

Marysville Joint Unified School District
1919 B Street Marysville, CA 95901 (916) 741-6000 • FAX (916) 742-0573

FILED

NOV 13 1997

YUBA COUNTY SUPERIOR COURT
MARGARETE E. HERNANDEZ, CLERK
[Signature]
Deputy Clerk

November 6, 1997

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

**Re: 1996-97 Grand Jury Final Report
Findings/Recommendations**

Dear Judge Mathews:

In accordance with the Grand Jury's Final Report, attached are Comments on the Findings and Comments on Recommendations.

We appreciate your interest in our school district and your Findings and Recommendations. We also appreciate the commendations which are also included in your report.

Sincerely,

Peter W. Pillsbury
Peter W. Pillsbury
Superintendent

Margaret A. Markle
Margaret A. Markle
President
Board of Trustees

PWP:pk1

Attachment

cc: Board of Trustees
Executive Council



Marysville Joint Unified School District
1919 B Street Marysville, CA 95901 (916) 741-6000 • FAX (916) 742-0573

Response to 1996-97 Yuba County Grand Jury Report

Comments on Findings:

- (3) The practice of our District is to have fire extinguishers placed in strategic locations. Each location is marked and also indicated in the Emergency Site Plan, which is in each classroom.

In portable buildings, we try to keep each one equipped with a fire extinguisher.

- (4) In all new buildings, the lighting meets D.S.A. certification. When we retro-fit existing lighting fixtures, we bring them up to the new standard.

Comments on Recommendations

- (3) We will continue with our current practice of having fire extinguishers in strategic locations and equipping each new portable building with its own fire extinguisher.
- (4) As appropriate, we will continue to retro-fit existing light fixtures to meet earthquake safety standards.

The County of Yuba

OFFICE OF THE BOARD OF SUPERVISORS



(916) 741-6461

October 7, 1997

The Honorable Dennis J. Buckley
Judge of the Superior Court
215 5th Street
Marysville, California 95901

FILED

OCT 9 1997

YUBA COUNTY
MARGARET E. HERNANDEZ, CLERK
BY *M. Hernandez*
Deputy Clerk

RE: Report of the Grand Jury 1996-1997

Dear Judge Buckley:

Attached, pursuant to Penal Code Section 933, are the comments of the Yuba County Board of Supervisors on the findings and recommendations in the 1996-97 Grand Jury Final Report. The comments are in the formal format as required by Penal Code Section 933.05

The Board of Supervisors wishes to thank the members of the 1996-97 Grand Jury for their dedicated one year of service to their fellow citizens. The 1996-97 Grand Jury is to be commended for their thorough work, tenacity and resolve on taking on the investigation and reporting on the methods and procedures that at times may be perceived by some as adequate and not in need of change.

The Board, as you will read in the attached comments, agrees with some of the findings and has already implemented and/or has taken steps to implement many of the recommendations made by the Grand Jury.

Yours truly,

Hal Stocker
Hal Stocker
Chairman

ltrgjcmmn.ts

The following are the Findings and Recommendations of the Yuba County 1996-97 Grand Jury Final Report and the Board of Supervisor (BOS) comments as required by Penal Sections 933 and 933.05.

DISTRICT ATTORNEY:

Findings.

1. The Yuba County District Attorney's Office is in serious need of a general purpose Criminal Investigator.

BOS Comment: The Board does not agree or disagree. This a policy decision to be made by the District Attorney, an elected official.

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.

BOS Comment: The Board does not intend to implement. The Board has, in adopting the County's Final Budget, funded the District Attorney's department at a specific level and in accordance with the Maintenance of Effort (MOE) agreement pursuant to Prop 172. The District Attorney has statutory authority to prioritize programs and to fund them as he sees fit.

FLOOD OF 1997:

Findings:

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).

BOS Comment: Agree.

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.

BOS Comment: Agree.

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.

BOS Comment: Agree in part. The flows in the Feather River can be controlled by Oroville Dam up to a point. Once Oroville starts spilling over the spill ways there is limited control of the amount being spilled.

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.

BOS Comment: Agree in part. Bullards Bar Dam can control the north fork of the Yuba River and thus has some control of the Yuba.

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.

BOS Comment: Agree. A dam at Parks Bar would be able to control the Yuba River and thus provide flood protection for citizens of not only Yuba County, but of counties downstream.

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.

BOS Comment: Agree in part. The U.S. Army Corps of Engineers has amended its design to provide slurry walls from Broadway Avenue to approximately Algodon Road, a distance of approximately 3.8 miles. The remaining portion, of the approximately 10 miles, will be enhanced with toe drains and berms.

Recommendations:

2. That the Bear River be given the same consideration as the Yuba and Feather Rivers for flood evacuation.

BOS Comment: Will be implemented by November 1, 1997. Emergency procedures being rewritten will provide for monitoring of the Bear River and appropriate

consideration given to imposing evacuation procedures of affected areas as needed.

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.

BOS Comment: Requires additional analysis. The DWR continues to investigate this issue and if feasible and cost effective will consider the installation of flow rate gauges at the subject area. In the interim the county will rely on stage (elevation) gauges installed at the 5th Street and Simpson Lane bridges and Boyd's pump on the Sutter side.

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.

BOS Comment: Has been implemented. The Yuba County Board of Supervisors and the Yuba County Water Agency Board of Directors are and have been united in addressing flood control measures to ensure citizens of Yuba County and surrounding counties are afforded the best flood protection.

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.

BOS Comment: Has been implemented. The Corps has commenced installing slurry walls in the subject area.

JUVENILE HALL:

Findings:

1. Additional staffing of 1-3 counselors is needed for this department.

BOS Comment: Agree.

Recommendations:

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.

BOS Comment: Partially implemented. One group counselor has been added, the two other counselors will be added when budget allows.

PUBLIC ACCESS TO YUBA RIVER:

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.

BOS Comment: Agree in part. The ad hoc committee, as all the other 1996 Board of Supervisor's ad hoc committee, was disbanded as is customary at the end of every calender year. The ad hoc committee prior to being disbanded did have an offer from the Operating Engineers to cut a road through the park to the Yuba River, an offer that was later withdrawn. The ad hoc committee also was negotiating with the Cherokees of California to build a pow wow circle in the park.

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.

BOS Comment: Agree in part. BLM had agreed to rough out the road, the county was to supply the gravel.

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.

BOS Comment: Agree.

Recommendations:

1. That the Board of Supervisors recreate an ad hoc committee to develop public river access for recreational purposes.

BOS Comment: Implemented.

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.

BOS Comment: Implemented. Flood damaged road was reconstructed by BLM and other public and private resources.

3. That the Board of Supervisors focus on public river access for recreational purposes.

BOS Comment: No Comment. There are no findings to support this recommendation. Furthermore, there is no provision in Title 4 of the Penal Code for grand juries to address policy matters other than methods and procedures on how Board policy is being carried out.

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.

BOS Comment: No Comment. There are no findings to support this recommendation. Furthermore, there is no provision in Title 4 of the Penal Code for grand juries to address policy matters other than methods and procedures on how Board policy is being carried out.

PERSONNEL/RISK MANAGEMENT:

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.

BOS Comment: Agree in part. The check was issued with what was believed to be proper Board of Supervisors' authority. The full amount of the check was returned to the county.

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.

BOS Comment: Agree in part. The Board of Supervisors did review the matter in a closed session and took action as permitted under the opening meeting laws. The Board made no report as this was a personnel matter considered confidential.

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.

BOS Comment: The BOS cannot agree or disagree. The BOS expected that established general accepted accounting procedures were in place and being followed.

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.

BOS Comment: The BOS cannot agree or disagree. The BOS expected that established general accepted accounting procedures were in place and being followed.

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.

BOS Comment: Disagree. The county's budget is adopted in accordance with standard budget procedures as required by state law.

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.

BOS Comment: Not implemented. Requires further analysis with resolution expected during the present fiscal year.

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.

BOS Comment: Not implemented. The BOS has no intention to revisit this incident but to go forward with appropriate modifications, to methods and procedures as necessary, to be adopted by end of the present fiscal year.

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.

BOS Comment: Implemented. The county has an annual audit conducted by an independent private sector auditor. The independent auditor will be directed to devote more attention to this area in the future.

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.

BOS Comment: Implemented. System already in place. BOS Budget ad hoc committee will monitor to ensure methods and procedures are being followed.

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.

BOS Comment: Implemented. System already in place. BOS Budget ad hoc committee will monitor to ensure methods and procedures are being followed.

SHERIFF:

Findings:

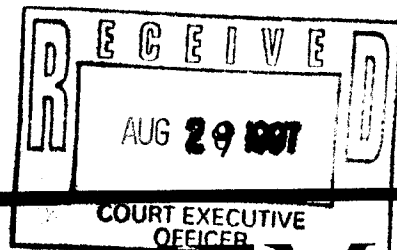
1. The communication between the Sheriff's Department and the District Attorney's office is in need of improvement.

BOS Comment: Do not agree or disagree. The Board of Supervisors has no comment on this matter as the BOS has no statutory authority over the Sheriff and the District Attorney in this area as they are elected officials.

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.

BOS Comment: Do not intend to implement. The Board of Supervisors has no comment on this matter as the BOS has no statutory authority over the Sheriff and the District Attorney in this area as they are elected officials.

**I N T E R****O F F I C E****MEMO**

To: Distribution
From: Al Amaro/Bill Simmons
Subject: Comments (Response) to 1996/97 Grand Jury Reports
Date: August 29, 1997

New law requires comments (response) to grand jury reports be in a specific format as outlined in Penal Code Section 933.05. Please see attached.

On "Findings" you must state if you agree with the finding. If you disagree, you must state why you disagree.

On "Recommendations" you have to answer in one of four ways;

1. Recommendation has been implemented,
2. Has not yet been implemented, but will be,
3. Requires further analysis, and
4. Will not be implemented and reason why not.

Department responses are due to the ad-hoc committee no later than September 15, 1997. This will allow the committee to discuss questions with the department heads and prepare the Board's comments.

The ad-hoc committee intends to have the prepared comments for Board of Supervisors approval at the October 7, 1997, meeting.

Distribution: BOS
CAO
Clerk of the Board
Juvenile Hall
Personnel/Risk Mgmnt
Superior Court Clerk

Copy District Attorney
Sheriff

Section 933.05 Responses to findings

(a) For purposes of subdivision (c) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

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

(b) For purposes of subdivision (c) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

- (1) The recommendation has been implemented, with a summary of the implementing action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county department headed by an elected officer, both the department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has decisionmaking authority. The response of the elected department head shall address all aspects of the finding or recommendations affecting his or her department.

(d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.

(e) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the supervising judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.



City of Wheatland

313 MAIN STREET • WHEATLAND, CALIFORNIA 95692

TELEPHONE (916) 633-2761
FAX (916) 633-9102

September 15, 1997

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

FILED

SEP 30 1997

AMENDED

YUBA COUNTY COURT
MARGARET E. HERNANDEZ, CLERK
BY *M. Hernandez*
Deputy Clerk

Re: City of Wheatland Reply to 1996-97 Yuba County Grand Jury Final Report

Dear Judge Mathews:

The Wheatland City Council, Mayor and City Administrator hereby submit these comments and responses to the 1996-97 Yuba County Grand Jury Final Report regarding the City's Community Facilities District No. 1.

Finding No. 1. The City disagrees with this finding. By Resolution No. 60-90 and other bond resolutions, the City committed for the benefit of the Community Facilities District landowners to construct the Highway 65 improvement work. The City acknowledges that the project took longer to complete than anticipated. After commencing work and expending substantial Mello-Roos funds on engineering and related pre-construction costs, the City decided it was obligated to complete the work, and did so as expeditiously as possible. The City Council took this course only after careful consideration, and consultation with its City Attorney and bond counsel.

The Grand Jury has misconstrued Resolution No. 60-90, section 4.02. The Grand Jury report incorrectly refers to bond proceeds in the context of section 4.02. Sections 4.01 and 4.02 relate to special tax proceeds, not bond proceeds. The bond proceeds are the money received upon sale of the Mello-Roos bonds. The allocation of the bond proceeds is addressed by section 2.11. The last paragraph of section 2.11 obligated the City to "proceed with due diligence to complete" the Highway 65 improvements by November 1, 1993. The City strived to complete the work by this deadline, but was unable to due to a variety of problems and unforeseen complications. The November 1, 1993 date was not an absolute deadline, but rather a due diligence goal.

Sections 4.01 and 4.02 apply to the allocation and bookkeeping of the special tax proceeds paid by CFD landowners. The last paragraph of section 4.02 provides that in the event there are special tax proceeds remaining after paying all principal and interest on the

bonds, fully funding the bond reserve account, and paying all Mello-Roos administration expenses, then any excess special tax proceeds are to be transferred to a City CFD community facilities fund.

Unfortunately, the City has never been in such a position. Shortly after formation of the CFD, landowners became delinquent. The City has since then been short of sufficient special tax proceeds to meet the obligations of section 4.02. In fact, it has had to fund Mello-Roos administration out of the City general fund. Consequently, it has never been in a position to transfer excess or surplus special tax proceeds to City CFD community facilities fund.

Finding No. 2. The City agrees in part with this finding in that there appears to be some confusion regarding the sources of funding to design and construct the Highway 65 improvements. The Grand Jury seems to take exception with the phrase, "city expense." We acknowledge that the 1995-96 reply may have been vague or ambiguous, and therefore misleading to some, but deny that it was inaccurate. What the City intended by this phrase was that the work was paid for by Mello-Roos and other funds available to the City and its CFD. In order to fully fund the project, there was a variety of sources used by the City, including Mello-Roos bond proceeds, Transportation Development Act funds, Highway Users Tax funds, and Proposition 116 Bike Path allocation funds.

Finding Nos. 3-5. The City agrees. No further response required.

Recommendation No. 1. The City believes that it has been very flexible and supportive of development in the CFD. In our view, the lack of development has not related to any lack of flexibility or support by the City, but rather due to the substantial Mello-Roos debt accumulating on the developable land within the CFD and land values that seem to be less than the amount of the debt. the City nevertheless intends to continue to implement this recommendation, consistent with available staffing and funding, and to the extent that there are no significant impacts on the City's general or enterprise funds or the City's ability to provide needed infrastructure to serve new development.

Recommendation No. 2. Again, to the extent of its practical abilities, the City has solicited and encouraged development. The City, though, lacks economic development or planning staff to affirmatively solicit development, and it lacks the funding necessary to hire such staff. The City Council has expressed a willingness to seriously consider reduction in its developer fees to attract new development, and to phase or delay (i.e., back-end) infrastructure requirements as much as is feasible.

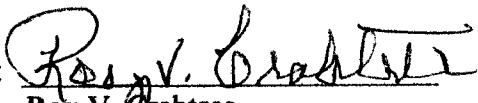
Consistent with Recommendation No. 1, the City believes that lack of development in the CFD relates primarily to the Mello-Roos debt and depressed land values, and is affected very little, if at all, by the City's fee structure.

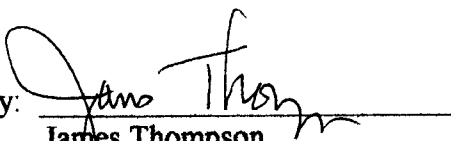
The City intends to continue to solicit and encourage development in the City, consistent with available staffing and funding, and to the extent that there are no significant impacts on the City's general or enterprise funds or on the City's ability to provide needed infrastructure to serve new development.

Recommendation No. 3. We are not sure what the Grand Jury means by "pursue future improvements to State Highway 65." This recommendation will not be implemented because it is unreasonable, in that the City lacks the staff, funding and "clout" to effectively influence state decisions on state highway improvements. It is not a recommendation that we feel comfortable affirmatively agreeing to implement. Nevertheless, when opportunities present themselves, (e.g, through SACOG, periodic meeting with CalTrans staff and state legislator, and the Arciero raceway project, if it is constructed) we intend to urge the state to continue to improve Highway 65.

We appreciate this opportunity to respond to the Grand Jury's report. Please contact us if you have any questions or if you would like any further information.

CITY OF WHEATLAND

By: 
Roy V. Crabtree
Mayor

By: 
James Thompson
City Administrator

cc: Yuba County Board of Supervisors

YUBA
COUNTY



WATER
AGENCY

1402 D STREET
MARYSVILLE
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95901-4226

TELEPHONE
916.741.6278
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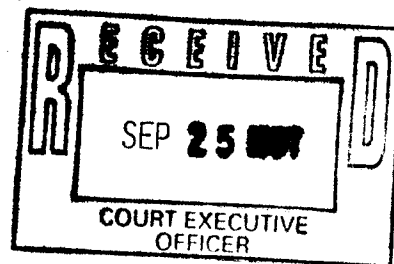
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SEP 25 1997

YUBA COUNTY SUPERIOR COURT
MARIA L. GONZALEZ, CLERK

BY

Deputy Clerk



September 23, 1997

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

Dear Judge Mathews:

Attached is the Yuba County Water Agency's response to the 1996/97 Yuba County Grand Jury Final Report. The Agency's Board of Directors approved this response at a regular meeting on September 23, 1997.

Sincerely,

Brent Hastey
Chairman

Finding 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.

**Yuba County Water
Agency Response
to Finding 3:**

The Agency agrees that the U.S. Geological Survey's Marysville gage was not reliable on January 2, 1997 and that there was not a backup reading available, other than calculated flows based on known upstream flows and releases.

Recommendation: 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.

Response to

Recommendation: The Yuba County Water Agency, in consultation and cooperation with the United States Geological Survey and California Department of Water Resources, has started the process to install a river stage gage that will be located on the Simpson Lane Bridge. The equipment is being furnished by the State Department of Water Resources and Agency's staff will install and maintain the gage. The required permits with the County have been received and installation of the electrical service is in progress. The gage should be in operation by October 31, 1997. This gage will transmit river levels by satellite to the California Data Exchange Center, where it will be available on the internet.

Finding 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.

**Yuba County Water
Agency Response
to Finding 5:**

The Agency concurs that the Middle Yuba and the South Yuba Rivers are uncontrolled forks of the Yuba River. These two forks received large flows during the 1997 flood.

Recommendation: That the Board of Supervisors and the Yuba County Water Agency be united in proceeding with additional flood control measures.

Response to

Recommendation: The Yuba County Water Agency Board of Directors and the Board of Supervisors have been cooperatively working towards additional flood control measures since 1986 and plan to continue doing so.

Finding 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.

**Yuba County Water
Agency Response
to Finding 6:**

Agency staff did a model study of Bullards Bar Storage operation with the reservoir half full a week before the flood event. The study showed that the flows at Marysville would have been 3,000 cubic feet per second (1.7%) less. From this it was demonstrated that controlling the North Yuba cannot control the whole Yuba River, since the uncontrolled flows on the Middle and South Yuba are so great.

Recommendation: That the Board of Supervisors and the Yuba County Water Agency be united in proceeding with additional flood control measures.

Response to

Recommendation: The Yuba County Water Agency Board of Directors and the Board of Supervisors have been cooperatively working towards additional flood control measures since 1986 and plan to continue doing so.

Finding 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.

**Yuba County Water
Agency Response
to Finding 7:**

The Agency has investigated the Parks Bar Dam and believes that it is a viable flood project. The Agency will be looking at all feasible alternatives over the next year.

Recommendation: That the Board of Supervisors and the Yuba County Water Agency be united in proceeding with additional flood control measures.

Response to

Recommendation: The Yuba County Water Agency Board of Directors and the Board of Supervisors have been cooperatively working towards additional flood control measures since 1986. The Agency's Board of Directors are committed to finding long range feasible alternatives for increased flood control on the Yuba Basin.



City of Wheatland

313 MAIN STREET • WHEATLAND, CALIFORNIA 95692

TELEPHONE (916) 633-2761
FAX (916) 633-9102

FILED

SEP 18 1997

YUBA COUNTY SUPERIOR COURT
MARGARETE HERNANDEZ, CLERK
BY *M. Hernandez*
Deputy Clerk

September 15, 1997

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

Re: City of Wheatland Reply to 1996-97 Yuba County Grand Jury Final Report

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Finding No. 1. The City disagrees with this finding. By Resolution No. 60-90 and other bond resolutions, the City committed for the benefit of the Community Facilities District landowners to construct the Highway 65 improvement work. The City acknowledges that the project took longer to complete than anticipated. After commencing work and expending substantial Mello-Roos funds on engineering and related pre-construction costs, the City decided it was obligated to complete the work, and did so as expeditiously as possible. The City Council took this course only after careful consideration, and consultation with its City Attorney and bond counsel.

The Grand Jury has misconstrued Resolution No. 60-90, section 4.02. The Grand Jury report incorrectly refers to bond proceeds in the context of section 4.02. Sections 4.01 and 4.02 relate to special tax proceeds, not bond proceeds. The bond proceeds are the money received upon sale of the Mello-Roos bonds. The allocation of the bond proceeds is addressed by section 2.11. The last paragraph of section 2.11 obligated the City to "proceed with due diligence to complete" the Highway 65 improvements by November 1, 1993. The City strived to complete the work by this deadline, but was unable to due to a variety of problems and unforeseen complications. The November 1, 1993 date was not an absolute deadline, but rather a due diligence goal.

Sections 4.01 and 4.02 apply to the allocation and bookkeeping of the special tax proceeds paid by CFD landowners. The last paragraph of section 4.02 provides that in the event there are special tax proceeds remaining after paying all principal and interest on the

bonds, fully funding the bond reserve account, and paying all Mello-Roos administration expenses, then any excess special tax proceeds are to be transferred to a City CFD community facilities fund.

Unfortunately, the City has never been in such a position. Shortly after formation of the CFD, landowners became delinquent. The City has since then been short of sufficient special tax proceeds to meet the obligations of section 4.02. In fact, it has had to fund Mello-Roos administration out of the City general fund. Consequently, it has never been in a position to transfer excess or surplus special tax proceeds to City CFD community facilities fund.

Finding No. 2. The City agrees in part with this finding in that there appears to be some confusion regarding the sources of funding to design and construct the Highway 65 improvements. The Grand Jury seems to take exception with the phrase, "city expense." We acknowledge that the 1995-96 reply may have been vague or ambiguous, and therefore misleading to some, but deny that it was inaccurate. What the City intended by this phrase was that the work was paid for by Mello-Roos and other funds available to the City and its CFD. In order to fully fund the project, there was a variety of sources used by the City, including Mello-Roos bond proceeds, Transportation Development Act funds, Highway Users Tax funds, and Proposition 116 Bike Path allocation funds.

Finding Nos. 3-5. The City agrees. No further response required.

Recommendation No. 1. The City believes that it has been very flexible and supportive of development in the CFD. In our view, the lack of development has not related to any lack of flexibility or support by the City, but rather due to the substantial Mello-Roos debt accumulating on the developable land within the CFD and land values that seem to be less than the amount of the debt. the City nevertheless intends to continue to implement this recommendation, consistent with available staffing and funding, and to the extent that there are no significant impacts on the City's general or enterprise funds or the City's ability to provide needed infrastructure to serve new development.

Recommendation No. 2. Again, to the extent of its practical abilities, the City has solicited and encouraged development. The City, though, lacks economic development or planning staff to affirmatively solicit development, and it lacks the funding necessary to hire such staff. The City Council has expressed a willingness to seriously consider reduction in its developer fees to attract new development, and to phase or delay (i.e., back-end) infrastructure requirements as much as is feasible.

11. We are responsible for City of Wheatland's compliance with laws and regulations applicable to it; and we have identified, and disclosed to you, all laws and regulations that have a direct and material effect on the determination of financial statement amounts. We have complied with all aspects of laws, regulations, and contractual agreements that would have a material effect on the financial statements in the event of noncompliance.
12. We have identified all accounting estimates that could be material to the financial statements, including the key factors and significant assumptions underlying those estimated, and we believe the estimates are reasonable in the circumstances.
13. No events have occurred subsequent to the balance sheet date that would require adjustments to, or disclosure in, the financial statements.

Signed: Roy V. Corbitt

Title: Mayor

Date: 9/18/97

Signed: Carolyn M. Belden

Title: ASSISTANT CITY ADMINISTRATOR

Date: 9/12/97

The County of Yuba

OFFICE OF THE SHERIFF - CORONER



Gary D. Tindel

SHERIFF - CORONER

(916) 741-6331

July 30, 1997

The Honorable Dennis Buckley
Presiding Judge for the 1997-98 Grand Jury
Yuba County Superior Court
215 5th Street
Marysville, California

FILED

JUL 30 1997

YUBA COUNTY SUPERIOR COURT
MARGARETE E. HERNANDEZ, CLERK
BY *M. Hernandez*
Deputy Clerk

Dear Judge Buckley:

I am submitting the enclosed eleven (11) page response to the 1996-97 Grand Jury Report, as it relates to the Yuba County Sheriff's Department, in compliance with Penal Code Section 933.05(c). Furthermore, in compliance with Penal Code Section 933(c), I am also submitting a copy of this response to the Board of Supervisors and the County Clerk's Office, while maintaining a copy in my office.

Obviously, if you, Judge Mathews or the Grand Jury wish to discuss any of these matters in greater detail, please let me know and I will make myself available to do so.

Respectfully,

Gary D. Tindel

Gary D. Tindel
Sheriff-Coroner

cc: Yuba County Board of Supervisors
Yuba County Clerk's Office
Yuba County Sheriff's Department

The County of Yuba

OFFICE OF THE SHERIFF - CORONER



Gary D. Tindel

SHERIFF - CORONER

(916) 741-6331

July 30, 1997

RESPONSE TO GRAND JURY FINDINGS AND RECOMMENDATIONS FOR THE 1996-97 REPORT

by

YUBA COUNTY SHERIFF GARY D. TINDEL *GT*

As I begin my response to the 1996-97 Grand Jury Report, I would like to reiterate the opening comments of the Grand Jurors, that this review "was conducted at the express invitation of Yuba County Sheriff Gary Tindel." As further noted by the Grand Jurors, "in the interviews with the Sheriff he was very open ... and responded to all of the questions put forth and provided follow-up information when requested." It is obvious, therefore, that I welcomed the review and cooperated fully in every regard. I basically gave the Grand Jury an "open door" to review my entire Department and agreed to assist them in every manner possible. I was anxious for all of them to view and examine the Department, as it is a very pro-active organization of men and women, who are very dedicated in serving and protecting the citizens and businesses of this county.

Unfortunately, the Grand Jury Report appears to be somewhat biased and its reasoning appears to be based upon limited information.

I would also like to state for the record, that I have the highest regards for the Criminal Justice Process within this county, as well as throughout the entire state. I have never tried to circumvent the process nor use my position as Sheriff-Coroner to intimidate anyone or any group that I have dealt with, whether it be a Grand Juror, any person within the county, or any person suspected of committing a crime.

My initial contact with the 1996-97 Grand Jury was in mid-August, 1996, when I discussed a serious problem involving the District Attorney with Mrs. Sandy Kawashima, the Foreperson. I was then asked to continue looking into the matter and then meet with some of the Grand Jurors at Mrs. Kawashima's residence to further discuss the problem. On September 4, 1996 I met with jurors, Mr. and Mrs. Fred Kawashima and another female grand juror, whose name I do not recall. I then explained to them the problem, which was seriously impacting the prosecution of major felony cases, in particular, homicide cases. I advised the jurors that I had discussed this problem with the District Attorney, however he denied the existence of a problem. I also advised that I had discussed this problem with the State Attorney General's Office and submitted a formal report to them for investigation of the matter.

I advised the jurors that this was not a comfortable nor enjoyable complaint to make, however it was quite evident that the problem at hand was not going to "just go away", mainly because of the District Attorney's denial of the problem. It was also apparent that this problem had been "on-going" for the past few years and that most of the county officials were aware the problem existed; however, I was unaware of anything being done to remedy the situation. Therefore, I felt it was my duty as the County Sheriff to report the matter in an attempt to resolve the situation.

The jurors acknowledged that they knew this problem existed, however nobody within the county had been willing, before now, to come forward with a complaint. I was then asked to submit a written report to the entire Grand Jury regarding the problem, which I did.

It should be noted that after the meeting had ended with the jurors, yet prior to my leaving the Kawashima residence, Foreperson Sandy Kawashima discussed with me her aspirations to run for County Supervisor in the Hill District. She explained to me why she wanted to run for the position and then asked me my feelings about the matter. I expressed my feelings about the matter and then told her that I would probably support one of her opposition candidates. Not much else was said about the matter; however, it was quite obvious she would not be getting my support.

Later in September the Grand Jury invited me, my Undersheriff and Division Commanders to meet with them, to explain the overall operations of my Department. At that time we outlined the job functions and responsibilities of various personnel within the Department, as well as the Departmental Divisions: Jail, Operations and Civil, Investigations and Communications. We had an open discussion with the jurors for about 90 minutes. At the conclusion of the meeting, I invited the Grand Jury to look into any parts of the Department that they had an interest. I especially invited them to look at the Operations Division, as it had not been really discussed by the Grand Jury for the past few years.

Sometime during late October or early November, 1996, I was told by some of my personnel that they were being requested to testify before the Grand Jury regarding various problems within the Department. I then called Mrs. Kawashima to talk to her about the matter. I left a message on her telephone answering machine asking that she return my call regarding the information that was told to me, however I never received a response.

On Tuesday afternoon, February 11, 1997 I contacted Presiding Judge Tom Mathews in his Chambers to discuss questions I had about the Grand Jury. He told me that he wasn't aware of what the Grand Jury was looking into, however I should ask the Grand Jury if I could speak to them regarding my Department. I commented to the Judge that if the Grand Jury was investigating my department, wouldn't it be proper for them to ask me to testify in order to answer any questions they may have? He responded by saying that the Grand Jury had no intentions to talk to me about whatever it was they were looking into,

and as a matter of policy, they do not interview department heads in these type of situations. I asked the Judge who was providing the legal counsel for the Grand Jury in their investigation and he stated that it was District Attorney, Charles O'Rourke. I then advised him of the serious conflict I had with the District Attorney, as previously discussed with the Grand Jurors at the Kawashima residence and the written report that followed. I also advised the Judge of the serious conflicts I had with three of the jurors, without mentioning any names. It was at that time that Judge Mathews stated that he hoped there were no felons sitting on the Jury and then asked "Are there?" I responded by saying "I don't know, but I'll find out". A few days later, I received a mailed letter from the Grand Jury asking that I attend one of their meetings to discuss matters within my Department.

After receiving the letter, I telephoned Foreperson Sandra Kawashima to arrange a meeting time with the Grand Jury. I then asked about the nature of the investigation and was basically told that it was no big deal and I shouldn't worry about it. I then advised her of my concerns regarding a negative report by the Grand Jury, particularly since I had serious conflicts with at least three of the jurors and discussed the conflicts, particularly emphasizing the conflict with the juror who had been arrested so many times by members of the Sheriff's Department. I then agreed to appear before the Grand Jury on February 26, 1997 at 1930 hours.

On February 25, 1997 at 1015 hours I again telephoned Mrs. Kawashima to further discuss my testimony at the meeting. She reiterated that I was making a big deal out of nothing, but then began discussing her concerns and the concerns of some of the jurors, indicating that she and some of the jurors were beginning to feel uneasy because of the investigation. She then stated that all of the jurors had to have their private telephone lines and work lines "swept by the telephone company" because they were told that their phones were being "tapped". She also stated that she has personally received some harassing telephone calls and that she, as well as other members of the Jury, felt that their lives may be in jeopardy because of potential threats being made. She went on to state that she and other jurors felt that some type of a "financial cover-up" may be involved in the investigation of the Sheriff's Department. When I asked her who she and the other jurors thought were bugging their telephones, making the harassing and threatening telephone calls and covering-up some type of financial matter, she stated either myself or some of my loyal employees. I then asked her if she had reported any of these matters to the State Attorney General for investigation and she replied that no one had. I then advised her to telephone the Attorney General as soon as we got off the telephone, as that was my intention.

I subsequently called the Attorney General's Office to report this matter and requested an investigation into Mrs. Kawashima's allegations. I was later told that the complaint and request for investigation would have to come from the Grand Jury or its individual members.

On February 26, 1997 at 1930 hours I appeared before the Grand Jury as requested for about 4 hours and responded to a variety of question concerning my Department. I then advised the entire Jury of my serious conflicts with three of the jurors, without identifying them. I also advised them of the serious conflict I had with the District Attorney. As I started to discuss another conflict, I was immediately "gaveled down" by Mrs. Kawashima and she stated emphatically that this issue was not going to be discussed. When I started to discuss the need for an Attorney General's investigation regarding the telephone bugging, threats, harassments and financial cover-up, I was immediately "gaveled-down" again by the Foreperson and told that these items were not going to be discussed. I then expressed my concerns to all the jurors, stating that with the serious conflicts that existed between three of the jurors and myself, coupled with the feelings by the jurors that I was bugging their telephones, harassing them and threatening them by telephone, and being involved in a financial cover-up, it was impossible for me to receive a "fair and impartial inquiry" regarding this investigation. I was then told by the Foreperson Kawashima that both Judge Mathews and District Attorney O'Rourke had been told of my feelings regarding the conflicts and both stated that "**no conflicts existed**".

At the conclusion of this meeting, I requested that the Grand Jury subpoena the following persons to question at a subsequent meeting, regarding a variety of personnel and policy matters concerning my Department that were under consideration. Those persons were the County Administrator, the County Personnel Manager, the County Counsel, and the legal Attorney for the California State Sheriff's Association. I indicated that if the jurors felt that I was not administering my Department pursuant to County Ordinances and State Laws, the above persons would be able to confirm or deny these matters, based on their fields of expertise. Foreperson Kawashima stated that the matter would be discussed by the jury. (To my knowledge, none of these persons were called to testify as requested.)

As a result of the above meeting, it became very obvious to me that I was not going to receive a fair and impartial inquiry by at least four of the Grand Jurors, because of conflicts. In that I did not know some of the Grand Jurors by name, I subsequently contacted a Clerk of the Superior Court and asked for a list of the Grand Jurors. I received the list and reviewed it, to determine if there were any other persons on the jury that I had recognizable conflicts with.

On March 6, 1997 at 1800 hours, I again appeared before the Grand Jury per their request for about 3.5 hours. I responded to additional questions concerning my department, my personnel and my conflicts with jurors. I was also questioned concerning individual arrest checks I may have conducted on the Grand Jurors. I informed the Jury that an arrest check was made from my Departmental files on one juror- this being the same juror who had been arrested several times by Sheriff's Department personnel. No other checking or inquires were made on any of the other jurors.

Also discussed during the meeting were the "employee turnover rates" for my Department and those of the Sutter County and Nevada County Sheriffs' Departments. It had been previously brought to my attention by the Jurors in the February 26th meeting that my

Department "turn-over rate" was significantly higher than the other two departments. Their findings indicated that from 1991-1995, Sutter County lost 35 sworn peace officers, Nevada County lost 15 sworn peace officers and Yuba County lost 55 sworn peace officers. I had subsequently contacted the Yuba County personnel office and obtained the same information that the Jurors had received when they made their inquiry into the three rates. After reviewing the information I received, I discovered that the Grand Jurors had compared my **total** "turn-over rate" of **sworn** and **non-sworn** employees with the "turn-over rate" of only **sworn** employees from the other two Departments. When I compared my total rates of sworn and non-sworn employees with the total rates of sworn and non-sworn employees from the other two departments, the results were as follows for years 1991-1995:

Yuba County	=	55 employees
Sutter County	=	50 employees
Nevada County	=	35 employees

During the meeting, I made a presentation to the Jury utilizing charts and printed material, outlining the process they used and the process I used in obtaining the turn-over rates. I also indicated that if the results were to be consistent, comparisons had to be made of either all sworn employees, all non-sworn employees, or all sworn plus all non-sworn employees.

Also discussed with the jurors was the issue regarding deputies requiring approval to make probable cause arrests. It was brought to the jurors attention that only a small number of arrests by the deputies required this type of approval and those dealt with Resisting Arrest violations and certain types of arrests dealing with Sex Crimes, wherein there was one victim and one suspect. In those two situations, where the immediate safety of the officer was not an issue or where immediate safety issues for the sexual victim was not an issue, the deputies needed to discuss the case with their supervisor prior to making the arrest. It was also explained to the jurors that the reason for this policy was a result of 1 or more lawsuits being filed against the department for such arrests, wherein the Department lost. The Board of Supervisors requested that the Sheriff's Department adopt some type of program or policy to resolve the problems with the arrests and the lawsuit issues. After discussing the problem with staff and the county personnel director, the arrest policy was implemented. Since its implementation several years ago, I don't think the Sheriff's Department has been involved in any types of law suits for those types of probable cause arrests. **The information articulated by the Jurors in the Report regarding this matter does not accurately reflect the circumstances involved with the policy nor the number of cases at issue.**

Also discussed during the meeting was a fraternization issue between two employees- a male supervisor and a female subordinate under his supervision. I advised the Jurors that this was a personnel issue that would be dealt with according to existing ordinances and laws, in conjunction with the County Personnel Manager and the County Counsel.

Regarding the conflicts I had with four of the Grand Jurors, the following applies:

- * **The Foreperson, Sandra Kawashima-** a conflict between her desires to run for County Supervisor and my statements to her that I would be supporting an opposing candidate.

- * One member who had been arrested and booked into the county jail in excess of 15 times by Sheriff's Department personnel, including an arrest for Armed Robbery and Grand Theft Vehicle, **for which he received a 90 day Diagnostic Stay at Vacaville State Prison.**

- * One member whom I had a serious employment conflict with her son.

- * One member whom I had a serious conflict with her and her husband, along with close family friends.

I have provided the above information, as it is pertinent to the following responses I make to the Jury's findings and recommendations.

FINDINGS: (No response required for #'s 5, 6 and 9)

1. The communication between the Sheriff's Department and the District Attorney's Office is in need of improvement.

I agree, however this has been a problem generated by the District Attorney over the past few years, as I discussed with the three Grand Jurors in September at the Kawashima residence, as well as to the Grand Jury panel at the March 6th meeting.

2. The deputies assigned to the hill area are in need of improved shift scheduling.

I disagree. I have tried to provide "twenty-four hour" law enforcement coverage to the residents within the hill area, as a result of various complaints I received from residents and business owners. Those complaints focused on no patrol time during the 5 hours of 3:00am to 8:00am daily. As a result, the shifts were changed to provide the 24 hour a day coverage. Additional man-power support will improve the shift coverage and I am working on a remedy for this problem.

3. Radio communications for the hill units are in need of improvement.

I agree. As I indicated to the Grand Jury panel, there are various radio "dead spots" throughout the mountain area of Yuba County. I have been working with the County Administrator and the Board of Supervisors to improve the entire system, as it is almost twenty-five years old and failing at times. This improved system is estimated to cost in excess of \$350,000 and a consultant has been hired to assist with the renovating process, including studies that are being done on the topography of the county to determine the best plan for the County's needs. When the results of the study are received, the consultant will provide a plan outlining our alternatives. It is possible that because of monetary constraints, we will not be able to remove all of the dead spots within the county. We hope to have the project completed by this time next year.

4. Personnel turnover is excessive for the sworn personnel in Yuba County versus Sutter and Nevada Counties.

I disagree. The turnover rate for the entire department since I have been Sheriff averaged **9.5%**. For the same time periods, the turnover rate for Sutter County was **8.4%** and for Nevada County it was **5.6%**. During the same time periods, as I indicated to the Grand Jury panel, the average turnover rate for all Yuba County Employees was **13.75%, over 4% higher than the Sheriff's Department.**

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.

I agree in part. **Critical Events**, as referred to in our department, are also known as counseling memos in other departments or agencies. Our supervisors are trained to utilize this instrument to document good or bad behavior, as well as work performance. It is used in writing employee evaluations or in support of disciplinary action. I believe this is done in every county department. There is a policy which all county departments must follow concerning this practice, as it is covered under **Progressive Discipline**. My department doesn't have a policy specifically dealing with Critical Events as the subject matter is sometimes subjective. I do have a policy on **Performance Evaluation** which in part deals with critical events. Coupled with the county's Progressive Discipline Policy and the Departmental Policy, I must also follow the guidelines outlined within the Public Safety Officer's Procedural Bill of Rights.

8. The Sheriff's Department uses disciplinary transfers.

I agree. Disciplinary transfers are useful if used appropriately. If they are used, the employee is entitled to a hearing according to the county rules and regulations. I have transferred several of my personnel to different assignments over the past

several years. These transfers begin at the Captain's level and go down through the deputy's rank. Clerk positions have also been included in such transfers. These transfers are sometimes confused with disciplinary transfers, because the employees are sometimes transferred without request. Transfers such as these are discussed with the county personnel staff and the county counsel. Most of the transfers are done for cross training purposes or to increase work productivity.

10. The Sheriff inappropriately accessed criminal information in investigating a member of the Grand Jury and accessed the names, addresses and telephone numbers of all the Grand Jury members.

I totally disagree with the first part of the finding relating to inappropriately accessing criminal information, but agree with the second part of the finding as it relates to obtaining the names, addresses and telephone numbers of all the Grand Jury members. As I indicated in the introduction of this response paper, I recognized one of the members of the Grand Jury as someone who had been arrested by my Department various times since 1969, including a past arrest for felony crimes. I checked the arrest files within the Department to ascertain if this juror was a convicted felon. Although he had been arrested fifteen (15) times in the past and booked by Yuba County Sheriff's Department personnel, including an arrest for armed robbery and grand theft vehicle for which he had spent 90 days at Vacaville State Prison for a diagnostic study, I was not able to determine if he had been convicted and sentenced as a felon. **I did not pursue the records check any further, nor did I contact any other agency for information. There was also no computer search outside of my department.**

As for the remaining jurors, there was no type of records check, computer check, outside agency check, nor any other form of background check conducted. I did ask for and receive a list of all grand jurors from the Superior Court Clerk (which contained their addresses and telephone numbers). I made this request after my February 26th meeting with all the grand jurors, having determined that I had a conflict with a least four (4) of the jurors. As I did not know all the grand jurors by name, I wanted a list to check their names, so as to determine if I could recall any negative contacts or encounters with any of the other jurors, which might constitute a conflict between them and myself.

There was nothing done which was either illegal or unethical. I think I would have been remiss in my duties as the County Sheriff had I not checked on the criminal background of the one juror as described above, especially in light of Judge Mathews' comments made on February 11, 1997.

RECOMMENDATIONS: (No response required for #9)

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.

Regarding the issue of being pro-active, I must state that I have been very pro-active in trying to resolve this matter. I made my views known to the District Attorney regarding the problem; I made my concerns known to the California State Attorney General; and I came forward to the Grand Jury and discussed the problem in total with them, not to cause harm, but to try and resolve the matter for the betterment of all concerned. In doing so I was informed that the Grand Jury was aware of the problem, but could not act, because no one previously came forward with a complaint.

It is unfortunate that the grand jury report did not include the information that was submitted regarding the serious problems I and members of my department have had with the District Attorney for the past few years, and how it has affected criminal prosecution of major felony cases, including homicides.

My staff and I will continue to work as hard as possible in combating crime within Yuba County and we will be as cooperative as possible in working with the District Attorney and his staff, in order to obtain the most successful prosecution and judicial sentencing as possible.

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.

I disagree. The shift schedules will be arranged by the Division Commander to provide the best service possible to **all** the citizens within the hill area. I seriously question the proposed practice of allowing employees to decide when, where and how they want to work. I truly believe this to be a management decision.

3. As new communications equipment is acquired, hill units should have top priority.

I disagree. As new communication equipment is received, it will be dispersed pursuant to the needs dictated by the entire department. As previously indicated, the communication consultant, working in conjunction with departmental employees, will make appropriate recommendations concerning equipment needs and monetary availability. Those recommendations will then be presented to the Board of Supervisors for review.

4. The Sheriff should make personnel morale in the Sheriff's Department a top priority.

I agree. The Sheriff will continue working with the Employee Associations and the individual employees to improve morale throughout the entire department. However, I must indicate that morale was not at the top of the list of priorities in the last labor contract negotiated between Departmental employees and the County last year. The primary item for negotiations was employee salary and benefits. Without substantial pay and benefits, low morale will surely follow.

5. The Sheriff should continue with policy changes made in the memo of November 20, 1996.

I agree. The Sheriff will continue with the policy changes he implemented after the various morale problems were brought to his attention by the two major Employee Associations last fall.

As a clarifying item, the grand jury report was written to imply that nothing was being done within the Sheriff's Department to improve morale until the complaints began to be made to the Grand Jury. The fact is, no complaints were brought to the Sheriff's attention until the Employee Associations began discussing the problems with the Sheriff and Undersheriff in early fall, 1996. Once the primary morale issues were identified, steps were immediately taken to resolve the issues.

6. The Sheriff should maintain close control of his commander until positive changes in this commander are made and behavior modification is accomplished.

I disagree. The Sheriff will continue working with **all** of his administrative staff, including the commander in question, to obtain the best working environment for all departmental employees. If individual corrective action is necessary, whether it be in the form of counseling or a disciplinary measure, it will be achieved.

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.

This recommendation requires further analysis. It will be discussed with the County Personnel Manager and the County Counsel for legal opinions.

8. Sheriff should discontinue transfers as a disciplinary tool. Disciplinary problems should be dealt with in accordance with the Yuba County Progressive Disciplinary Policy.

I disagree. Disciplinary transfers are an effective management tool, providing the applicable laws and county ordinances are adhered to. These transfers are recognized in the Peace Officer's Bill of Rights, as they afford the employee with an appeal process. Other transfers are also an effective management tool, as

they are intended to improve the overall efficiency and effectiveness of the employee and the organization as a whole.

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.

I disagree in part. It is the duty and obligation of the Sheriff and his deputies to uphold the laws within this state and within this county. If they feel a crime is being committed by allowing a person to set as a Grand Juror, it is incumbent upon them to investigate the matter. If it is determined that a person is sitting on the jury illegally, it will brought before the attention of the presiding judge immediately.

Screening potential jury members and existing jury members by sheriff's department personnel has occurred on occasion for years, at the request of the Superior Court Clerk and the Presiding Judge of the Superior Court. At various times in past years, Sheriff's Department personnel have determined that jurors were sitting illegally on the Grand Jury, as they did not reside in Yuba County. When these matters become known, they are brought to the attention of the presiding judge.

In this particular case, the Sheriff discussed some of the **conflict problems** with the presiding judge, prior to the February meeting. When told of the conflict with the juror who had been arrested by Sheriff's Department personnel, the judge responded with "I hope there are no felons on the Grand Jury, are there?" I responded with "not that I am aware of, but I'll find out".

I agree with "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". **I have never disputed that fact and never will.** However, if conflicts exist between jury members and other persons, whether it be law enforcement personnel, another member of county government, the general citizenry or a criminal suspect, I will continue to make these matters known to the appropriate persons.

CONCLUSION:

As indicated from the information contained in this response, I feel the investigation conducted of the Yuba County Sheriff's Department as directed by the Foreperson, Sandra Kawashima, **was not factual** in its reporting of the information that it received in this matter. In this regard, Foreperson Kawashima, along with others, intentionally overlooked very damaging items of conflict, which appear to be in violation of two important California Penal Code Sections, those being **Sections 893 and 939.5.**

OLIVEHURST PUBLIC UTILITY DISTRICT

♦ ♦ ♦ ♦

BOARD OF DIRECTORS:

A. R. Mike Bluett
Michael K. Christensen
Philip R. Miller
Mike Morrison
Rosemary Patrick

P.O. Box 670
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OLIVEHURST, CALIFORNIA 95961

FILED

AUG 25 1997

GENERAL MANAGER:

Gary C. Plasterer

YUBA COUNTY SUPERIOR COURT
MARGARETE HERNANDEZ, CLERK
BY M. Hernandez
Deputy Clerk

August 21, 1997

Yuba County 1996/97 Grand Jury
c/o Yuba County Superior Court
215 5th Street
Marysville, California 95901

RE: Response to 1996/97 Grand Jury Report

TO: Members of the Grand Jury

The Olivehurst Public Utility District provides water, wastewater, fire and rescue, parks and recreation, and street lighting services to the unincorporated community of Olivehurst in Yuba County. The water and wastewater systems have approximately 100% of excess capacity available for emergencies and future expansion. All facilities are well maintained.

The District is in excellent financial condition with reserves in all three funds - water, sewer, and general revenue fund. The Board of Directors has always been very prudent in setting rates, approving and controlling budgets. A copy of the District's 1996/97 Budgets is attached.

Our response to the 1996/97 Yuba County Grand Jury's Final Report on Findings is as follows:

FINDING NO. 1: The OPUD approved budget exceeds the estimated revenue, which provides a contingency fund.

RESPONSE: OPUD has three separate budgets - Water, Sewer, and General Revenue Fund budgets. Water and Sewer Budgets are balanced with depreciation accounts and General Revenue budgets are balanced with excess to General Revenue Fund. All Departments are closely monitored for expenditures and compliance.

FINDING NO. 2: The pool, which has been closed for five years, has been approved for repair and completed next year.

RESPONSE: The Olivehurst Public Utility District's pool had been closed for five years due to the lack of funds. The State of California reallocated approximately 25% of the District's tax revenues to the local school district. When this occurred, funding became critical and the pool was closed. It was also necessary to reduce personnel and services in other general revenue supported departments.

The swim pool and equipment were about 30 years old and before it could be opened, extensive repairs were necessary. The Board of Directors started accumulating funds about three years ago, and I am happy to report that all repairs were completed within budget this past spring, and the pool is now open for the summer. Average attendance is approaching 150 children each day.

FINDING NO. 3: Leases of the Youth Center and Community Center Buildings are a source of revenue for the general fund.

RESPONSE: The Youth Center Building and Community Center Building are rented out on a daily basis, and the District is continuing to investigate long term leases. Revenue from the facilities is used for tax supported services.

Response to the 1996/97 Yuba County Grand Jury's Final Report on Recommendations is as follows:

RECOMMENDATION NO. 1: That the Board should continue their budget planning for the future with a contingency fund.

RESPONSE: The Olivehurst Public Utility District's Board of Directors and staff are very cognizant of public funds entrusted with the District. We must provide a service, maintain all facilities and equipment, and plan for emergencies and future needs of the citizens of Olivehurst.

RECOMMENDATION NO. 2: That the Board should keep the public informed on status of repairs.

RESPONSE: It is very difficult to inform the public about the good things that the District does. The local news media is more interested in controversial and/or negative news reporting. In the future, the District will try harder, and use other methods to inform the public. Of course, the public is always invited, rather, encouraged to attend all Board meetings.

Yuba County 1996/97 Grand Jury
August 21, 1997
Page 3

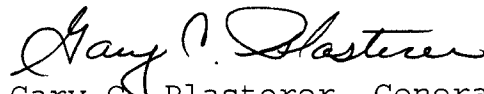
**RECOMMENDATION NO. 3: That the Board seek other lessors;
e.g., previous lessors, for the Youth Center and Community
Center Buildings.**

RESPONSE: The Board of Directors agree with the Grand Jury's recommendations on attempting to generate revenue from the District's facilities.

The Grand Jury's Report of the Olivehurst Public Utility District was well written, and if I can provide additional information or answer any questions, please contact me.

Very truly yours,

OLIVEHURST PUBLIC UTILITY DISTRICT

A handwritten signature in cursive script, reading "Gary C. Plasterer".

Gary C. Plasterer, General Manager

GCP:cs

OLIVEHURST PUBLIC UTILITY DISTRICT
Budget Summary
Year Ending 6/30/97

	Water	Sewer	General	Total *
Revenue:				
Services	\$705,855	\$576,853		\$1,282,708
Estimated 172 Money			\$70,000	70,000
Estimated Property Tax			300,000	300,000
Miscellaneous Revenue			64,515	64,515
Total Revenue	\$705,855	\$576,853	\$434,515	\$1,717,223
Expense:				
Operating	\$639,732	\$576,853	\$6,865	\$1,223,450
Rehabilitation Projects	66,123			66,123
Fire Department			308,850	308,850
Street Lighting			47,000	47,000
Public Facilities			71,800	71,800
Total Expense	\$705,855	\$576,853	\$434,515	\$1,717,223

*Total for Statement Purposes Only

The County of Yuba

AUDITOR - CONTROLLER

FILED

AUG 18 1997

YUBA COUNTY SUPERIOR COURT
MARCELO E. HERNANDEZ, CLERK
BY *M. Hernandez*
Deputy Clerk



DEAN E. SELLERS

935 14TH STREET
MARYSVILLE, CA 95901
(916) 741-6412

August 14, 1997

Honorable Thomas Mathews
Presiding Judge
Yuba County superior Court
215 5th Street
Marysville CA 95901

Dear Judge Mathews:

The Board of Supervisors hires an independent auditing firm, to audit all records of the county financial system, to make sure that funds are not made in error or false.

I have copies of all contracts, purchase documents, & etc. But I rely on the general service director on purchases, and contracts, that are need in operating the county everyday activities. As long as the proper signatures are on the documents.

We have a budget system that allows us to track all individual departments and we send out monthly reports so each department knows each month their expenditures.

The Smith & Newell independent audit reports for 1995 & 1996 doesn't talk about the Auditor-Controller internal procedures or make any recommendation for improvement.

I feel it is very important that the Grant Jury either look at my department on an individual basis, and not this department with any other department.

Very truly yours,

Dean E. Sellers

Dean E. Sellers,
Auditor-Controller

DES:kmd
pc:

Jan Dunstan, County Administrator

The County of Yuba

OFFICE OF THE DISTRICT ATTORNEY

FILED

AUG 14 1997



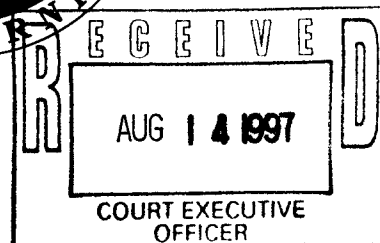
CHARLES F. O'ROURKE
DISTRICT ATTORNEY
PUBLIC ADMINISTRATOR

(916) 741-6201
FAX (916) 749-7901

July 30, 1997

YUBA COUNTY SUPERIOR COURT
MARGARETE E. HERNANDEZ, CLERK
BY *M. Hernandez*
Deputy Clerk

Yuba County Grand Jury
attn: Ms. Sandra Kawashima
215 5th Street
Marysville, California 95901



RE: Response to 1996-1997 Grand Jury Report

Dear Ms. Kawashima:

This is the response to the Grand Jury Report for fiscal year 1996-1997 in which you recommended that this office add an investigator position and that the District Attorney should share responsibility for homicide cases with the Chief Deputy District Attorney.

I am pleased to respond to these recommendations.

First, in response to the need for a full time general fund investigator, I would note that such position has been requested in the past and fallen on deaf ears. The position in the past has been was that the Department find independent funding for any position outside the general fund. That did not and does not make any sense.

As you outline in the report, an investigator for the Criminal Division becomes more important with the increase in crimes, and would make prosecution far more effective in complicated cases, and allow this office to do some of the trial investigative work necessary. The value of in house investigative work has been magnified by the investigators provided by grant funding in the past two years.

I concur in your recommendation of a full time criminal investigator in the District Attorney's Office.


Second, your recommendation to share responsibility for the homicide cases by the District Attorney, is a sound one. The thing

that has inhibited such practice has been the workload created by the volume of other crimes and the limited resources provided by the budgetary procedures that have been in place for the past several years.

However, the recommendation is sound and will be implemented to the extent possible, and in fact has been acted upon.

I hope this responds to the concerns raised by the Grand Jury in this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Charles F. O'Rourke".

Charles F. O'Rourke
District Attorney

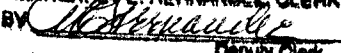
CFO:yy

RECLAMATION DISTRICT NO. 784
1594 Broadway
Marysville, California 95901-9632
Phone (916) 742-0520 Fax (916) 742-3021

August 5, 1997

FILED

AUG 8 1997

YUBA COUNTY SUPERIOR COURT
MARGARETE HERNANDEZ, CLERK
BY 
Deputy Clerk


County of Yuba
Superior Court Clerk
215 Fifth Street
Marysville, CA 95901

Subject: Response to Finding 1 - 1996/97 Grand Jury Report

This is the response as requested to Finding 1 - 1996/1997 Grand Jury Final Report.

To the best of anyone's knowledge, no member of the Grand Jury contacted an official from Reclamation District 784. Therefore, anything in the Grand Jury report has to be considered hearsay and we dispute the various findings.

Very truly yours,



Richard E. Webb,
Chairman