further stated: "There are those with their own agenda that would argue that the county not accept the offer by BLM, but are these individuals acting in the best interest of the people who last November voted for more access to the Yuba River?"

The Board narrowly approved the project by a vote of 3 to 2.

### **The Board Loses Focus of River Access Due to Goldfield Access**

At the Board meeting of March 19, 1996, the following dialogue occurred:

Supervisor Mathews: "...a great deal of interest has been expressed by other aggregate companies that would also like access to those public lands for mining purposes and has requested County assist in providing access." This was reiterated at the Board meeting of March 26, 1996: "... support opening the Goldfields to other mining entities and developing greater business opportunities."

Excerpts from letter, M. Mathews (Chairman of the Board) to D. Swickard, (BLM), dated March 26, 1996:

- "...develop and provide public access to public lands....sections 27, 32, 36, as well as the US Corps of Engineers' properties at Daguerre Point Dam and the Yuba River "Training Walls". (see Addendum: Figure 1. - map of subject area).
- "Public access should be from the above mentioned public lands to State Hwy. 20, and from the public lands to Yuba County Hammonton-Smartville Road thus allowing mining companies access to mineral markets to the north, east, west and south."
- "... allow the County to receive a portion of the per ton royalties collected by the Bureau on mineral materials mined from public lands."
- "Once public access to section 32 is available, permitted free use of mineral materials, for the County's road maintenance." (note: section 32 is not river frontage property and is in close proximity to Hammonton Road).
- "Providing such public access would allow small local mining companies to bid for the right to mine on public lands."

### **A Terse Response from BLM to Above Letter**

Excerpts from letter, D. Swickard (BLM) to M. Mathews (Chairman of the Board), dated April 23, 1996:

- "...how does the County intend for BLM to acquire that access?" "Does the County recommend BLM condemn this private property?" "Does the County plan to share in the costs of litigation?" "Does the County intend to help pay for the cost of the easement acquired by the condemnation?"
- "On what legal basis is the County recommending that a royalty be assessed against the federal government for the sale of public resources?"

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

- "Why did the County specify section 32 as the location of the mineral materials it would like to receive under a free use permit?"
- "Public access to the Yuba River from Highway 20 is possible from the public lands leased to Yuba County (Hammon Grove Park). Why hasn't river access been developed at that location?"
- "...it is against BLM policy to condemn private land to provide access to mineral material sale."

### **Board gets Re-focused**

Board meeting of September 17, 1996: Chairman Mathews (to D. Swickard) advised the Board had been asked to write a letter of support for the proposed land exchange, but did not feel they had enough specific information to do so, consequently, today's request for additional information.

D. Swickard, advised the subject land is approximately 265 acres on the south side of the Yuba River from Parks Bar/Highway 20 Bridge two miles to the west.

Additional excerpts from the presentation by D. Swickard to the Board:

- "This additional public access was consistent with Measure "F", where the majority of citizens voted that they favored access to the Yuba River. It was felt the most useful public access to the river was at Parks Bar Bridge, which is at the very eastern end of the Goldfields where Highway 20 crosses the river giving the maximum amount of river use."
- "BLM is attempting to acquire the 265 acre piece at Parks Bar with two miles of river frontage."
- "It would be acquired in two stages. The American Conservancy would acquire the land and turn it over to the BLM. BLM would acquire 80 acres initially, the most westerly 80 acres, and then acquire the balance of the property in a year to 18 months. The price of the property is \$1500 per acre for a total of \$390,000."
- "BLM is prepared to manage the location as public land.... at this time is prepared to acquire, manage and developing the subject property." (BLM may lease to Yuba County, similar to the Hammon Grove lease, at a later date)

The meeting was concluded by Chairman Mathews thanking Mr. Swickard for providing such thorough information and directing the County Counsel to prepare a letter of acceptance. The letter, dated October 1, 1996, states in part "...Board supports BLM acquisition of 265 acres...."

### **Where are We Now?**

As stated by D. Swickard (BLM):

- "...in 5 years we got a letter... that we support you. There was no proposal, just saying we support you. We want schemes, ideas...not counter offers. We have laid out plans...they shoot them to pieces. Where are their plans?"
- "It is the responsibility of the supervisors to state where they (county) are headed."

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

- "...expected a mad dash to do it....not so. Submitted (only) a proposal for Hammon Grove Park. County has had lease for almost three years...nothing has been done. BLM has offered heavy equipment without cost to cut out a road...not accepted. Offered road base material, free use permit to take aggregate from section 27...county did not pick up."
- "... closed for now. Have notified Hal (Stocker, Chairman of the Board) that it is closed."
- "...time has passed, too late to get it back together again. Delayed too long with Yuba River Properties (and) Western Aggregates. As in all businesses, there is right time to do it. It may be irreversible."

Question from member of Grand Jury: "If a citizen's group showed enough interest with the same objective as yours, would you reopen the case (land acquisition)?"

Answer: "...closed for now...not closed entirely ...cool our jets."

### **Status of Hammon Grove Park**

- On April 19, 1994, BLM granted a contract to Yuba County for 24 acres of BLM land. This parcel is adjacent to Hammon Grove Park and the Yuba River, and provides access to the river from the park.
- On September 24, 1996, the Yuba County Community Development Department submitted a Development and Improvement Plan, which received approval from BLM on November 6, 1996.
- On April 23, 1997, members of the Grand Jury met with Supervisor Amaro. He apprised them that the ad hoc committee had been terminated. That no more activity (by the supervisors) was being conducted on the Yuba River Project.
- On May 1, 1997, members of the Grand Jury met with the County Administrator. She suggested that she could put on the agenda of a Board meeting to recreate an ad hoc committee.
- On May 6, 1997, the members of the Grand Jury met with D. Swickard (BLM). They apprised him that the plans (of September 1996) were not doable because of the January 1997 flood. The river had changed its channel and the proposed river side parking and river access are now in the new channel. D. Swickard said that is no problem, that if plan changes were submitted, he could "approve them in 10 minutes." Then he added that BLM could make the plans, if necessary. The members asked him if the offer (meeting of April 3, 1997) of heavy equipment was still available. D. Swickard said it was. Currently, it is being used for other flood damage work, but it could be made available for Hammon Grove Park. He also said that 6,000 yards of aggregate is also available for this project.
- On May 7, 1997, members of the Grand Jury met with the Director of the Community Development. The members apprised him of what D. Swickard had said in re: approval of any plan changes and performing the road work. To preclude any liability to Yuba County (because of outdated plans), he would contact D. Swickard and receive the necessary approval.
- On May 9, 1997, members of the Grand Jury apprised the County Administrator of what D. Swickard had said BLM would do. She said she would add, to the agenda of the Board meeting, a recommendation that they recreate an ad hoc committee for river access.

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

### **In Summation:**

The Board of Supervisors has a mandate from the electorate to fulfill - that is to provide public recreational access to the Yuba River.

D. Swickard of BLM has offered: (1) a lease to Yuba County, at no cost, BLM property adjacent to Hammon Grove Park which will provide river access to the public, (2) heavy equipment to cut a rough road from the park to the river, and (3) aggregate to use as the road base.

### **Findings:**

1. BLM approved: a 5 year lease on April 19, 1994 (BLM property adjacent to Hammon Grove Park), and a Development and Improvement Plan (submitted by Yuba County Community Development Department) on November 6, 1996. Nothing further has been done by Yuba County, nor can there be because the ad hoc committee for Yuba River Project was disbanded in January of 1997.
2. BLM has offered to cut a road from the park to the river and provide aggregate for the road base, both at no cost to the county.
3. Board of Supervisors recommended to the Area Manager (of BLM) that he provide public access to sections 27, 32, and 36, as well as the U.S. Corps of Engineers properties at Daguerre Point Dam and the Yuba River "training wall". This did not address the Yuba River recreational access.
4. The ad hoc committee did not utilize the resources available for public relations and funding of river parks and recreation.

### **Recommendations:**

1. That the Board of Supervisors recreate an ad hoc committee to develop public river access for recreational purposes.
2. That the Board of Supervisors proceed immediately to accept the (no charge) offer from BLM to cut a road from Hammon Grove Park to the Yuba River, which will provide public access to the river.
3. That the Board of Supervisors focus on public river access for recreational purposes.
4. That the Board of Supervisors sanction a citizens committee to work in conjunction with the ad hoc committee. This committee will be comprised of members with the objective of providing public access to the Yuba River for recreational purposes. That they will do the "staff work", i.e., contact agencies which will provide services for planning, public relations, funding, etc.

# 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

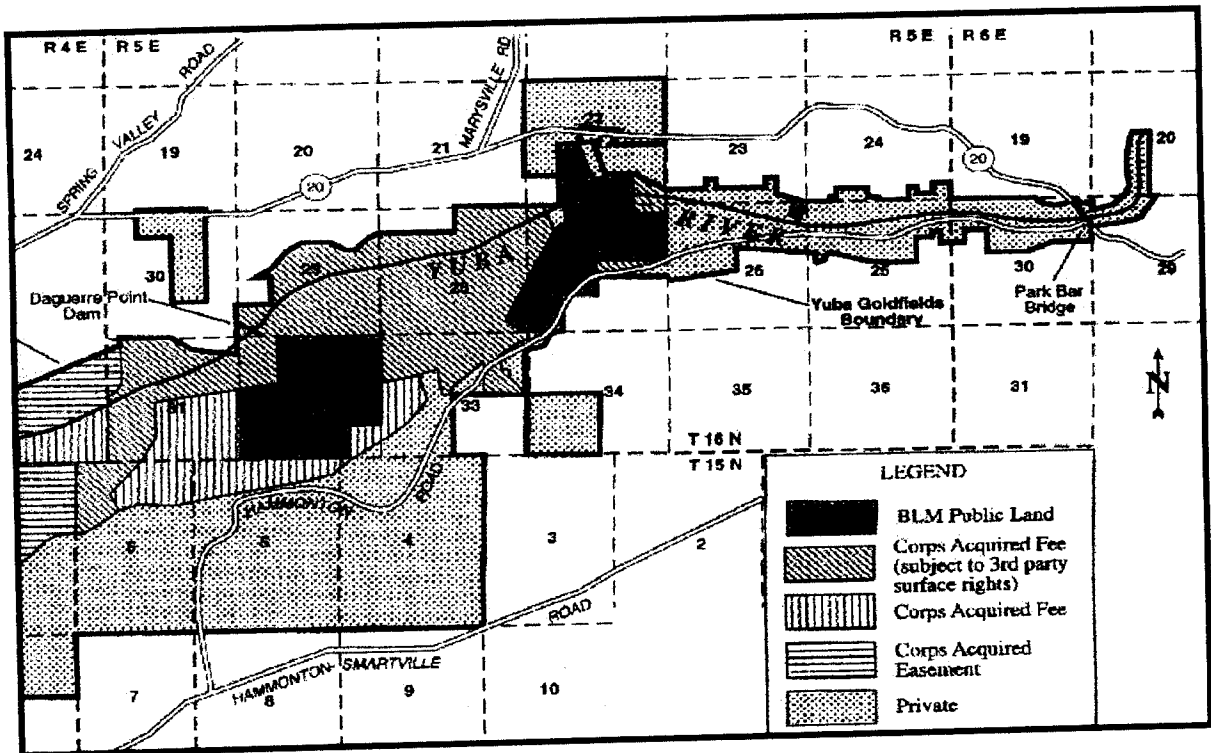
## **Response Required on Findings:**

Board of Supervisors on Findings 1, 2 and 3.

## **Response Required on Recommendations:**

Board of Supervisors on Recommendations 1, 2, 3 and 4.

## **Addendum: Figure 1.**



**Map of Hammon Grove Park (section 22) and Parks Bar Area (sections 30, 25 and 26)**



**YUBA COUNTY**

**Office of Emergency Services**

**REQUEST TO 1997/98 GRAND JURY**

**FOR CONTINUATION OF THIS INVESTIGATION**

# 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

## **Office of Emergency Services**

### **Reason for Investigation:**

Penal Code, Chapter 3, Article 2, Section 925, states in part: "The Grand Jury shall investigate functions of the County on some selective basis each year."

### **Background:**

In December of 1996, the four political sub-groups in Yuba and Sutter counties (Marysville, Yuba County, Yuba City, and Sutter County) recognized the threat to those communities associated with the heavy rainfall and rising levels of the Yuba and Feather Rivers. These four jurisdiction agreed to evacuate their residents when the Feather River reached a "flood stage" of 77.5 feet.

The four jurisdiction agreed to a plan that would co-ordinate the evacuations to preclude residents from areas traveling through adjoining areas and overloading evacuation routes. This joint evacuation would also have the added benefit of preventing friends and relatives from one area relocating to an adjoining area where the danger level was just as high.

On December 31, 1996, the Board of Supervisors of the County of Yuba met in a special session. At that meeting, the Director of the Office of Emergency Services, Mr. Kelly Purdom, requested that the Board issue a proclamation a local emergency and request the concurrence of the Governor of the State of California (reference: minutes of Yuba County Board of Supervisors, book 53, page 532).

The Board of Supervisors continued to meet to discuss the necessity of evacuation of the residents in the threatened areas. Eventually, the river reached the predetermined point and the other three agencies began the mandatory evacuation. Yuba County Board of Supervisors made the decision not to evacuate based on information that the levees were stable, the weather was improving and that the rivers were receding. As Murphy's law would predict, the one area not evacuated was the location of the eventual levee failure.

### **Scope:**

To examine the operation, preparedness, and the effectiveness of the county disaster plan. This investigation will include the Incident Command Structure (ICS), the role of the Yuba County Board of Supervisors, and the Office of Emergency Services (OES).

### **Procedure:**

The investigation was conducted and all documents were received by no less than two members of the Grand Jury per Penal Code §916.

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

The members of the Grand Jury conducted interviews with the Sheriff and deputy sheriffs of Yuba County, and with the Director of OES.

The members of the Grand Jury researched the following documents:

- Minutes of the Board of Supervisors meetings.
- Yuba County Grand Jury Report of 1991/92.
- Memo from County Counsel D. Montgomery to Yuba County Board of Supervisors, dated February 12, 1997.
- SB 1841 (State of California Senate Bill) , chapter 1069, Disaster Preparedness.

### **Comments:**

To complete this investigation the following questions must be answered:

- What are the roles of OES, Board of Supervisors, Law Enforcement and other agencies during a state of "Declared Emergency?"
- Was the ICS implemented during the Yuba County Floods of 1997?
- Did the ICS work well?
- Was adequate training provided to all personnel about their role during an state of emergency?

Because of time constraints, this investigation was not completed. This Grand Jury respectfully requests the incoming 1997/98 Grand Jury to consider pursuing this investigation. All pertinent information obtained by the 1996/97 Grand Jury will be made available.

## **Director of Personnel/Risk Management**

### **RESPONSE REQUIRED ON FINDINGS**

- Board of Supervisors on Findings 1, 2, 3, 4, and 5.
- Auditor/Controller on Findings 3, 4, and 5.

### **RESPONSE REQUIRED ON RECOMMENDATIONS**

- Board of Supervisors on Recommendations 1, 2, 3, 4, and 5..
- Auditor/Controller on Recommendations 3, 4 and 5.

# 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

## **Director of Personnel/ Risk Management**

### **Reason for Investigation:**

1. A citizen's complaint prompted the members of the Grand Jury to conduct a specific investigation of the Director of Personnel / Risk Management regarding the inappropriate issuance of County funds.
2. The 1995/96 Grand Jury was unable to complete their investigation and recommended that the 1996/97 Grand Jury continue on it's term.

### **Background:**

The Yuba County Director of Personnel/Risk Management is appointed by and serves at the pleasure of the Yuba County Board of Supervisors. His duties, among others, include health care, life, worker's compensation and other insurance needs.

The Yuba County Auditor/Controller is elected by the county voters and reports to the electorate of Yuba County. His duties, among others, include management of county funds, maintenance of accounting records and oversight of fiscal operations within all county departments.

### **Scope:**

This investigation was originally limited to the series of events leading to the issuance (and return) of Yuba County funds to an insurance broker. The scope was expanded to include the policies and procedures of the Auditor/Controller's office that allowed this situation to occur.

### **Procedure:**

All interviews were conducted and documents were obtained by no less than 2 members of the Grand Jury per PC §916.

1. Interviews were conducted with the insurance broker that received and returned the funds, the Yuba County director that authorized the payment, the County Administrator, two members of the Yuba County Board of Supervisors, and employees of the Auditor/Controller's office.
2. The committee reviewed county ordinances, media reports, bank records and testimony taken during the previous Grand Jury investigation.

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

### **Discussion:**

In December of 1995, Yuba County paid an insurance broker the sum of \$35,000.00 for services that were not covered by any contract or service agreement. The payment was made by the Auditor/Controller's office at the direction of the Director of Personnel/Risk Management. This payment was made to compensate the broker for time spent soliciting information in an attempt to secure insurance for Yuba County. When the county elected to place its business with a carrier that would not pay a broker commission, the Director of Personnel/Risk Management instructed the broker to invoice the county for his time spent. The Director of Personnel/Risk Management instructed the Auditor/Controller to pay the invoice.

This payment violated at least one county ordinance (2.50.040)\* and the entire episode demands the answers to many questions:

\* states in part, "...shall be advertised and go out for competitive bids"

1. Was the request for services provided by the insurance broker advertised and awarded to the lowest bidder?
2. Was there a contract or service agreement in place that spelled out the rights, responsibilities, rate of pay or any terms for payment of the insurance broker?
3. Why did the Auditor/Controller's office issue a check without adequate backup such as a contract?
4. Are requests for payment made to the Auditor/Controller routinely paid without any supporting documents?
5. Did the Yuba County Board of Supervisors take appropriate action when they learned of the situation?

These questions were addressed by the Yuba County Grand Jury investigation with the following results:

There was no written agreement between Yuba County and the insurance broker. In March of 1994, the broker began working on a new health care package with the understanding that he would be compensated for his work by receiving a commission from the health carrier selected. The broker had provided this type of service, with this form of payment, to Yuba County a number of times over the last ten years. The practice of allowing a broker to place the county's insurance and then receive a commission is in itself a poor practice. For instance, the broker could recommend a particular carrier not because it provides the best rates or coverage, but because it pays the highest commissions. In this case, the county elected to meet its insurance needs by joining the Health Care Alliance. Since the Alliance would not pay commissions, this meant that the broker would not be compensated for any time spent prior to this selection. Under the previous ongoing arrangement the broker was only paid (by commission) after he had placed the insurance. In this case he did not place the insurance and consequently was not entitled to any

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

compensation.

The instruction to the Auditor/Controller's office to pay the broker came in the form of an invoice, approved for payment by the Director of Personnel/Risk Management. He personally signed the invoice, added the appropriate codes to indicate the account that the payment was to be made from and forwarded it to the Auditor/Controller. According to testimony, an employee in the Auditor/Controller's office originally questioned the payment, the Director of Personnel/Risk Management spoke directly to the Auditor/Controller and reaffirmed that the invoice should be paid. This again, with no supporting documents such as a contract or even some evidence that the number of hours being billed or the rate (\$175.00 per hour) were correct.

After the public disclosure of the payment, the Yuba County Board of Supervisors met in closed session to discuss possible disciplinary action of employees involved in this situation. To date there has been no public disclosure of the Board's position nor recommendations about how the situation could have been better managed. When Supervisor Hal Stocker was asked why no action was taken, his response was: "the money was returned so we considered it handled." When Supervisor Al Amaro was asked what steps had been taken by the Board of Supervisors to prevent this type of inappropriate expenditure in the future, he responded: "we (Board of Supervisors) have talked to the parties involved."

The County Counsel has assured the Grand Jury that no statute, ordinance or county policy was violated by this episode. Yet, the Board of Supervisors have not enacted any measure that addresses the improper expenditure of county funds. They were also satisfied when these funds were returned, with no investigation of records to ascertain if similar expenditures had occurred in the past.

### **Findings:**

1. The investigation produced information that county money was spent, if not illegally, then at least inappropriately. The check from the Yuba County Auditor/Controller to the broker should not have been issued.
2. The Board of Supervisors conducted an investigation of this incident, held closed session meetings to discuss possible disciplinary action against employees involved and has not issued a public statement that expresses the sentiment of the Board on this matter.
3. The Yuba County Auditor/Controller's office has no system of internal controls that prevented this lapse and has not initiated any investigation into the possibility that similar occurrences may have happened in the past or could occur in the future.
4. The Auditor/Controller's office does not have internal controls that allow independent association of purchase documents, service agreements and contracts with invoices for payment.

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

5. The preparation of individual departmental budgets does not adequately identify line item expenditures that separate routine recurring expenses (i.e., utility bills) from special expenses, such as consulting contracts. The individual department budgets are not adequately monitored by the Auditor/Controller's office.

### **Recommendations:**

1. Yuba County should initiate internal accounting controls that would prevent this type of situation from occurring in the future. The Smith & Newell independent auditing reports of 1995 and 1996 also recommended changes to the internal procedures.
2. Yuba County Board of Supervisors should revisit this entire incident to ascertain for themselves what mistakes were made, by whom, and was their original response correct.
3. Yuba County Board of Supervisors should retain the services of an independent auditor to investigate the accounting records with the specific intention of locating inappropriate expenditures similar to the one addressed by this report.
4. The Yuba County Auditor/Controller should institute an encumbrance and liquidation system that allows contracts, purchase documents, service agreements, etc. to be matched with supplier/contractor invoices. The Yuba County Board of Supervisors should retain the services of an independent auditor to assist with the design of this internal control system.
5. The Yuba County Auditor/Controller's office should institute a budget system that allows it to track individual department budgets with periodic projection updates through out the fiscal year.

### **Responses Required on Findings:**

- Yuba County Board of Supervisors to Findings 1, 2, 3, 4, and 5.
- Yuba County Auditor/Controller to Findings 3, 4, and 5.

### **Responses Required on Recommendations:**

- Yuba County Board of Supervisors Recommendations 1, 2, 3, 4, and 5.
- Yuba County Auditor/Controller on Recommendation 3, 4 and 5.



**YUBA COUNTY**

**Sheriff's Department**

**RESPONSE REQUIRED ON FINDINGS**

- Sheriff of Yuba County on Findings 1, 2, 3, 4, 7, 8 and 10.
- None on Findings 5, 6 and 9.

**RESPONSE REQUIRED ON RECOMMENDATIONS**

- Sheriff of Yuba County on Recommendations 1, 2, 3, 4, 5, 6, 7, 8 and 10.
- None on Recommendation 9.

---

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

---

### **Yuba County Sheriff's Department**

#### **Reason for Investigation:**

This investigation was conducted pursuant to penal code section 925 which states in part "investigations may be conducted on some selective basis each year" and was conducted at the express invitation of Yuba County Sheriff Gary Tindel. The 1996-1997 Yuba County Grand Jury has received no citizen complaints prompting this investigation.

#### **Background**

The Yuba County Sheriffs' Department serves the county of Yuba with a population of approximately 60,000 people. The Yuba County Sheriffs' office is located at 215 5th Street, Marysville, Ca. The office has 126 employees with 50 being sworn peace officers. The command structure of the Sheriff's office consists of the Sheriff, the Under-sheriff, two captains, who are division commanders, 3 lieutenants, who are unit commanders and 14 sergeants who are assigned as either shift supervisors or detectives.

The Sheriffs' office budget is comprised of a combination of funding sources including Yuba County General Fund monies (approximately 40% of the budget), federal grants and revenue from outside sources as a result of bedspace rentals to other counties and the federal government.

#### **Scope:**

The 1996-1997 Yuba County Grand Jury chose to conduct a broad investigation of the Sheriff department's overall operation and procedures with particular emphasis on the personnel turnover since the current Sheriff assumed command of the department. (One objective of the investigation was to determine if the personnel turnover rate was unusually high as compared to surrounding counties and if this was the case, determine the reason for this turnover). The Grand Jury was concerned in regards to the cost to the citizens of Yuba County both in terms of monetary cost and in the quality of the law enforcement.

#### **Procedure:**

All interviews were conducted by at least two members of the Grand Jury. Pursuant to Penal Code Section 916. The Grand Jury interviewed 43 past and present members of the Yuba County Sheriff's Department. This including the Sheriff, the Under-sheriff, the two division commanders and two lieutenants. The Grand Jury interviewed present employees within the department from diverse assignments including patrol, detectives, boat patrol, jail and supervisory staff. Twenty three of those interviewed did so under subpoena. Pursuant to Penal Code Section 939.2. The Grand Jury members invested approximately 1000 hours of time in this investigation.

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

The Grand Jury also contacted Sutter and Nevada Counties to obtain written information to compare. The Grand Jury reviewed the Yuba County Sheriffs' Department's 1995 annual report as well as the Sheriffs' Department's 1996 budget. Grand Jury members accompanied deputies on ride-alongs and toured the Sheriffs' office.

### **Discussion:**

The Yuba County Grand Jury began the investigation of the Sheriff's Department after the Yuba County Sheriff appeared before the Grand Jury in September of 1996. The Sheriff invited the Grand Jury to "take a look at the other side of the Sheriffs' office" and indicated that he was very proud of his department. By referring to "the other side of the Sheriffs' office" the Sheriff was referring to the fact that the Grand Jury is required by law to conduct an investigation of the Sheriffs' jail operation each year. An investigation of the other functions of the Sheriffs' office is not required. The "other side" of the Sheriffs' office has not been investigated since 1991/92 and that Grand Jury only investigated the non-deputized personnel and booking procedures. The Sheriff was quite willing, at that time for the Grand Jury investigation to take place.

The members of the Grand Jury charged with this task chose to conduct a thorough investigation. To be fair to both the Sheriff and the citizens he serves, the Grand Jury determined that interviews should be conducted with both current and past department employees. It was also determined that the Grand Jury should conduct as many interviews as possible to insure that a fair cross section of employees would be represented. To this end, in excess of 40 interviews took place.

The first interview was conducted soon after the Sheriff's visit to the Grand Jury and his invitation to conduct the investigation took place. The first person interviewed was a past employee of the department. Many former employees interviewed had been employees less than three or four years. The first person interviewed advised of a number of problems within the department. Foremost among these problems was low morale. He attributed this low morale to the way the administration treated the employees of the Sheriffs' department. This was echoed by the vast majority of those interviewed, both past and present employees. The Grand Jury's first interview revealed some actions taken by and the attitude of one division commander. This view was also echoed by many of those interviewed both past and present employees.

The majority of those interviewed thought the morale level in the department poor. Of those past employees interviewed most stated that pay was not the primary reason for their leaving the department. Many cited other reason for leaving such as arbitrary changes in duties and shifts, abuse of the critical events file and demoralizing treatment by the administration. Current employees stated that the morale level improved when the Sheriff implemented several changes in the policies regarding the accrual of comp time, the use of vacation time, the selection process of long term assignments, over time for report writing and the posting of preference sign up sheets for employees to request shift assignments. The changes occurred, however, after the Grand Jury began it's investigation. Several interviews took place during the months of September and October. During these interviews the issues which were addressed by the Sheriff in his policy changes were issues brought up by several of those past and present employees. The

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

policy changes occurred in the later part of November of 1996.

The Sheriffs' Department has a policy regarding the issue of arrests which requires the arresting officer call the shift supervisor prior to making a probable cause arrest. Frequently those interviewed voiced displeasure with this policy, and stated that this policy made them appear as if they could not be trusted to use good judgment and felt it was demeaning. This policy was derisively referred to as "Mother May I". Many felt this policy made them feel less professional among their peers in surrounding law enforcement agencies. Some even stated this policy made them the object of ridicule by officers from other agencies. Many stated that they could be trusted to carry a gun but were not trusted to make an arrest on their own without getting permission first. Some of those interviewed said they were comfortable with this policy. These were supervisory personnel and not line staff, for the most part. Those employees expressing satisfaction with the policy had little to complain about in how the Sheriffs' Department operated. In general, they were quite satisfied with their roles within the Sheriffs' Department.

Most of those interviewed mentioned a file or incident documentation system known as the Critical Events File. This Critical Events File is separate and apart from the employees departmental personnel file. It was stated that this file is used to document events which involve the employee. These events can be either negative or positive. From the descriptions of the contents of the Critical Events File, these events can be rather minor, such as being a couple of minutes late for work, or can document serious incidents involving poor job performance. There is no criteria for what specific event constitutes an event worthy of entry into the Critical Events File. The subject matter of the Critical Events File depended on who the employee's supervisor was, and in some cases, who the employee was. There were complaints that some employees were given more latitude than others in terms of what action on the part of the employee would create an entry into the Critical Events File.

The term "disciplinary transfer" was mentioned in the interviews. The majority of those employees confirmed that disciplinary transfers do occur even though other reasons are given for the transfers. It is perceived that if an employee makes a serious mistake or a mistake that is considered serious by the administration they may experience a transfer to a less desirable assignment. A transfer may also occur if an employee exercises his grievance rights. One employee related an incident where by he filed a grievance on a Friday and found himself reassigned to the grave yard shift at the jail on the following Monday. Another employee was transferred after questioning an evaluation. Other incidents were detailed in which employees fell out of favor with the administration and soon found themselves transferred to an assignment which was generally considered less than desirable. In some cases employees had been in their assignments for several years and developed many useful skills. When reassigned their skills were not fully utilized. Concern was expressed that good management knows the talents of their employees and places their employees in positions where their skills and talents could be best utilized. If a transfer is made for disciplinary reasons, then the transfer could be subject to a grievance. Therefore, no official reasons are given for transfers. Their transfers often occurred after a negative incident, or what is perceived as a negative incident.

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

Many of the morale problems could be traced to one particular division commander. Some supervisors stated that this commander would compel them to write Critical Event entries for employee files when they did not feel an entry was warranted. This commander was described as having poor communication skills and not being open to suggestions from subordinates. The majority of those interviewed had little respect for this commander and many stated that he ruled by fear. He was subject of an internal investigation by the Deputy Sheriff's Association which was the result of the association approaching the Sheriff and apprising him of the problem. It is unknown if this problem was resolved.

The Yuba County Grand Jury conducted an interview with this division commander as well as the other division commander and the Under-sheriff. The Grand Jury was impressed with the level of knowledge and cooperation by the Under-sheriff and the other division commander.

The division commander, who was the subject of the numerous complaints by the line and supervisory staff and the subject of the investigation by the Deputy Sheriff's Association appeared before the Grand Jury. Through his behavior and demeanor he validated all of the complaints voiced against him. He began the interview by questioning the authority of the Grand Jury to conduct the investigation and asking the Grand Jury Foreman ProTem, "Why?" when she asked the first question. As an example of the serious lack of understanding of basic personnel supervision skills, this commander was asked how he responds to his line staff when they voice disagreement with him. His response was "they don't disagree with me". This division commander made an attempt to intimidate this Grand Jury, as the testimony indicates he tries to intimidate his staff. This division commander questioned the confidentiality of the Grand Jury proceedings and the Grand Jury's ability to admonish him regarding this confidentiality. In doing so, he displayed a serious lack of knowledge of the California Penal Code. This was quite surprising coming from an upper level manager in a law enforcement agency.

The issue of fraternization between employees was discussed during the interviews. All the employees stated that this is frowned upon by the administration. Most stated that when they were hired, the Sheriff advised them that he did not approve of this. The Grand Jury was advised of one situation whereby a supervisor in one particular unit is involved in a romantic relationship with another employee that is under his direct supervision. The Grand Jury was advised that this was creating problems for this particular unit. There is no written policy regarding the issue of fraternization between employees.

The Grand Jury interviewed numerous past and present employees of the Sheriffs' Department. The majority of these individuals impressed the Grand Jury with their professionalism, job skills and obvious knowledge of the field of law enforcement. Many of the past employees have progressed rapidly in their current departments. Many of these past employees are considered by this Grand Jury to be a tremendous loss to Yuba County.

The Yuba County Grand Jury conducted a survey of the personnel turnover rate for the Sheriff's Departments in Yuba County, Nevada County and Sutter County. Sutter County and Nevada County have approximately the same number of Sheriff's personnel as does the Yuba County Sheriff's Department. The Grand Jury obtained the required information from the

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

personnel departments in Yuba, Sutter and Nevada Counties. This information indicated the following: During the years 1991 through 1995, the Sutter County Sheriff's Department lost 35 employees that were sworn peace officers. The Nevada County Sheriff's Department lost 15 employees who were sworn peace officers. The Yuba County Sheriff's Department lost 55 employees who were sworn peace officers. In all three counties the employees departed for a number of reasons including retirements, dismissals while on probation and obtaining other jobs. Information from the Sutter County Sheriff's Department indicated that they lost 7 during this time to dismissal while on probation. The Yuba County Sheriff's Department lost 18 employees due to dismissals while on probation. During this time the Sutter County Sheriff's Department lost 8 employees due to obtaining other jobs. The Yuba County Sheriff's Department lost 16 due to obtaining other jobs.

Sheriff Tindel appeared before the Grand Jury and provided the Grand Jury with information that the Sutter County Sheriff's Department had lost 50 employees during the period of time from 1991 through 1995. He provided information that the Nevada County Sheriff's Department had lost 35 employees during this same period. He provided information that the Yuba County Sheriff's Department had lost 55 employees during this same period of time.

Regarding the issue of the turnover rate for the Yuba County Sheriff's Department, 16 of those employees interviewed under subpoena stated that they felt that morale was the number one reason for leaving the department. Only three stated that the salary was the number one reason for leaving the department and those three stated that they felt that morale was the number two reason.

Ten of those employees interviewed under subpoena stated that they felt there would be some repercussions against them because of their testimony before the Grand Jury.

Testimony revealed the relationship between the District Attorney and the Sheriff's Department is in serious need of improvement. The Sheriff has issued orders for the deputies in the Yuba County Sheriff's Department to not discuss on-going cases with the District Attorney's office until the deputies feel the case is ready to be submitted to the District Attorney for consideration of a complaint. This includes homicide investigations.

During interviews, the area of Yuba County commonly known as the hill area was discussed. This area includes Camptonville, Dobbins, Brownsville, Oregon House, Browns Valley, Loma Rica and Smartsville. Five deputies are assigned to this area on a permanent basis and reside there. Due to the size of the area patrolled and the somewhat remoteness of the area some safety issues were discussed. One of these safety issues was the shift scheduling. The current division commander made changes in the shift schedule which created a situation whereby all of the patrol units are on duty alone. Prior to this change the times of peak activity had two units on duty.

The radio communication equipment was also noted to be old and in some cases not reliable. Due to the remoteness of the area, this creates a safety issue.

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

The Yuba County Grand Jury conducted an interview with Sheriff Gary Tindel. This interview covered the majority of the issues raised during the approximately 40 interviews with his past and present employees. Sheriff Tindel was very open but defensive in his comments to the Grand Jury. The Sheriff responded to all of the questions put forth and provided follow up information when requested.

Sheriff Tindel was asked about the turnover rate in the department. He felt that the turnover rate was not excessive and provided statistics from Sutter County Sheriff's Department and Nevada County Sheriff's Department. These statistics differed substantially from those statistics which were obtained by the Grand Jury. The Grand Jury has no explanation for the difference in statistics. Sheriff Tindel felt his turnover rate was just slightly higher than some counties and was actually less in some cases. He attributed this to working conditions in Yuba County and low pay.

The Sheriff was asked about the apparent low morale in the department. He stated that he had only recently been made aware of this problem and has taken steps to address this issue. In November of 1996, the Sheriff met with the Deputy Sheriff's Association and the Sergeant's Association and as a result of this meeting, he made some changes with regard to the use of vacation time, comp accrual time, overtime pay for report writing and shift assignments. He felt this went a long way toward addressing the morale level in the department.

The Sheriff was asked about the problems that many of his employees were experiencing with one particular division commander. The Sheriff said this issue was also addressed in the meeting with the employee groups. Several actions by this commander were brought to his attention. He has talked with this division commander and the Sheriff feels he has adequately addressed this problem. The Sheriff stated that he was not aware of this problem until just recently. He stated that he had not received a complaint from his employees in two years.

The Sheriff was asked about the policy whereby the deputies are required to obtain permission before making arrests. The Sheriff stated that this policy was instituted after a questionable arrest was made which resulted in litigation. The Sheriff defended this policy stating that he has a lot of deputies on the streets without a lot of experience. This is a way to protect the citizens of Yuba County from possible litigation. This policy is not time consuming and the Sheriff stated that he was comfortable with the policy.

The Sheriff was asked about the Critical Events File. He stated that this was simply a manner in which supervisors can track the job performances of the employees under their supervision. He stated that the files were not all negative but included positive things as well. He stated there was no written policy with regard to what type of actions constitute an entry into the Critical Events File.

The Sheriff was asked about disciplinary transfers. He confirmed that disciplinary transfers do exist. He stated that when an employee isn't doing the job, he will be transferred. He cited one incident in which a bailiff was transferred to the jail because he failed to come to the aid of a fellow officer who was having problems with a prisoner. This was the reason given for the transfer.

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

The Sheriff was asked about bilingual employees. He stated that he had four employees bilingual in Spanish and one employee bilingual in the Asian languages. Sheriff also stated that the department subscribes to a telephone service which offers a number of different language interpreter services.

The Sheriff advised the Grand Jury that the radio and communication equipment in the department is the best it has ever been. The cost of upgrading the equipment is substantial and this cannot be accomplished all at one time. He is comfortable that there are no safety issues involved in the communication equipment.

The Grand Jury conducted two interviews with the Sheriff. During each of these interviews, the Sheriff expressed concern about how the Grand Jury's report would impact his department and him personally. He stated that he had seen careers end because of reports "like this". The Sheriff also questioned the objectiveness of some members of the Grand Jury. He obtained the names addresses and telephone numbers of all the Grand Jury members to determine if he had any conflicts with anyone. He also admitted that he had accessed criminal history information on one particular Grand Jury member who he believed had been arrested by his agency. He denied that he had run checks on all members of the Grand Jury.

### **Findings:**

All findings are substantiated by current documentation and by observation and interviews by no less than two members of the Grand Jury. Pursuant to Penal Code Section 916.

1. The communication between the Sheriff's Department and the District Attorney's office is in need of improvement.
2. The deputies assigned to the hill unit are in need of improved shift scheduling.
3. Radio communications for the hill units are in need of improvement.
4. Personnel turnover is excessive for the sworn personnel in Yuba County versus Sutter and Nevada Counties.
5. Sheriff made appropriate decision in changing department policy with regard to the use of vacation time, comp time, overtime pay for report writing and shift assignments as documented by his memo of 11/2/96.
6. Sheriff made appropriate decision in addressing the problem regarding a division commander as brought forth by the Deputy Sheriff's Association.
7. There is no consistency in regard to the Critical Events File entries. There is no written policy in terms as to what constitutes a critical event.



## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

8. The Sheriff's Department uses disciplinary transfers.
9. The Sheriff has made substantial head way in the acquisition of new, updated equipment for the department.
10. The Sheriff inappropriately accessed criminal history information in investigating a member of the Grand Jury and accessed the names, addresses and telephone numbers of all the Grand Jury members.

### **Recommendations:**

1. The Sheriff should be pro-active in improving communication with the District Attorney's office including sharing case information more effectively regarding on going current cases. The Sheriff should work to renew a working relationship with the District Attorney's office.
2. Hill units should be allowed to set their own shift schedule as long as service to the citizens of Yuba County is appropriately maintained.
3. As new communications equipment is acquired, hill units should have top priority.
4. The Sheriff should make personnel morale in the Sheriff's Department a top priority.
5. The Sheriff should continue with policy changes made in the memo of November 20, 1996.
6. The Sheriff should maintain close control of this commander until positive changes in this commander are made and behavior modification is accomplished.
7. The Sheriff should develop specific written criteria for what constitutes a critical event which is placed and documented in the Critical Events File. There should also be a written policy developed regarding who may access these files and how long the entries are maintained in these files.
8. Sheriff should discontinue transfers as a disciplinary tool. Disciplinary problems should be dealt with in accordance with the Yuba County Progressive Disciplinary Policy.
9. None.
10. The Sheriff should not access criminal history information regarding Grand Jury members. The choice of serving on the Grand Jury is at the discretion of the presiding judge of the Yuba County Superior Court and not the Yuba County Sheriff.

**Sheriff's Department  
(Jail Division)**

**RESPONSE REQUIRED ON FINDINGS**

- None

**RESPONSE REQUIRED ON RECOMMENDATIONS**

- None

---

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

---

### **Sheriff's Department (Jail Division)**

#### **Reason for Investigation:**

1. Penal Code 919(b), states the Grand Jury shall inquire into the condition and management of the public prisons within the county.
2. Complaint letters and personal requests were received regarding facility inadequacies and individual treatment.

#### **Background:**

The Yuba County Jail is located at 215 5th Street, Marysville. It is under the general direction of the Yuba County Sheriff, with direct operation supervised by the Jail Commander.

#### **Scope:**

The scope is limited to the disposition and/or verification of letters of complaint received from Yuba County inmates.

#### **Procedure:**

All interviews were conducted and documents were obtained by no less than two members of the Grand Jury per Penal Code §916.

#### **Members of the Grand Jury:**

- Interviewed the Sheriff, Under-sheriff and Jail Commander.
- Toured the facility on two scheduled visits and one unannounced visit.
- Received copies of the Yuba County Sheriff's Department - Information Booklet.

#### **Discussion:**

The Sheriff, Under-sheriff and Jail Commander met with the Grand Jury to explain the management of the Jail and answer any questions we might have as to the operation of this facility. When Grand Jury members visited the jail and inquired about the inmate's complaints the

---

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

---

### **Response Required on Findings:**

- Sheriff of Yuba County on Findings 1, 2, 3, 4, 7, 8 and 10.
- None on Findings 5, 6 and 9.

### **Response Required on Recommendations:**

- Sheriff of Yuba County on Recommendations 1, 2, 3, 4, 5, 6, 7, 8 and 10.
- None on Recommendation 9.

The Grand Jury is recommending that the 1997/1998 Grand Jury conduct a follow up investigation regarding the recommendations made in this report.

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

jailers explained that a procedure is provided in the Yuba County Sheriff's Department Information Booklet. Each member was provided with a copy of this booklet. The jailers assured the members that all inmates get a copy of the booklet when they are processed in. The booklet is written only in English and the procedures are explained clearly and simply. If a non-English speaking inmate is unable to read or understand the English, a by-lingual inmate or jailer is found to interpret the information to them. The jailers make sure the inmates understand the information given them. This booklet is very complete and contains all the rules and regulation pertaining to their incarceration. It also outlines the grievance procedure which is the proper way to complain about problems.

Members investigated five inmate complaint letters. The jailer provided the records for three months previous which covered the complaints. The investigation found only three complaints had gone through the jail grievance procedure. Two complainants did not follow the jail grievance procedure, but had filed their complaints directly to the Grand Jury.

The members of the Grand Jury received the three previous months of grievances and found the grievance procedure to be more than adequate in dealing with different problems. It was found the complaints were handled by the described guide lines of the information booklet.

Due to the large number of complaints received from the inmates which the Grand Jury found not to be valid. The Grand Jury has set up a criteria for sorting out letters from inmates; as follows:

Category I: No response - No date, no specific complaint, no signature, or beyond our scope.

Category II: Response by letter regarding the problem.

Category III: Physical investigation by two or more Grand Jury members for a legitimate complaint after going through the proper grievance procedure.

All letters received from inmates of the Jail by this Grand Jury were reviewed and answered accordingly.

The unannounced tour proved the jail it was clean and well maintained and this condition is the standard and not the exception. The medical facilities have good equipment and sufficient staff for a facility this size.

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

### **Findings:**

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

1. The members of the Grand Jury were impressed with the knowledge and professionalism of the jail Supervisor and Staff.
2. None of the complaints received from the inmates were valid.

### **Recommendation:**

1. None.
2. That subsequent Grand Juries follow the above criteria for processing inmate complaint letters.

### **Response Required on Findings:**

1. None.
2. None.

### **Response Required on Recommendations:**

1. None.
2. None.

**Bi - County  
Juvenile Hall**

**RESPONSE REQUIRED ON FINDINGS**

- Board of Supervisors on Findings 1.
- None on Findings 2, 3, and 4.

**RESPONSE REQUIRED ON RECOMMENDATIONS**

- Board of Supervisors on Recommendation 1.
- None on Recommendations 2, 3, and 4.

# 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

## **Bi-County Juvenile Hall**

### **Reason for Investigation:**

Penal Code §919(b), states, "The Grand Jury shall inquire into the condition and management of the public prisons within the county." All detention facilities are included in the term "public prisons" i.e. includes the Juvenile Hall.

### **Background:**

The Bi-County Juvenile Hall at 1023 14th Street, Marysville, Ca. services two counties, Yuba and Sutter. The Juvenile Hall is administered by the Yuba County Probation Department, and the daily operations are directed by the Probation Program Manager. This department is investigated annually by the Grand Juries of Yuba and Sutter Counties, Health Department of Yuba County, the Board of Corrections, the Marysville Fire Department, and by the Sutter and Yuba Counties Juvenile Justice Commissions.

### **Scope:**

The Grand Jury's investigation was focused on the facility and general operations. All regulations contained in California Administrative Code Title 15, Division 4, Chapter 2, Subchapter 3, and Title 24 are applicable to incarceration facilities for minors.

### **Procedure:**

All interviews are conducted and documents were obtained by no fewer than two members of the Grand Jury per PC §916.

The Grand Jury reviewed the general operations and activities of the Juvenile Hall listed in the scope of the investigation. An interview of the Superintendent was conducted and an on-site tour was made of the facility. A follow-up visit was made by the Grand Jury to observe the juveniles attending the in-house school facility, and to observe meal quality and service. Members of the Grand Jury attended the April 8, 1997 meeting of the Board of Supervisors, for additional information and insight.

### **Discussion:**

The Grand Jury met with the Superintendent, who provided a tour of Juvenile Hall. There are thirty-nine (39) single and three (3) double, occupancy cells in the main building and in the recently constructed dormitory, there are twelve (12) beds. They were housing fifty-seven (57) juveniles, eleven (11) of whom were females. The number of residents fluctuates and they have no control as to how many juveniles are incarcerated in Juvenile Hall. The ages of these juveniles range from ten (10) years to seventeen (17) years.



## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

With the fluctuation in the number of juveniles in residence, there are times when their staffing levels are strained. There are thirteen (13) group counselors, and four (4) supervising group counselors. This is consistent with staffing the facility for a maximum population of fifty (50) juveniles. It is required by state law that they have one (1) staff member for every ten (10) juveniles. When the population exceeds fifty (50) juveniles, the facility uses extra help staff. Because the average daily population at the Juvenile Hall has exceeded fifty (50) minors consistently over the past two (2) years, extra help staff has been used on a daily basis. A request was made on April 8, 1997, by the Superintendent of Juvenile Hall, to the Board of Supervisors, for an increase in staffing of 1 additional group counselor position, immediately. This will raise the maximum population level to sixty (60), but will not eliminate the use of extra help staff. The facility realistically will need an additional 2 more group counselor positions, for a total of 3 additional staff members.

A new phase of the hall, the dormitory, has been completed and is open and housing juveniles. The Grand Jury members found the dormitory to be clean and bright. There is one (1) staff member always on duty. There is no television in the Juvenile Hall. They show educational videos.

There is a set classroom schedule with a full complement of teaching staff and aids. Some teaching staff are special education teachers. The Waldorf system of education is in use.

There are a few computers, but they are not part of the system at this time. The Superintendent explained that the computers tend to cause the juveniles to withdraw within themselves at a time when they need to be inter-acting with others. There are several word processors available for report writing and assignments. These can be plugged into computers for print outs. The classrooms have adequate reference materials and a broad selection of reading materials on the book shelves.

One of the teachers was questioned about the reading level of the students in her class. The Grand Jury members were told that there was a large disparity, with a few at high school level, a couple at 7th and 8th grade level, but with most at 5th grade level or below. This presents a unique challenge for the teachers, who need to design study units for each of the students, according to their grade level and ability. The Grand Jury members were impressed with the work being done with these young people and commend the teachers and staff.

During one of the Grand Jury visits to the facility, the family visiting period began. Family members were allowed to visit with the juveniles in the dining area. The area was clean and well organized.

The sum of \$120,000 is budgeted for food per year. State law requires that there be a three thousand (3000) calorie a day diet provided for the juveniles. The Grand Jury was invited to tour the facility during meal-time. An unannounced visit was made to the facility, so that no special efforts could be arranged. The food was nutritious and well received by the juveniles.

---

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

---

The recreation area was adequate, providing the juveniles with basketball. The staff usually let the juveniles out in groups of twelve (12) to fifteen (15).

The Yuba Sutter Quilting Guild donated beautiful quilts for each bed in the hall. The Grand Jury commends them for their time and effort.

### **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. Additional staffing of 1-3 counselors is needed for this department.
2. Meals prepared are balanced and meet the requirements set by the State of California nutrition program health system.
3. The new phase of the Hall, a dormitory, was up and running but not completely finished. Clean and bright, it is a well needed addition to the facility.
4. The in-house school is well run and adequately staffed. They have adequate materials and supplies for the students.

### **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 approve the hiring of 1 additional group counselor immediately and 2 more in the latter half of the year, as monies become available.
2. 3. and 4. None

### **Responses to Findings:**

Board of Supervisors on Finding 1.

None required on 2, 3 and 4.

### **Responses to Recommendations:**

Board of Supervisors on Recommendation 1.

None required on Recommendations 2, 3 and 4.

## **Olivehurst Public Utility District**

### **RESPONSE REQUIRED ON FINDINGS**

- General Manager of OPUD on Finding 1

### **RESPONSE REQUIRED ON RECOMMENDATIONS**

- General Manager of OPUD on Recommendation 1.
- OPUD Board on Recommendations 2 and 3.

## **Olivehurst Public Utilities District**

### **Reason for Investigation:**

This investigation was conducted per chapter 3, article 2, section 925 of the California Penal Code. Olivehurst Public Utilities District was selected due to an extended time since the last investigation in the 91/92 Grand Jury Final Report.

### **Background:**

The Olivehurst Public Utility District's (OPUD) main office is located at 1970 Ninth Street in Olivehurst. OPUD is responsible for providing water, sewage, fire protection, public parks and recreation facilities to the district residents. There are four departments, as follows: the Business Office, the Water and Sewer, the Parks and Recreation, and the Fire Department. It has a board of five members who are elected to serve a four year term and is charged with the overall accountability for the administration and management of the Utilities District.

### **Scope:**

The Grand Jury limited its investigation on the facilities, operation, the 96/97 FY budget and the general function it provides to the district.

### **Procedure:**

All interviews were conducted and documents were obtained by no less than 2 members of the Grand Jury per PC §916.

Members of the grand Jury met with the General Manager and were given a general overview of the operations and functions.

Members were presented with an organization chart, Personnel Manual and the fiscal year budget.

### **Discussion:**

The board contracts a full-time General Manager, who oversees the four departments. The board answers to the residents of the district. The public has the right to be included on any and all board meetings pursuant to Government Code section 54854.3, effective January 1, 1987. The public may address the Board of Directors on any item of interest, that is within the jurisdiction of the Board. Any resident of this district, wishing to speak on any issue, must ask to be included on the agenda for the next meeting. The agendas are set up by the General Manager for each board meeting and posted a week in advance at the district office. No action may be taken on any issue that does not appear on the posted agenda.

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

The District operates on an approved budget of \$427,650. The revenue to fund the budget is estimated at \$434,515, therefore there is a contingency of approximately \$7,000. The revenue is obtained from monthly customer service charges and an estimated \$300,000 from property taxes. The monies are divided by a percentage to each department in the district. Each department must operate within their budget. OPUD is a self-supporting operation; working efficiently without local taxes, bond issues, nor public loans. They avoid the incurring of debt by the careful allocation of funds.

The District provides services to the county, quality water and sewer treatment, and fire protection. OPUD provides water from ten wells which pumps 14 million gallons a day. They have nine lift stations and a water treatment plant which is now in service. Water quality is set up through the Regional Water Quality Control Board. They provide maintenance to five parks, one community center, one youth center and a swimming pool. The fire department provides fire protection and emergency services for the district.

The board is split into a two person committees, which are called liaison committees. They are given projects concerning different areas within the district; such as, fire department, industrial, airport, community development, insurance, negotiation, new subdivisions, parks and public facilities, public agency, sphere of influence, street lights, water & sewer and the Yuba County Water Agency. They research these areas and come back to the board with recommendations. The board then votes for approval or not of each project.

There is a pool area which is not in use at this time due to the need of major repairs. The pool has been closed to the public for five years. After the January storm and flooding, additional damage was caused to the pool. Some cleaning and minor maintenance are being done at this time. The pool repairs went out for open bids and three were addressed at a OPUD meeting held on March 20, 1997. Repairs will cost the district \$26,804, which was the lowest bid. It was approved by the board to complete the work by next year.

The money the district received from the leases of the Youth Center and Community Center Buildings from the WIC (Women, Infant and Children) Program and Probation Department were canceled due to budget cuts. When the buildings are leased out, the monies were put into the general fund. The leases on the buildings are a source of revenue for the district.

### **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 OPUD approved budget exceeds the estimated revenue, which provides a contingency fund.
2. The pool, which has been closed for five years, has been approved for repair and completed next year.

---

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

---

3. Leases of the Youth Center and Community Center buildings are a source of revenue for the general fund.

### **Recommendations:**

1. That the Board should continue their budget planning for the future with a contingency fund.
2. That the Board should keep the public informed on status of repairs.
3. That the Board seek other lessors; e.g., previous lessors, for the Youth Center and Community Center Buildings.
4. That the 1997/98 Yuba County Grand Jury continue the on-going investigation.

### **Response Required on Findings:**

- General Manager of OPUD on Finding 1.
- OPUD Board on Finding 2 and 3.

### **Response Required on Recommendations:**

- General Manager of OPUD on Recommendation 1.
- OPUD Board on Recommendation 2 and 3.

## **CITY OF WHEATLAND**

### **Community Facilities District #1**

#### **RESPONSE REQUIRED ON FINDINGS**

- Wheatland City Council on Finding 1.
- Wheatland City Administrator on Finding 2.
  - None on Findings 3, 4 and 5.

#### **RESPONSE REQUIRED ON RECOMMENDATIONS**

- Wheatland City Council on Recommendation 1, 2 and 3.
  - Findings 1, 2, 3, 4, 7, 8 and 10.
  - None on Findings 5, 6 and 9.

**City of Wheatland**

**Community Facilities District #1**

**Reason for Investigation:**

1. The city of Wheatland was selected for an investigation because of financial problems concerning the Mello-Roos bond issue and the dispersal of those funds.
2. The 1995/96 Grand Jury was unable to complete their investigation and recommended the Grand Jury of 1996/97 conduct their own.

**Scope:**

This investigation was limited to the Mello-Roos district formation, funding and expenditures.

**Background:**

The city of Wheatland Communities Facilities District #1 (hereafter referred to as CFD#1) which is located within the city limits of Wheatland was formed for the primary purpose of funding certain facilities, road improvements, including but not limited to traffic signal installation. This entity is governed by the Mellos-Roos Community Facilities Act of 1982 and is controlled by the Wheatland City Council. The original bond sales produced an operating budget of \$2,075,000. These funds were intended to upgrade facilities that would be impacted by the increased demands generated by the development of properties in the CFD#1.

**Procedure:**

All interviews were conducted and documents were obtained by no less than 2 members of the Grand Jury per PC §916

1. Personal interviews were conducted with former and current members of the Wheatland City Council, property owners within the district and the present City Administrator.
2. The following documents and reference materials were used in the preparation of this report:
  - A. The Public Officials Guide to Mello-Roos Financing
  - B. The City of Wheatland's record of all resolutions regarding CFD#1 that were adopted by the City Council.
  - C. Wheatland 1995 specific plan (Environmental Impact Report).



## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

- D. City of Wheatland Financial statements from 1987 to 1995.
- E. City of Wheatland Wastewater Facilities Master Plan.
- F. Newspaper accounts or media transcriptions.
- G. Findings of the 1995/96 Grand Jury.
- H. Correspondence from the Securities Exchange Commission (S.E.C.) to the Wheatland City Council.
- I. The City of Wheatland accounting of all expenditures of the Mello-Roos funds.

### **Discussion:**

In 1990 a group of land owners and developers representing 13 parcels that totaled approximately 213 acres within the Wheatland City limits agreed to form a CFD#1 to provide infrastructure improvements necessary for the development of their land. The owners and developers requested that the City Council conduct a referendum for those parcels affected by the district. When the referendum was passed by the land owners the council was obligated to administer the district.

Upon receipt of the bond revenues the City Council initiated contracts to begin the infrastructure improvements. The first contracts were for the design and construction of increased wastewater treatment facilities. The city also commissioned a survey to study the feasibility of installing a traffic light on State Route 65. These two projects were specifically authorized in the district formation (Resolution 33-90 Wheatland City Council). However, the resolution also states, "It is the intention of the City Council to finance municipal services necessary to meet increased demands placed upon the city as a result of the development occurring in CFD#1.

After approximately 80 of the proposed 700 new homes were built, new development slowed to a stop. As repayment of the bonds came due, the parcels that were undeveloped began paying at rates that were economically unsustainable. After the first undeveloped parcels failed to pay the assessment, the rate on the remainder was forced to go even higher. This resulted in assessments and subsequent tax bills that exceeded the realistic value of the properties. In November 1996 the district was unable to meet the bond repayment requirement from reserves or current collections.

### **Findings:**

1. Bond funds were not used solely to meet the increased demands placed on the city as a result of the new development, i.e. Highway 65 road widening construction project was initiated by the

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

city long after it was apparent that the proposed development was not proceeding at the projected rate. The additional residents in approximately 80 new homes did not generate the increased traffic that required this project. Additionally, bond proceeds not spent by November 1, 1992 should have reverted to the bond fund reserve account. (Resolution 60-90 Article IV Section 4.02 Paragraph C). The first payment for the road construction was not made until November 7, 1995 (Wheatland chart of accounts for Mello-Roos funding)

2. The 1994/95 Grand Jury report for the city of Wheatland recommended that the city install traffic lights on state route 65. The city's response to that report, filed with the Yuba County Superior Court, stated that though the city was unable to afford a traffic signal it had recently completed the road widening project "at total city expense". This response is not only inaccurate, it is also misleading. The road widening was primarily accomplished with Mello-Roos funds with an additional amount also coming from the state bike lane fund.

3. Exclusive of Finding #1, the Wheatland chart of accounts for Mello-Roos funding indicates that the bond funds were expended for appropriate development and construction fees, furthermore, the accounting records were available and complete.

4. In a letter to the City Administrator (Special tax bonds, file #nla 1369, dated May 23, 1996) the Securities and Exchange Commission stated that the city was no longer being investigated for alleged securities fraud in connection with the failed Mello-Roos bond issue.

5. The city of Wheatland has no financial liability for the redemption of the bonds, however, since the failure of the tax collections to provide revenue to repay the bondholders or cover the city's administrative costs, the city has been obligated to administer the CFD#1 without reimbursement. This obligation for administration (including foreclosure proceedings) has the potential to cause financial hardship for the city.

### **Recommendations:**

1. It is the recommendation of the 1996/97 Grand Jury that the Wheatland City Council should be more flexible and supportive of the development in CFD#1. This could include allowing development in phases with civic improvements to be guaranteed by trust accounts or other safeguards.

2. The Wheatland City Council should solicit and encourage developers to resume the development of CFD#1. These encouragements could include tax incentives, utility connection fee waivers, or a simple demonstration to potential developers that the city is committed to assisting development within the district.

3. The city council should pursue future improvements to State Highway 65 through California Department of Transportation and the elected state representatives from the Wheatland community.

---

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

---

### **Response Required on Findings:**

- Wheatland City Council on Finding 1.
- Wheatland City Administrator on Finding 2.
- None on Findings 3, 4 and 5.

### **Response Required on Recommendations:**

- Wheatland City Council on Recommendations 1, 2 and 3.

**YUBA COUNTY WATER AGENCY**

**REQUEST TO 1997/98 GRAND JURY  
FOR CONTINUATION OF THIS INVESTIGATION**

# 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

## **Yuba County Water Agency**

### **Reason for Investigation:**

Penal Code, Chapter 3, Article 2, Section 925, states in part: "The Grand Jury shall investigate functions of the County on some selective basis each year."

### **Background:**

The office of the Yuba County Water Agency (hereafter called the Agency) is located at 1402 D Street, Marysville, California. The Director of the Agency serves at the pleasure of the Board. The Board consists of seven directors; five of which are the Yuba County Supervisors, and two other elected officials - one from the south of the Yuba River and one from the north of the Yuba River.

The Agency was formed in 1959 by a California State legislative act. The Water Agency Act, section 84-26 states in part: "...The legislature hereby finds that water problems in the County of Yuba require countywide water conservation, flood control and development of water resources; that all land within the county will be benefited thereby, that the solution of these problems lies within and is peculiar to the area to be included in the Yuba County Water Agency."

### **Scope:**

This report encompasses only the mandates of the Agency and attempts to ascertain the reason the Agency is **not** providing revenue to the Yuba County general fund. Whether the Agency will be allowed to provide revenue to Yuba County: when the bonds on Bullards Bar reservoir are retired in the year 2016, or by the mandates of AB 1890 (State of California) Public Utilities Act (chaptered 09/24/96) - which is effective immediately.

### **Procedure:**

The investigation was conducted and all documents were received by no less than two members of the Grand Jury per Penal Code §916.

The members of the Grand Jury conducted interviews with the Director and Assistant of the Agency and several members of the Agency Board.

The members of the Grand Jury researched the following documents:

- (a) Yuba County Water Agency Act, section 84.
- (b) Yuba County Water Agency Power Purchase Contract.
- (c) (California State) AB 1890 Public Utilities: electrical restructuring, chaptered 09/24/96.

## 1996/97 YUBA COUNTY GRAND JURY FINAL REPORT

### **Comments:**

The contract, as stated in the Water Agency Power Purchase Contract: "... shall remain in effect so long as Yuba holds a license under the Federal Power Act...but not beyond April 30, 2016 (contract between the Agency and Pacific Gas and Electric (PG&E)).

The contract further states: "PG&E shall pay Yuba for all power and energy delivered, (a) at the semiannual rate of \$3,850,000, and, in addition, (b) at the monthly rate of \$25,000." (note: this is a fixed amount, and not dependent upon the quantity of electricity generated.)

The director of the Agency stated: "...if prices go up (wholesale rate of generated electricity), PG&E gets the profits. No escape in the contract...we have tried and tried, can not find an escape until 2016."

AB 1890 (Public Utilities: electrical restructuring) will not directly change the current contract. However, AB 1890 may create a change in the electrical generating operations of PG&E in a manner such that the contract could be (mutually) terminated.

As stated by the Director of the Agency: "...the (deregulation) atmosphere is changing by the day." Therefore, this Grand Jury does not wish to close this investigation.

This Grand Jury respectfully requests the incoming 1997/98 Grand Jury to consider pursuing this investigation. All pertinent information obtained by the 1996/97 Grand Jury will be made available.